
STATUTORY INSTRUMENTS

1997 No. 1972

The Education (Fees and Awards) Regulations 1997

Interpretation

2.—(1) In these Regulations—

“award” means a fees award or a maintenance award or both as the context may require;

“education” includes post-graduate research otherwise than in the course of employment;

“education authority” means a local education authority;

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding of any office and to any occupation for gain;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽¹⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽²⁾;

“EEA migrant worker” has the meaning assigned to it in paragraph (6);

“European Economic Area” means the area comprised by the member States of the European Community (including the United Kingdom) as constituted from time to time and, subject to the conditions laid down in the EEA Agreement, by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“fees” includes charges however described;

“fees award” means an award in respect only of any fees payable by the person other than any element of those fees representing or attributable to charges for his maintenance;

“the Islands” means the Channel Islands and the Isle of Man;

“maintenance award” means any award other than a fees award;

“national of a member State of the European Community” means a person who is a national for the purposes of the Community Treaties of any member State of the European Community (including the United Kingdom) as constituted from time to time;

“refugee” means a person who is recognised by Her Majesty’s Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽³⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽⁴⁾ and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

“relevant date” has the meaning assigned to it in regulation 4, 5, 6 or 7.

(2) For the purposes of these Regulations an area which—

(1) Cmnd. 2073.

(2) Cmnd. 2183.

(3) Cmnd. 9171.

(4) Cmnd. 3906 (Out of print; photocopies are available, free of charge, from the Student Support Division, Room 1A10, the Department for Education and Employment, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

- (a) was not part of the area comprised by the member States of the European Community or by the European Economic Area, but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(3) Notwithstanding section 11 of the Interpretation Act 1978⁽⁵⁾ section 3(2) of the Education (Fees and Awards) Act 1983 (references to the United Kingdom to include references to the Islands) shall not apply for the purposes of the interpretation of these Regulations.

(4) For the purposes of these Regulations a person shall be treated as ordinarily resident in England, England and Wales, Great Britain, the United Kingdom, the United Kingdom and Islands or the European Economic Area, if he would have been so resident at the relevant time but for the fact that he, his spouse, his parent, guardian, any other person having parental responsibility for him, or any person having care of him while he is a child, is or was temporarily employed outside the area in question.

(5) For the purposes of regulations 6 and 7 a person shall be treated as ordinarily resident in the areas referred to in paragraph (4) if he would have been so resident at the relevant time but for the fact that he or his spouse was temporarily receiving full-time education outside the area in question.

(6) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area 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, as extended by the EEA Agreement⁽⁶⁾; or
- (b) in circumstances where as a national of the United Kingdom he has 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 the above mentioned Council Regulation.

(7) In these Regulations, unless the context otherwise requires, a reference to a regulation or Schedule is a reference to a regulation of these Regulations or to a Schedule thereto, a reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.

⁽⁵⁾ 1978 c. 30.

⁽⁶⁾ OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II), p.457).