
SCOTTISH STATUTORY INSTRUMENTS

2024 No. 140

EDUCATION

The Education (Fees and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2024

<i>Made</i>	- - - -	<i>7th May 2024</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th May 2024</i>
<i>Coming into force</i>	- -	<i>1st August 2024</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(1), section 1 of the Education (Fees and Awards) Act 1983(2) 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 2024 and come into force on 1 August 2024.

Amendment of the Education (Fees) (Scotland) Regulations 2022

- 2.—(1) The Education (Fees) (Scotland) Regulations 2022(3) are amended as follows.
- (2) In regulation 2 (interpretation) in paragraph (1), after the definition of “fees” insert—
- ““higher education” has the meaning given by section 38 of the Further and Higher Education (Scotland) Act 1992(4).”.
- (3) For paragraph 7 of schedule 1 (refugees) substitute—

(1) 1980 c. 44. Section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30) (“the 1988 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 1988 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) (“the Scotland Act”).

(2) 1983 c. 40. Section 1 was relevantly 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.

(3) S.S.I. 2022/156, as amended by S.S.I. 2022/362 and S.S.I. 2023/142.

(4) 1992 c. 37. Section 38 was amended by the Education (Scotland) Act 1996 (c. 43), schedule 5, paragraph 9.

“Refugees

7. A student is an excepted student if that student—
- (a) is a refugee who—
 - (i) has been ordinarily resident in the United Kingdom since that person was first recognised as a refugee, and
 - (ii) is resident in Scotland on the relevant date, or
 - (b) is the spouse, civil partner or child of a person described in sub-paragraph (a) and is ordinarily resident in Scotland on the relevant date.”.
- (4) In paragraph 8(a) of schedule 1 (persons granted leave following on from refugee claim) in head (iii) omit “ordinarily”.
- (5) In paragraph 9(a) of schedule 1 (Iraqi nationals) in head (ii) omit “at all times”.
- (6) In paragraph 10(a) of schedule 1 (Syrian nationals) in head (ii) omit “at all times”.
- (7) In paragraph 11(a) of schedule 1 (Afghan nationals) in head (ii) omit “at all times”.
- (8) In paragraph 12(a) of schedule 1 (relocated Afghan citizens) in head (ii) omit “at all times”.
- (9) After paragraph 12A of schedule 1 (evacuated or Assisted British nationals from Afghanistan) insert—

“Female Afghan students

- 12B.** A student is an excepted student if that student is a female Afghan national who—
- (a) was attending a course of study at a university or an equivalent institution in Afghanistan but has been prevented from continuing that course by the Taliban regime since 31 August 2021,
 - (b) was residing in Afghanistan immediately before 30 January 2024,
 - (c) has been granted leave to enter or remain in the United Kingdom under a student visa,
 - (d) is resident in Scotland, and
 - (e) is undertaking a course of higher education in Scotland.”.
- (10) For paragraph 13 of schedule 1 (Ukrainian nationals) substitute—

“Ukrainian nationals

- 13.—(1)** A student is an excepted student if that student—
- (a) has—
 - (i) made a relevant application where that application is still being considered, or
 - (ii) been granted leave to enter or remain in the United Kingdom following a relevant application, and
 - (b) has been ordinarily resident in the United Kingdom since their arrival in the United Kingdom after leaving Ukraine, and
 - (c) is ordinarily resident in Scotland on the relevant date.
- (2) In this paragraph, a ‘relevant application’ is an application to—
- (a) the Ukraine Family Scheme⁽⁵⁾,

(5) A scheme operated by the Home Office enabling a Ukrainian national, or the immediate family member of a Ukrainian national resident in Ukraine prior to 1 January 2022, to join family members or to extend their stay in the United Kingdom. The current Home Office guidance in relation to the Ukraine Family Scheme is available here: <https://www.gov.uk/guidance/apply-for-a-visa-under-the-ukraine-sponsorship-scheme?msclkid=d2811a9ac7a511ec885bf3a88e71ccc>.

- (b) the Homes for Ukraine Sponsorship Scheme(6),
- (c) the Ukraine Extension Scheme(7),
- (d) the Ukraine Permission Extension Scheme(8), or
- (e) the Home Office for leave outside the immigration rules(9), as defined in section 33(1) of the Immigration Act 1971, where that person—
 - (i) was residing in Ukraine immediately before 1 January 2022, and
 - (ii) left Ukraine in connection with the Russian invasion which took place on 24 February 2022,

by an individual who is eligible to apply to that scheme.”

(11) In paragraph 14(a) of schedule 1 (persons granted stateless leave) in head (ii) omit “at all times”.

(12) In paragraph 15(1) of schedule 1 (persons granted discretionary leave to remain as a victim of modern slavery) in head (b) omit “at all times”.

(13) In paragraph 16 of schedule 1 (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse)—

(a) in each place it occurs, including the heading, for “leave to remain” substitute “leave to enter or remain”,

(b) in sub-paragraph (a) for heads (i) to (iii) substitute—

“(i) paragraph VDA 9.1 of the Appendix Victim of Domestic Abuse(10), or

(ii) where such leave was granted before the coming into force of the Appendix Victim of Domestic Abuse, paragraph 289B (victim of domestic violence), paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse) or paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),”.

(14) After paragraph 16 of schedule 1 (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse) insert—

“Children of persons granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse

16A.—(1) A student is an excepted student if that student—

- (a) has been granted indefinite leave to enter or remain in the United Kingdom,

(6) A scheme operated by the Home Office enabling the sponsorship of Ukrainian nationals, or the immediate family member of a Ukrainian national resident in Ukraine prior to 1 January 2022 to come to the United Kingdom. The current Home Office guidance in relation to the Ukraine Sponsorship Scheme (Homes for Ukraine Scheme) is available here: <https://www.gov.uk/guidance/apply-for-a-visa-under-the-ukraine-sponsorship-scheme?msclkid=ecaf79fac7a511ecbf7adee0a78bac5b>.

(7) A scheme operated by the Home Office enabling a Ukrainian national who is in the United Kingdom and had permission to stay in the United Kingdom on or before 18 March 2022 to stay in the United Kingdom. The scheme enables the partner or children of the Ukrainian national to apply to stay in the United Kingdom provided they are already in the United Kingdom as the Ukrainian national’s ‘dependants’. The current Home Office guidance in relation to the Ukraine Extension Scheme is available here: <https://www.gov.uk/guidance/support-for-family-members-of-british-nationals-in-ukraine-and-ukrainian-nationals-in-ukraine-and-the-uk?msclkid=08bb96fec7a611ecb081f266e6480fd0>.

(8) A scheme scheduled to open during the 2024/25 academic year and operated by the Home Office enabling individuals who have come to the United Kingdom through one of the Ukraine schemes listed above to apply for an additional 18 months permission to remain in the United Kingdom. The current Home Office guidance in relation to the Ukraine Permission Extension Scheme is available here: <https://www.gov.uk/government/publications/ukraine-permission-extension-scheme-information/ukraine-permission-extension-scheme-information>.

(9) The immigration rules can be viewed at <https://www.gov.uk/guidance/immigration-rules?msclkid=b1df136cc7ce11ecb8f75116c530e06c>.

(10) The Appendix was added to the immigration rules by Statement of Changes to the Immigration Rules laid before the United Kingdom Parliament on 7th December 2023 (HC 246). An electronic copy of HC 246 is available at <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-246-7-december-2023>.

- (b) is the child of a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse,
- (c) on the leave application date, was the child of the person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse,
- (d) was under 18 years old on the leave application date,
- (e) has been ordinarily resident in the United Kingdom since the person was granted such leave, and
- (f) is ordinarily resident in Scotland on the relevant date.

(2) In this paragraph, “leave application date” means the date on which a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse made an application to remain in the United Kingdom on those grounds under the immigration rules.”.

(15) In paragraph 1 of schedule 2 (students with a relevant connection with Scotland: ordinary residence on relevant date)—

- (a) In sub-paragraph (1), after “(relevant connection with Scotland)” insert “and schedule 1”,
- (b) In sub-paragraph (2), after “regulation 3(a)” insert “and schedule 1”.
- (c) The heading becomes “Students with a relevant connection with Scotland and excepted students: ordinary residence on relevant date”.

(16) For paragraph 2 of schedule 2 (ordinary residence for specified period: general), substitute—

“Ordinary residence for specified period: general

2. Paragraphs 3 to 5 apply in determining, for the purposes of regulation 3(b) (relevant connection with Scotland) and schedule 1 (fees – excepted students), whether a student is to be treated as having been or not having been ordinarily resident for the period specified in that regulation and that schedule (in this schedule, “specified period”) in the United Kingdom, Ireland, Gibraltar, the European Economic Area, Switzerland or Turkey (in this schedule, “relevant area”).”.

Amendment of the Student Support (Scotland) Regulations 2022

3.—(1) The Student Support (Scotland) Regulations 2022(11) are amended as follows.

(2) In regulation 2 (interpretation) in paragraph (1), after the definition of “family member” insert—

““higher education” has the meaning given by section 38 of the Further and Higher Education (Scotland) Act 1992(12),”.

(3) In regulation 11 (students eligible for student loans) in paragraph (2)(d)—

- (a) after head (iv) omit “or”,
- (b) after head (v) insert—

“or,

(vi) any grant or allowance made under section 55 (grants and allowances for social service workers’ training) of the Regulation of Care (Scotland) Act 2001(13),”.

(4) In regulation 20 (maximum amounts of loans) for paragraph (1) substitute—

(11) [S.S.I. 2022/157](#), as amended by [S.S.I. 2022/362](#) and [S.S.I. 2023/142](#).

(12) [1992 c. 37](#). Section 38 was amended by the Education (Scotland) Act [1996 \(c. 43\)](#), schedule 5, paragraph 9.

(13) [2001 asp 8](#).

“(1) In relation to a loan issued under regulation 11 (students eligible for student loans)—

- (a) the maximum amount of loan in respect of each academic year must not exceed any amount determined by the Scottish Ministers, and
- (b) different maximum amounts may be determined for different categories of student.”.

(5) In regulation 22 (payment of loans), omit paragraph (4).

(6) In paragraph 1 of schedule 1 (persons who are settled in the United Kingdom or have long residence), the heading becomes “Persons with relevant connection with Scotland”.

(7) For paragraph 8 of schedule 1 (refugees) substitute—

“Refugees

8. A person who—

- (a) at the date that the Scottish Ministers received their application for student support is—
 - (i) a refugee who has been ordinarily resident in the United Kingdom and Islands since that person was first recognised as a refugee, and
 - (ii) is resident in Scotland on the relevant date, or
- (b) is the spouse, civil partner or child of such a person described in sub-paragraph (a) and who is ordinarily resident in Scotland on the relevant date.”.

(8) In paragraph 9(a) of schedule 1 (persons granted leave following on from refugee claim)—

- (a) in head (ii) omit “at all times”,
- (b) in head (iii) omit “ordinarily”.

(9) In paragraph 10(a) of schedule 1 (Iraqi nationals), in head (ii) omit “at all times”.

(10) In paragraph 11(a) of schedule 1 (Syrian nationals) in head (ii) omit “at all times”.

(11) In paragraph 12(a) of schedule 1 (Afghan nationals) in head (ii) omit “at all times”.

(12) In paragraph 13(a) of schedule 1 (relocated Afghan citizens) in head (ii) omit “at all times”.

(13) After paragraph 13A of schedule 1 (evacuated or Assisted British nationals from Afghanistan) insert—

“Female Afghan students

13B. A person who is a female Afghan national who—

- (a) was attending a course of study at a university or an equivalent institution in Afghanistan but has been prevented from continuing that course by the Taliban regime since 31 August 2021,
- (b) was residing in Afghanistan immediately before 30 January 2024,
- (c) has been granted leave to enter or remain in the United Kingdom and Islands under a student visa,
- (d) is resident in Scotland, and
- (e) is undertaking a course of higher education in Scotland.”.

(14) For paragraph 14 of schedule 1 (Ukrainian nationals) substitute—

“Ukrainian nationals

14.—(1) A person who—

- (a) (i) has made a relevant application to the United Kingdom Home Office where that relevant application is still being considered, or
- (ii) has been granted leave to remain following a relevant application, and
- (b) has been ordinarily resident in the United Kingdom and Islands since their arrival in the United Kingdom after leaving Ukraine, and
- (c) is ordinarily resident in Scotland on the relevant date.
- (2) In this paragraph, a ‘relevant application’ is an application to—
 - (a) the Ukraine Family Scheme(14),
 - (b) the Homes for Ukraine Sponsorship Scheme(15),
 - (c) the Ukraine Extension Scheme(16),
 - (d) the Ukraine Permission Extension Scheme(17), or
 - (e) the United Kingdom Home Office for leave outside the immigration rules(18), as defined in section 33(1) of the Immigration Act 1971, where a person—
 - (i) was residing in Ukraine immediately before 1 January 2022, and
 - (ii) left Ukraine in connection with the Russian invasion which took place on 24 February 2022

by an individual who is eligible to apply for that scheme.”.

(15) In paragraph 15(a) of schedule 1 (persons granted stateless leave) in head (ii) omit “at all times”.

(16) In paragraph 16(1) of schedule 1 (persons granted discretionary leave to remain as a victim of modern slavery) in head (b) omit “at all times”.

(17) In paragraph 17 of schedule 1 (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse)—

- (a) in each place it occurs, including the heading, for “leave to remain” substitute “leave to enter or remain”,
- (b) in sub-paragraph (a) for heads (i) to (iii) substitute—

“(i) paragraph VDA 9.1 of the Appendix Victim of Domestic Abuse(19), or

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- (14) A scheme operated by the Home Office enabling a Ukrainian national, or the immediate family member of a Ukrainian national resident in Ukraine prior to 1 January 2022, to join family members or to extend their stay in the United Kingdom. The current Home Office guidance in relation to the Ukraine Family Scheme is available here: <https://www.gov.uk/guidance/apply-for-a-visa-under-the-ukraine-sponsorship-scheme?msclid=d2811a9ac7a511ec885bf3a88e71ccc>.
 - (15) A scheme operated by the Home Office enabling the sponsorship of Ukrainian nationals, or the immediate family member of a Ukrainian national resident in Ukraine prior to 1 January 2022 to come to the United Kingdom. The current Home Office guidance in relation to the Ukraine Sponsorship Scheme (Homes for Ukraine Scheme) is available here: <https://www.gov.uk/guidance/apply-for-a-visa-under-the-ukraine-sponsorship-scheme?msclid=ecaf79fac7a511ecbf7adee0a78bac5b>.
 - (16) A scheme opened on 3 May 2022 and operated by the Home Office enabling a Ukrainian national who is in the United Kingdom and had permission to stay in the United Kingdom on or before 18 March 2022 to stay in the United Kingdom. The scheme enables the partner or children of the Ukrainian national to apply to stay in the United Kingdom provided they are already in the United Kingdom as the Ukrainian national’s ‘dependants’. The current Home Office guidance in relation to the Ukraine Extension Scheme is available here: <https://www.gov.uk/guidance/support-for-family-members-of-british-nationals-in-ukraine-and-ukrainian-nationals-in-ukraine-and-the-uk?msclid=08bb96fec7a611ecb081f266e6480fd0>.
 - (17) A scheme scheduled to open during the 2024/25 academic year and operated by the Home Office enabling individuals who have come to the United Kingdom through one of the Ukraine schemes listed above to apply for an additional 18 months permission to remain in the United Kingdom. The current Home Office guidance in relation to the Ukraine Permission Extension Scheme is available here: <https://www.gov.uk/government/publications/ukraine-permission-extension-scheme-information/ukraine-permission-extension-scheme-information>.
 - (18) The immigration rules can be viewed at <https://www.gov.uk/guidance/immigration-rules?msclid=b1df136cc7ce11ecb8f75116c530e06c>.
 - (19) The Appendix was added to the immigration rules by Statement of Changes to the Immigration Rules laid before the United Kingdom Parliament on 7th December 2023 (HC 246). An electronic copy of HC 246 is available at <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-246-7-december-2023>.

- (ii) where such leave was granted before the coming into force of the Appendix Victim of Domestic Abuse, paragraph 289B (victim of domestic violence), paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse) or paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces),”.

(18) After paragraph 17 of schedule 1 (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse) insert—

“Children of persons granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse

17A.—(1) A person who—

- (a) has been granted indefinite leave to enter or remain in the United Kingdom,
- (b) is the child of a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse,
- (c) on the leave application date, was the child of the person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse,
- (d) was under 18 years old on the leave application date,
- (e) has been ordinarily resident in the United Kingdom since the person was granted such leave, and
- (f) is ordinarily resident in Scotland on the relevant date.

(2) In this paragraph, “leave application date” means the date on which a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse made an application to remain in the United Kingdom on those grounds under the immigration rules.”.

(19) In paragraph 2 of schedule 2 (residents of Ireland) for “first day of the first academic year of the course” substitute “relevant date”.

(20) In paragraph 1 of schedule 3 (ordinary residence on relevant date), in sub-paragraph (1) for “schedule 1” substitute “schedules 1 and 2”.

(21) In paragraph 2 of schedule 3 (ordinary residence for specified period: general and interpretation)—

- (a) Omit “ of —”,
- (b) Omit sub-paragraphs (a) to (h),
- (c) For “schedule 1” substitute “schedules 1 and 2”,
- (d) For “in those paragraphs” substitute “in those schedules”.

(22) In Part 1 of schedule 4 (courses designated for student loans and student loans for tuition fees), after paragraph 7 insert—

7A. A taught course leading to a postgraduate diploma.

7B. A taught course leading to a postgraduate masters degree.

7C. A research course leading to a postgraduate masters degree.”.

(23) In Part 2 of schedule 4 (courses designated for student loans only) omit paragraphs 9 to 11.

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

St Andrew's House,
Edinburgh
7th May 2024

GRAEME DEY
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Fees) (Scotland) Regulations 2022 (“the Fees Regulations”) and the Student Support (Scotland) Regulations 2022 (“the Student Support Regulations”).

These Regulations make amendments to schedule 1 of the Fees Regulations to remove the requirement for refugees and persons granted leave following on from a refugee claim to be ordinarily resident in Scotland on the relevant date and to remove the requirement for persons from other excepted categories to reside “at all times” in the United Kingdom since they have been granted leave to remain. These Regulations also amend schedule 2 of the Fees Regulations to apply the rules relating to ordinary residence on the relevant date to schedule 1 and to apply the rules relating to ordinary residence for the specified period to all categories in schedule 1.

Amendments are also made to both the Fees Regulations and the Student Support Regulations to extend home fees status and student support to female Afghan students who have been prevented from continuing with their studies in Afghanistan by the Taliban regime, and to victims of domestic violence or domestic abuse who have been abandoned overseas and granted leave to enter, and to their children. Eligibility of Ukrainian nationals for home fees status and student support has been extended to those applying under the new Ukrainian Permission Extension Scheme.

These Regulations amend eligibility for student loans in regulation 13 of the Student Support Regulations by excepting from eligibility those students who are in receipt of grants and allowances for social service workers’ training. Minor alteration is made to regulation 20 to remove a drafting error. Amendment is also made to regulation 22 to remove the restriction on loans being paid over the longest vacation period.

These Regulations also make amendments to schedule 1 of the Student Support Regulations to remove the requirement for refugees and persons granted leave following on from a refugee claim to be ordinarily resident in Scotland on the relevant date and to remove the requirement for categories of persons listed in that schedule to reside “at all times” in the United Kingdom and Islands since they have been granted leave to remain. Schedule 3 is amended to apply the rules related to ordinary residence on the relevant date to schedule 2 and to apply the rules related to ordinary residence for the specified period to all categories in schedules 1 and 2. Schedule 4 is amended to update the list of courses designated for the purposes of student loans and student loans for tuition fees at institutions located in the United Kingdom but outside Scotland.