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STATUTORY INSTRUMENTS

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**1997 No. 93**

**The Education (Fees and Awards) (Scotland) Regulations 1997**

**PART I  
GENERAL**

**Citation, commencement and extent**

1. These Regulations may be cited as the Education (Fees and Awards) (Scotland) Regulations 1997, shall come into force on 17th February 1997 and shall extend to Scotland only.

**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” has the same meaning as in the Education (Scotland) Act 1980(1);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(2) as adjusted by the Protocol thereto signed at Brussels on 17th March 1993(3);

“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(4) 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 favourably than a national of another EEA State in relation to matters which are the subject of the above mentioned Council Regulation;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“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;

“European Economic Area” means the area of the EEA States and includes those States at any time before the EEA Agreement came into force in relation to them;

“fees” includes charges however described;

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(1) 1980 c. 44; the relevant definition in section 135(1) was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 118(9).

(2) Cmnd. 2073.

(3) Cmnd. 2183.

(4) OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II), p. 475), amended by Council Regulation (EEC) No. 2434/92 (OJ No. L245, 26.8.92, p. 1).

“fees award” means an award in respect of any fees payable by the candidate for the award 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;

“parent” in relation to a student, includes a guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995<sup>(5)</sup>) in relation to, or has care of, the student;

“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<sup>(6)</sup> as extended by the Protocol thereto which entered into force on 4th October 1967<sup>(7)</sup>.

(2) In these Regulations a reference to a person’s child includes a reference to a person adopted in pursuance of adoption proceedings, a step-child and a child in whose case the person concerned has admitted paternity or been adjudged the putative father.

(3) Notwithstanding section 11 of the Interpretation Act 1978<sup>(8)</sup>, 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 purpose of the interpretation of these Regulations.

(4) In these Regulations, unless the context otherwise requires, a reference to a regulation, Part or Schedule is a reference to a regulation or Part 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.

### **Lawful acts**

3.—(1) Nothing in Part II shall be construed as rendering unlawful any discrimination arising from the remission in whole or in part of any fee (on grounds of financial hardship or otherwise) if it would have been lawful had these Regulations not been made.

(2) Nothing in Part III or IV shall be construed as rendering unlawful any discrimination arising from any rule of eligibility for an award if it would have been lawful had these Regulations not been made.

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(5) 1995 c. 36.

(6) Cmnd. 9171.

(7) Cmnd. 3906 out of print: photocopies of the English text are available, free of charge, from Higher Education Division, The Scottish Office Education and Industry Department, 1-B, Victoria Quay, Edinburgh EH6 6QQ.

(8) 1978 c. 30.