

SCHEDULE 1

Article 4

DEFINITION OF STUDENTS, ETC

PART I

APPRENTICES

- 1.—(1) A person is an apprentice on a particular day if, on that day he is—
- (a) employed for the purpose of learning a trade, business, profession, office, employment or vocation;
 - (b) for that purpose undertaking a programme of training leading to a qualification accredited by the National Council for Vocational Qualifications or the Scottish Vocational Educational Council; and
 - (c) employed at a salary or in receipt of an allowance or both, which are, in total—
 - (i) substantially less than the salary he would be likely to receive if he had achieved the qualification in question; and
 - (ii) no more than £130 per week.
- (2) A person is undertaking a programme for the purposes of paragraph (1) on a particular day, if the day falls within the relevant period for that programme.

PART II

STUDENTS

2. A person is to be regarded as a foreign language assistant on a particular day if—
- (a) on the day he is registered with the Central Bureau for Educational Visits and Exchanges as a foreign language assistant; and
 - (b) the day falls within the period of his appointment as a foreign language assistant at a school or other educational institution in Great Britain.
3. A person is to be regarded as undertaking a full time course of education on a particular day if—
- (a) on the day he is enrolled for the purpose of attending such a course with a prescribed educational establishment within Part I of Schedule 2 to this Order, and
 - (b) the day falls within the relevant period for that course.
- 4.—(1) A full-time course of education is, subject to subparagraphs (2) and (3), one—
- (a) which subsists for at least one academic year of the educational establishment concerned or, in the case of an educational establishment which does not have academic years, for at least one calendar year;
 - (b) which persons undertaking it are normally required by the educational establishment concerned to attend (whether at premises of the establishment or otherwise) for periods of at least 24 weeks in each academic or calendar year (as the case may be) during which it subsists, and
 - (c) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each such

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academic or calendar year to an average of at least 21 hours a week during the periods of attendance mentioned in paragraph (b) above in the year.

- (2) In determining whether a course falls within the definition in sub-paragraph (1)—
- (a) in applying paragraph (c) of that definition, a person is to be treated as undertaking work experience at any time if, as part of the curriculum of the course—
 - (i) he is at a place of employment of his and is providing services under his contract of employment, or
 - (ii) he is at a place where a trade, business, profession or other occupation which is relevant to the subject matter of the course is carried on, and he is there for the purposes of gaining experience of that trade, business, profession or other occupation,

and references in sub-paragraph (3) below to periods of work experience shall be construed accordingly;

- (b) in applying paragraphs (b) and (c) of that definition, the first calendar year shall be treated as beginning with the day on which the course begins, and subsequent calendar years (if any) as beginning on the anniversary of that day;
- (c) in applying those paragraphs to a course which begins part-way through an academic year of the educational establishment concerned, the academic year shall be treated as beginning at the beginning of the term in which the course begins, and subsequent academic years (if any) as beginning at the beginning of the equivalent terms in those years; and
- (d) in applying those paragraphs to a course which subsists (or is treated as subsisting) for other than a number of complete academic or calendar years (as the case may be), any last part of the course shall be disregarded.

(3) A course is not to be treated as a full time course of education if the aggregate for the course as a whole of all the periods of work experience normally required to be undertaken as part of it exceeds the aggregate of all the periods of study or tuition not constituting work experience normally so required (taking account for this purpose of any period of study, tuition or work experience in a part year which, might otherwise fall to be disregarded under sub-paragraph (2)(d)).

5.—(1) A person is to be regarded as undertaking a qualifying course of education on a particular day only if on that day—

- (a) he is under the age of 20,
- (b) he is not undertaking a course of full time education within the meaning of paragraphs 3 and 4 above; and
- (c) the relevant number of hours per week for that course, or where he is undertaking 2 or more qualifying courses with the same establishment, the aggregate of the relevant number of hours per week, exceeds 12.

(2) A person is undertaking a course on a day for the purposes of sub-paragraph (1) if—

- (a) the day falls in the relevant period for that course, and
- (b) he is not an apprentice or a youth training trainee.

(3) In relation to a qualifying course of education “the relevant number of hours per week” means the average number of hours per week a person undertaking it would normally require to spend, in the period during which the course subsists, on relevant activities within the meaning of paragraph 6 below, (excluding for the purpose of calculating that average any period of vacation).

6.—(1) In paragraph 5, a qualifying course of education means a course—

- (a) which subsists for more than 3 calendar months,
 - (b) which is not a course of higher education,
 - (c) with respect to which tuition is principally received otherwise than through correspondence;
 - (d) which is not undertaken in consequence of an office or employment held by the person in question, and
 - (e) with respect to which the relevant activities are (insofar as they are normally carried out under the course at particular times) normally so carried out principally between 8.00 am and 5.30 pm.
- (2) In sub-paragraph (1),—
- “relevant activities” means the receipt of tuition, the undertaking of supervised study or examination, and the taking part (as part of the curriculum of the course) in any supervised exercise, experiment, project or practical work;
- “course of higher education” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988⁽¹⁾, or a course which would be such a course if—
- (a) a course for the Higher National Diploma or Higher National Certificate of the Scottish Vocational Education Council were included within the description of courses in paragraph 1(e) of that Schedule;
 - (b) the reference in paragraph 2 of that Schedule to examinations at advanced level for the General Certificate of Education or the examination for the National Certificate or the National Diploma of the Business and Technician Education Council included a reference to examinations at the higher grade of the Scottish Certificate of Education or the assessment for the National Certificate of the Scottish Vocational Education Council, and
 - (c) the reference in paragraph 3 of that Schedule to examinations included a reference to the examinations and assessment mentioned in paragraph (b) above.

PART III

STUDENT NURSES

7.—(1) A person is a student nurse on a particular day if, on that day, he is undertaking a course which would (if successfully completed) lead to registration on any of Parts 1 to 6, 8, 10 or 11 of the Register maintained under section 10 of the Nurses, Midwives and Health Visitors Act 1979⁽²⁾, as a first inclusion on that Register.

(2) A person is to be regarded as undertaking a course for the purposes of paragraph (1) on a particular day if the day falls within the relevant period for that course.

⁽¹⁾ 1988 c. 40.

⁽²⁾ 1979 c. 36.

PART IV

YOUTH TRAINING

8.—(1) A person is a youth training trainee on a particular day if, on that day, he is undertaking training pursuant to arrangements made under section 2 of the Employment and Training Act 1973⁽³⁾ or section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽⁴⁾, and in either case, these arrangements constitute an approved training scheme for the purposes of section 28 of the Social Security Contributions and Benefits Act 1992⁽⁵⁾.

(2) A person is to be regarded as undertaking training on a particular day for the purposes of paragraph (1) if the day falls within the relevant period for that course.

PART V

INTERPRETATION

9. In this Schedule, the relevant period for a course or programme means the period beginning with the day on which a person begins that course or programme and ending with the day (“the last day”) on which he completes it, abandons it or is dismissed from it (which period includes any periods of vacation between terms and before the last day).

(3) 1973 c. 50: section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and amended by the Employment Act 1989 (c. 38), Schedule 7, Part I.

(4) 1990 c. 35.

(5) 1992 c. 4.