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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 377**

**EDUCATION**

**The St Mary’s Music School (Aided Places)  
(Scotland) Amendment (No. 2) Regulations 2022**

*Made* - - - - *14th December 2022*  
*Laid before the Scottish*  
*Parliament* - - - - *16th December 2022*  
*Coming into force* - - *10th February 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 73(f) and 74(1) of the Education (Scotland) Act 1980(1) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the St Mary’s Music School (Aided Places) (Scotland) Amendment (No. 2) Regulations 2022 and come into force on 10 February 2023.

**Amendment of the St Mary’s Music School (Aided Places) (Scotland) Regulations 2015**

2.—(1) The St Mary’s Music School (Aided Places) (Scotland) Regulations 2015(2) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) omit the definitions of “EEA State” and “European Economic Area”,
- (b) in the definition of “resident”, after “means” insert “(in relation to residence in the United Kingdom for the purposes of paragraph 2(1)(a) of Part 1 of schedule 1 only)”.

(3) In paragraph 2 of schedule 1 (scheme for aided places at St Mary’s Music School - residence)

(a) for sub-paragraph (1)(b) and (ba) substitute—

“(b) be a person with protected rights who—

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(1) 1980 c. 44. Section 73(f) was amended by section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6). Section 74(1) was amended by section 82(1) and paragraph 8(17) of Schedule 10 of the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39). Section 135(1) of the Act contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(2) S.S.I. 2015/248, relevantly amended by S.S.I. 2019/144 and S.S.I. 2022/173.

- (i) is resident in the British Islands on the relevant date; or
  - (ii) is a family member (within the meaning of the residence scheme immigration rules)<sup>(3)</sup> of a frontier worker;
- (bza) be a frontier worker;
- (ba) be an Irish national or a United Kingdom national who has been resident in the British Islands or the Republic of Ireland throughout the period of two years immediately preceding the relevant date;”,
- (b) in sub-paragraph (2)—
- (i) omit “, (1)(b)”,
  - (ii) for “the European Economic Area”, in each place it occurs, substitute “the Republic of Ireland”,
- (c) after sub-paragraph (3)<sup>(4)</sup> insert—
- “(4) In this paragraph—
- “EEA EFTA separation agreement” and “Swiss citizens’ rights agreement” have the meanings given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020<sup>(5)</sup>;
- “frontier worker” has the meaning given by regulation 3 (meaning of frontier worker) of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020<sup>(6)</sup>;
- “person with protected rights” means a person who—
- (a) (i) has made an application under the residence scheme immigration rules where that application is still being considered;
  - (ii) has been granted leave to enter or remain following such an application; or
  - (iii) otherwise has rights deemed to apply by virtue of Article 18(1)(b) or (d) or (2) (issuance of residence documents) of the EU withdrawal agreement, Article 17(1)(b) or (d) or (2) (issuance of residence documents) of the EEA EFTA separation agreement, or Article 16(1)(b) or (d) or (2) (issuance of residence documents) of the Swiss citizens’ rights agreement;
  - (b) is an Irish national who, pursuant to section 3ZA (Irish citizens) of the Immigration Act 1971<sup>(7)</sup>, does not require leave to enter or remain in the UK;
- “residence scheme immigration rules” has the meaning given by section 17(1) (Interpretation: Part 3) of the European Union (Withdrawal Agreement) Act 2020.”.

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(3) There is no definition of “family member” in the residence scheme immigration rules but there are various definitions that include that term. The relevant definitions for a family member of a frontier worker are “family member of a relevant EEA citizen” and “joining family member of a relevant sponsor”.

(4) Paragraph 1(3) was inserted by [S.S.I. 2022/173](#).

(5) [2020 c. 1](#).

(6) [S.I. 2020/1213](#).

(7) [1971 c. 77](#). Section 3ZA was inserted by section 2(2) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 ([c. 20](#)).

St Andrew's House,  
Edinburgh  
14th December 2022

*SHIRLEY-ANNE SOMERVILLE*  
A member of the Scottish Government

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Regulations amend the St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 (“the 2015 Regulations”) and come into force on 10 February 2023.

The 2015 Regulations provide for the payment of allowances to St Mary’s Music School, Edinburgh, to reimburse it for its expenditure in respect of fees and charges remitted and grants made in operating the aided places scheme described in schedule 1 of those Regulations. Residency criteria for eligibility for an aided place are set out in Part 1 of that schedule.

Regulation 2(3)(a) amends paragraph 2(1) of Part 1 of schedule 1 of the 2015 Regulations to substitute new eligibility criteria relating to applications by nationals from an EEA state, Switzerland and the Republic of Ireland. Regulation 2(2) and (3)(b) and (c) make consequential amendments to regulation 2 and paragraph 2 of Part 1 of schedule 1 of the 2015 Regulations and insert related definitions.