
STATUTORY INSTRUMENTS

1997 No. 1049

The Education Authority Bursaries and Students' Allowances (Scotland) Amendment Regulations 1997

Students' Allowances

3. The Students' Allowances (Scotland) Regulations 1996(1) shall be amended as follows:—
- (a) in paragraph (1) of regulation 2 (interpretation) after the definition of “EEA Agreement” there shall be inserted the following definition:—
- ““EEA migrant worker” means a person who is a national of an EEA State who has taken up an activity as an employed person in the United Kingdom—
- (a) under Council Regulation (EEC) No.1612/68 on freedom of movement for workers within the Community (which was extended to apply to the whole European Economic Area by the EEA Agreement); or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourable than a national of another EEA State in relation to matters which are the subject of the above mentioned Regulation;”;
- (b) in paragraph 1 of Schedule 1 (persons eligible for allowances) there shall be added at the end—
- “; and
- (c) is settled in the United Kingdom within the meaning of the Immigration Act 1971 on the relevant date.”;
- (c) for paragraph 2 of Schedule 1 there shall be substituted the following paragraphs:—
- “2. A person who is an EEA migrant worker who—
- (a) is entitled to the payment of an allowance by virtue of Article 7(2) or (3) of Council Regulation (EEC) 1612/68 on freedom of movement for workers within the Community (which was extended to apply to the whole of the European Economic Area by the EEA Agreement) or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member state in relation to matters which are the subject of Article 7(2) and (3);
- (b) has been ordinarily resident in the European Economic Area throughout the period of 3 years immediately preceding the relevant date; and
- (c) (i) is ordinarily resident in Scotland on the qualifying day, or
- (ii) seeks an allowance in respect of a course of education at an establishment in Scotland.
- 2A. A person who is the spouse of an EEA migrant worker and who—

- (a) has been ordinarily resident in the European Economic Area throughout the period of 3 years immediately preceding the relevant date;
 - (b) is installed in the United Kingdom with his spouse; and
 - (c) (i) is ordinarily resident in Scotland on the qualifying day, or
(ii) seeks an allowance in respect of a course of education at an establishment in Scotland.
- 2B.** A person who is the child of an EEA migrant worker and who—
- (a) is entitled to the payment of an allowance by virtue of Article 12 of the above mentioned Council Regulation or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member state in relation to matters which are the subject of Article 12;
 - (b) has been ordinarily resident in the European Economic Area throughout the period of 3 years immediately preceding the relevant date; and
 - (c) (i) is ordinarily resident in Scotland on the qualifying day; and
(ii) seeks an allowance in respect of a course of education at an establishment in Scotland.”;
- (d) in paragraph 3(b)(i) of Schedule 1 for the word “date” there shall be substituted the word “day”;
- (e) after paragraph 3 of Schedule 1 there shall be inserted the following paragraph:—
- “**3A.** A person who—
- (a) (i) has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom and he has been granted leave to enter or remain accordingly;
(ii) is ordinarily resident in Scotland on the qualifying day; and
(iii) has been ordinarily resident in the British Islands throughout the period of 3 years immediately preceding the relevant date; or
 - (b) is the spouse or child of a person of the kind described in sub-paragraph (a).”;
- and
- (f) in paragraph 2 of Schedule 2 (ordinary residence) after “2(b)” there shall be inserted“, 2A(a), 2B(b), 3A(a)(iii)”.