

2020 No. 213

EDUCATION

**The Education (Fees and Student Support) (Miscellaneous
Amendments) (Scotland) Regulations 2020**

<i>Made</i>	- - - -	<i>14th July 2020</i>
<i>Laid before the Scottish Parliament</i>		<i>16th July 2020</i>
<i>Coming into force</i>	- -	<i>11th September 2020</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 49(3), 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(a), section 1 of the Education (Fees and Awards) Act 1983(b), and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Education (Fees and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2020 and come into force on 11 September 2020.

Amendment of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006

2. In schedule 1 (eligible students) of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006(c), after paragraph 6E insert—

“6F. A person who—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),

(a) 1980 c.44. Section 73(f) was amended by the Teaching and Higher Education Act 1998 (c.30) (“the 1998 Act”), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) (“the 2001 Act”), section 3(2). Section 73B was inserted by the 1998 Act, section 29(2) and was amended by the 2001 Act, section 3(3); by the Income Tax (Earnings and Pensions) Act 2003 (c.1), schedule 6, Part 2, paragraph 149; by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 34(1); and by the Bankruptcy (Scotland) Act 2016 (asp 21), schedule 8, paragraph 8. Section 74(1) was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), section 82(1) and schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1983 c.40. Section 1 was amended by the Education Reform Act 1988 (c.40), section 237(1) and schedule 12, paragraph 91; by the Further and Higher Education Act 1992 (c.13), section 93(1) and schedule 8, paragraph 19; and by the Further and Higher Education (Scotland) Act 1992 (c.37), section 62(2) and schedule 9, paragraph 8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(c) S.S.I. 2006/333, relevant amending instruments are S.S.I. 2012/72, S.S.I. 2017/180, S.S.I. 2018/171 and S.S.I. 2019/70.

- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the first day of the first academic year of the course.

6G. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the first day of the first academic year of the course.”.

Amendment of the Education Authority Bursaries (Scotland) Regulations 2007

3. In schedule 1 (persons eligible for bursaries) of the Education Authority Bursaries (Scotland) Regulations 2007(a), after paragraph 6E insert—

“6F. A person who—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),
- (b) has been ordinarily resident in the British Islands since that person was first granted such indefinite leave to remain in the United Kingdom, and
- (c) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of education at an educational establishment in the area of the education authority.

6G. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,
- (b) has been ordinarily resident in the British Islands since that person was first granted such leave, and
- (c) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of education at an educational establishment in the area of the education authority.”.

(a) S.S.I. 2007/149, relevantly amended by S.S.I. 2019/70.

Amendment of the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007

4. In schedule 1 (persons eligible for allowances) of the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007^(a), after paragraph 6E insert—

“6F. A person who—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.

6G. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.”.

Amendment of the Students’ Allowances (Scotland) Regulations 2007

5.—(1) The Students’ Allowances (Scotland) Regulations 2007^(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

- (a) in paragraph (3), before “and 7(c) of Schedule 1” insert “, 6F(c), 6G(c)”,
- (b) in paragraph (4), before “and 7(c) of Schedule 1” insert “, 6F(c), 6G(c)”.

(3) In schedule 1 (persons eligible for allowances), after paragraph 6E insert—

“6F. A person who—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.

(a) S.S.I. 2007/151, relevantly amended by S.S.I. 2019/70.

(b) S.S.I. 2007/153, relevantly amended by S.S.I. 2013/80 and S.S.I. 2019/70.

6G. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,
- (b) has been ordinarily resident in the United Kingdom and the Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.”.

Amendment of the Education (Student Loans) (Scotland) Regulations 2007

6. In schedule 1 (eligible students) of the Education (Student Loans) (Scotland) Regulations 2007(a), after paragraph 6E insert—

“**6F.** A person who—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the first academic year of the course.

6G. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.”.

Amendment of the Education Maintenance Allowances (Scotland) Regulations 2007

7.—(1) The Education Maintenance Allowances (Scotland) Regulations 2007(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

- (a) in paragraph (2), after “6E(1)(c)” insert “, 6F(c), 6G(c)”,
- (b) in paragraph (3), after “6E(1)(c)” insert “, 6F(c), 6G(c)”.

(a) S.S.I. 2007/154, amended by S.S.I. 2007/503, S.S.I. 2008/205, S.S.I. 2008/206, S.S.I. 2009/188, S.S.I. 2009/189, S.S.I. 2009/309, S.S.I. 2010/300, S.S.I. 2012/72, S.S.I. 2013/80, S.S.I. 2015/212, S.S.I. 2016/82, S.S.I. 2017/180, S.S.I. 2018/171 and S.S.I. 2019/70.

(b) S.S.I. 2007/156, relevantly amended by S.S.I. 2011/261, S.S.I. 2016/82 and S.S.I. 2019/70.

(3) In schedule 1 (persons eligible for education maintenance allowances), after paragraph 6E insert—

“6F. A person who—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the qualifying date.

6G. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the qualifying date.”.

Amendment of the Education (Fees) (Scotland) Regulations 2011

8.—(1) The Education (Fees) (Scotland) Regulations 2011(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

- (a) in paragraph (3), for “6D(a)(iii) and (b), 6E(1)(c)” substitute “6D(1)(c), 6E(c), 6F(c)”,
- (b) in paragraph (4), for “6D(a)(iii) and (b), 6E(1)(c)” substitute “6D(1)(c), 6E(c), 6F(c)”.

(3) In schedule 1 (fees-excepted students), after paragraph 6D insert—

“6E. A post 2011/12 student is an excepted student if that post 2011/12 student—

- (a) has been granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence),
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse), or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),
- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.

6F. A post 2011/12 student is an excepted student if that post 2011/12 student—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a

(a) S.S.I. 2011/389, amended by S.S.I. 2012/72, S.S.I. 2013/80, S.S.I. 2016/82, S.S.I. 2018/171 and S.S.I. 2019/70.

dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971,

- (b) has been ordinarily resident in the United Kingdom and Islands since that person was first granted such leave, and
- (c) is ordinarily resident in Scotland on the relevant date.”.

St Andrew’s House,
Edinburgh
14th July 2020

RICHARD LOCHHEAD
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006 (“the SLTF Regulations”), the Education Authority Bursaries (Scotland) Regulations 2007 (“the Bursaries Regulations”), the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 (“the Nursing Regulations”), the Students’ Allowances (Scotland) Regulations 2007 (“the Allowances Regulations”), the Education (Student Loans) (Scotland) Regulations 2007 (“the Loans Regulations”), the Education Maintenance Allowances (Scotland) Regulations 2007 (“the EMA Regulations”) and the Education (Fees) (Scotland) Regulations 2011 (“the Fees Regulations”).

Amendments relating to student support eligibility for persons granted indefinite leave to remain as a victim of domestic violence

Regulations 2 to 4, 5(3), 6, 7(3) and 8(3) extend to persons granted indefinite leave to remain as a victim of domestic violence access to student funding and restrictions on the level of fees that may be charged under the SLTF Regulations, the Bursaries Regulations, the Nursing Regulations, the Allowances Regulations, the Loans Regulations, the EMA Regulations and the Fees Regulations. To be eligible, individuals must have been granted indefinite leave to remain in the UK as a victim of domestic violence under the immigration rules (as defined in section 33(1) of the Immigration Act 1971); have been ordinarily resident in the UK and Islands since they were first granted such leave; and be ordinarily resident in Scotland at the commencement of their course.

Amendments relating to student support eligibility for persons granted ‘Calais Leave’

Regulations 2 to 4, 5(3), 6, 7(3) and 8(3) extend to persons granted Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave access to student funding and restrictions on the level of fees that may be charged under the SLTF Regulations, the Bursaries Regulations, the Nursing Regulations, the Allowances Regulations, the Loans Regulations, the EMA Regulations and the Fees Regulations. To be eligible, individuals must have been granted leave to remain in the UK as a result of being granted Calais leave or “leave in line”; have been ordinarily resident in the UK and Islands they were first granted such leave; and be ordinarily resident in Scotland at the commencement of their course.

Other amendments

Regulations 5(2), 7(2) and 8(2) make consequential amendments to the Allowances Regulations, the EMA Regulations and the Fees Regulations to apply the meaning of ordinary residence in Scotland in relation to the new residence categories inserted into those regulations by these Regulations.

Regulation 8(2) also corrects a cross-reference inserted in regulation 2(3) and (4) of the Fees Regulations by regulation 9(2) of the Education (Fees and Student Support) (Miscellaneous Amendments) (EU Exit) (Scotland) Regulations 2019.

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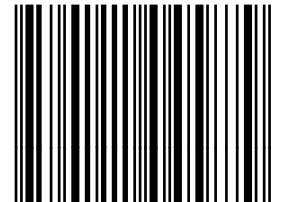
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