
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 149

EDUCATION

The Education Authority Bursaries (Scotland) Regulations 2007

<i>Made</i>	- - - - -	<i>1st March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - - -	<i>5th March 2007</i>
<i>Coming into force</i>	- -	<i>1st August 2007</i>

The Scottish Ministers, in exercise of the powers conferred by section 49(3) of the Education (Scotland) Act 1980(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Modifications etc. (not altering text)

C1 Regulations applied (5.10.2009) by [The Flexible New Deal \(Miscellaneous Provisions\) Order 2009 \(S.I. 2009/1562\)](#), regs. 1(2), 2(1)(c), [Sch.](#)

Citation and commencement **S**

1. These Regulations may be cited as the Education Authority Bursaries (Scotland) Regulations 2007 and shall come into force on 1st August 2007.

Commencement Information

II [Reg. 1](#) in force at 1.8.2007, see [reg. 1](#)

Interpretation **S**

2.—(1) In these Regulations—

“the Act” means the Education (Scotland) Act 1980;

“British Islands” means the United Kingdom, the Channel Islands and the Isle of Man;

“bursary” means a bursary, scholarship or other allowance granted under section 49(1) or (2) of the Act;

(1) [1980 c. 44](#); section 49(2A) was inserted by the Self-Governing Schools etc. (Scotland) Act [1989 \(c. 39\)](#), Schedule 10. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).

Status: Point in time view as at 11/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007. (See end of Document for details)

“Directive 2004/38” means Directive [2004/38/EC](#) of the European Parliament and of the Council⁽²⁾ on the rights of citizens of the Union and their family members to move and reside freely in the territory of the member States;

[^{F1}“ [^{F2}EU] national” means a person who is a national for the purposes of the Community Treaties of any member State of the [^{F2}European Union] ;]

“EEA frontier self employed person” means an EEA national who—

- (a) is a self employed person (within the meaning of article 7 of Directive 2004/38) in Scotland; and
- (b) resides in Switzerland or the territory of an EEA state other than the United Kingdom and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker (within the meaning of article 7 of Directive 2004/38) in Scotland; and
- (b) resides in Switzerland or the territory of an EEA state other than the United Kingdom and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“EEA migrant worker” means an EEA national in the United Kingdom who is a worker within the meaning of article 7 of Directive 2004/38 but who is not an EEA frontier worker;

“EEA national” means a national of an EEA state other than the United Kingdom;

“EEA self employed person” means an EEA national in the United Kingdom who is a self employed person within the meaning of article 7 of Directive 2004/38 but who is not an EEA frontier self employed person;

“employment” means full-time or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and references to employment include references to the holding of any office and to any occupation for gain;

“EU overseas territories” means Aruba, Faeroe Islands, French Polynesia, French Southern and Antarctic Territories, Greenland ^{F3}..., Mayotte, Netherlands Antilles (Bonaire, Curacao, Saba, Sint Eustatius and Sint Maarten), the Territory of New Caledonia and Dependencies, St Pierre et Miquelon and Wallis and Futuna Islands;

^{F4}
...

“European Economic Area” means the area of the EEA states, and includes those States at any time before they became EEA states;

[^{F5}“family member” means, in relation to any person—

- (a) their spouse or civil partner; or
- (b) their direct descendants or those of their spouse or civil partner who are—
 - (i) under the age of 21; or
 - (ii) their dependants or those of their spouse or civil partner; or
- (c) their dependent direct relatives in the ascending line or those of their spouse or civil partner.]

“non UK [^{F2}EU] national” means a person who is a national for the purposes of the [^{F2}European Union] Treaties of any member State of the European Community other than the United Kingdom;

(2) O.J. No. L 158, 30.04.04, p.77.

“parent” includes a step parent, a guardian, any other person having parental responsibilities for a child and any person having care of a child, and “child” shall be construed accordingly;

“qualifying day” in relation to a course of study for which a bursary is sought means–

- (a) as respects a course starting in the autumn term of any year, 30th June in that year;
- (b) as respects a course starting in the spring term of any year, 31st October in the year preceding that year; and
- (c) as respects a course starting in the summer term of any year, the last day of February in that year;

“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⁽³⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽⁴⁾;

“relevant date” in relation to a course of study for which a bursary is sought means–

- (a) as respects a course starting in the autumn term of any year, a reference to the earlier of 31st August in that year or the first day of that term;
- (b) as respects a course starting in the spring term of any year, a reference to the earlier of 31st December in the year preceding that year or the first day of that term; and
- (c) as respects a course starting in the summer term of any year, a reference to the earlier of 31st March in that year or the first day of that term;

“Swiss employed person” means a Swiss national in the United Kingdom who is an employed person within the meaning of Annex 1 to the Switzerland Agreement, but who is not a Swiss frontier employed person;

“Swiss frontier employed person” means a Swiss national who–

- (a) is an employed person (within the meaning of Annex 1 to the Switzerland Agreement) in Scotland; and
- (b) resides in Switzerland or in the territory of an EEA state other than the United Kingdom and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“Swiss frontier self employed person” means a Swiss national who–

- (a) is a self employed person (within the meaning of Annex 1 to the Switzerland Agreement) in Scotland ; and
- (b) resides in Switzerland or in the territory of an EEA state, other than the United Kingdom, and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“Swiss self employed person” means a Swiss national in the United Kingdom who is a self employed person within the meaning of Annex 1 to the Switzerland Agreement), but who is not a Swiss frontier self employed person;

“Switzerland Agreement” means the Agreement between the European Community and its member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999⁽⁵⁾ and which came into force on 1st June 2002; and

(3) Cm. 9171.

(4) Cm. 3906. (Out of print: photocopies are available free from the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, Edinburgh EH12 9HH).

(5) Cm. 5639.

Status: Point in time view as at 11/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007. (See end of Document for details)

“temporary protection” means limited leave to enter or remain granted pursuant to Part 11A of the Immigration Rules(6).

[^{F6}“Turkish worker” means a Turkish national who–

- (a) is ordinarily resident in Scotland; and
- (b) is, or has been, lawfully employed in the United Kingdom]

(2) In these Regulations, except where the context otherwise requires, any reference–

- (a) to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations; and
- (b) in a regulation or Schedule to a numbered paragraph is a reference to the paragraph so numbered in that regulation or Schedule, as the case may be.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) inserted (25.6.2009) by [The Education \(Fees and Awards for EC Nationals and UK Returners\) \(Scotland\) Regulations 2009 \(S.S.I. 2009/188\)](#), regs. 1, **4(a)**
- F2** Words in Regulations substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, **3-6, 8-10**
- F3** Word in [reg. 2\(1\)](#) omitted (1.4.2012) by virtue of [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/72\)](#), regs. 1, **9(a)**
- F4** Words in [reg. 2\(1\)](#) omitted (1.4.2012) by virtue of [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/72\)](#), regs. 1, **9(b)**
- F5** Words in [reg. 2\(1\)](#) substituted (1.4.2013) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/80\)](#), regs. 1(2), **12**
- F6** Words in [reg. 2\(1\)](#) inserted (1.12.2007) by [The Education \(Amendments in respect of Graduate Endowment, Student Fees and Support\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/503\)](#), regs. 1(1), **6(2)**

Commencement Information

- I2** [Reg. 2](#) in force at 1.8.2007, see [reg. 1](#)

Exercise of power to grant a bursary **S**

3.—(1) The power of an education authority to grant a bursary in accordance with section 49(1) or (2) of the Act–

- (a) shall be exercised in accordance with the following provisions of these Regulations; and
- (b) shall not be exercised except in relation to a person described in one or more paragraphs of Schedule 1.

(2) Schedule 2 shall have effect as regards determining whether a person is to be treated, for the purposes of Schedule 1, as being, or having been, ordinarily resident in a place at or for a particular time.

Commencement Information

- I3** [Reg. 3](#) in force at 1.8.2007, see [reg. 1](#)

(6) HC 395; relevant amending instrument is HC 164.

Amount of bursaries **S**

4.—(1) The amount of a bursary shall be determined by the education authority and may include sums in respect of—

- (a) tuition and other fees payable in respect of the holder of the bursary;
- (b) travelling expenses necessarily incurred, or to be incurred, by the holder in undertaking the course of study in respect of which the bursary is awarded;
- (c) the maintenance of the holder and of any person dependent on the holder during periods of full-time study and during vacations; and
- (d) other expenses incurred, or to be incurred, by the holder in taking advantage of educational facilities.

(2) A bursary payable to or in respect of a person who is eligible for a bursary only by virtue of paragraph 9 of Schedule 1 may include sums only in respect of tuition and other fees payable in respect of that person.

(3) In determining the amount of a bursary, the education authority may take account of the sums, if any, which in their opinion the holder of the bursary, the holder's parents and the holder's spouse or civil partner can reasonably be expected to contribute towards the holder's expenses.

(4) The amount of a bursary may be revised at any time if the education authority think fit having regard to—

- (a) the failure of the holder to comply with the conditions of the bursary;
- (b) all the circumstances of the holder, their parents, their spouse or civil partner or any as the case may be; or
- (c) any error made in the computation of the amount of the bursary.

Commencement Information

I4 [Reg. 4](#) in force at 1.8.2007, see [reg. 1](#)

Conditions of bursary **S**

5.—(1) Every bursary shall be held subject to the following conditions:—

- (a) the holder shall attend regularly the course of study in respect of which the bursary is awarded;
- (b) the education authority shall be satisfied as to the conduct and progress of the holder; and
- (c) the holder shall provide the education authority with such information and such documents as they may from time to time require to enable them to exercise their functions under these Regulations.

(2) If the conditions specified in paragraph (1) are not complied with or if the holder receives from any other source any sum which, in the opinion of the education authority, makes it unnecessary for the holder to be assisted by means of a bursary, the education authority may suspend payment of the bursary or terminate the bursary.

(3) It shall be a condition of payment of a bursary that the applicant gives a written undertaking to pay to the education authority any amount of which they may request repayment in the circumstances specified in paragraph (4) and that, if the applicant is below the age of legal capacity and has any parent or guardian, the parent or guardian shall consent to the undertaking.

(4) Where the education authority are satisfied that there has been an overpayment of bursary for any reason and request repayment of the overpayment or so much thereof as they think fit, and the

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holder of the bursary has given an undertaking under paragraph (3), the holder of the bursary shall be obliged to pay to the education authority the amount requested.

.....
Commencement Information

I5 [Reg. 5](#) in force at 1.8.2007, see [reg. 1](#)

St Andrew's House,
Edinburgh

HUGH HENRY
A member of the Scottish Executive

SCHEDULE 1 **S**

Regulation 3(1)

PERSONS ELIGIBLE FOR BURSARIES

1. A person who—
- (a) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course of study in respect of which that person seeks a bursary;
 - (b) has been ordinarily resident in the British Islands throughout the period of 3 years preceding the relevant date; and
- [^{F7}(c) is—
- (i) settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 on the relevant date;
 - (ii) under the age of 18 and has lived in the United Kingdom throughout the seven-year period preceding the relevant date; or
 - (iii) aged 18 years old or above and, preceding the relevant date, has lived in the United Kingdom throughout either half his or her life or a period of twenty years.]

Textual Amendments

F7 Sch. 1 para. 1(c) substituted (1.8.2017) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/180\)](#), regs. 1, 7

Commencement Information

I6 Sch. 1 para. 1 in force at 1.8.2007, see [reg. 1](#)

2. A person who—
- (a) is—
 - (i) an EEA migrant worker or an EEA self employed person;
 - (ii) a Swiss employed person or a Swiss self employed person;
 - (iii) an EEA frontier worker or an EEA frontier self employed person; or
 - (iv) a Swiss frontier [^{F8}employed person] or a Swiss frontier self employed person;
 - (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
 - (c) is—
 - (i) ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary; or
 - (ii) not ordinarily resident on that day in the area of any education authority in Scotland and seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority.

Textual Amendments

F8 Words in sch. 1 para. 2(a)(iv) substituted (1.4.2012) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/72\)](#), regs. 1, **10(2)**

Commencement Information

I7 Sch. 1 para. 2 in force at 1.8.2007, see [reg. 1](#)

Status: Point in time view as at 11/09/2020.

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3. A person who—

- (a) is—
 - (i) the family member of a person mentioned in paragraph 2(a); or
 - (ii) is entitled to support by virtue of ^{F9}Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union], as extended by the EEA agreement;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
- (c) is—
 - (i) ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary, or
 - (ii) not ordinarily resident on that day in the area of any education authority in Scotland and seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority.

Textual Amendments

F9 Words in *sch. 1 para. 3(a)(ii)* substituted (1.4.2013) by *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2013 (S.S.I. 2013/80)*, regs. 1(2), **13(2)**

Commencement Information

I8 *Sch. 1 para. 3* in force at 1.8.2007, see **reg. 1**

4.—(1) A person who—

- (a) is settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 [^{F10}on the relevant date];
 - ^{F11}(b) was ordinarily resident in Scotland (and the Scottish Ministers are satisfied that such residence was not in any sense attributable to, or connected with, any period of residence in Scotland within the 3 years immediately preceding in respect of which any part of its purpose was wholly or mainly that of receiving full time education) and settled in the United Kingdom [^{F12}within the meaning given by section 33(2A) of the Immigration Act 1971] immediately before leaving the United Kingdom and who has utilised a right of residence;]
 - (c) is—
 - (i) ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary; or
 - (ii) not ordinarily resident on that day in the area of any education authority in Scotland and seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority;
 - (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date; and
 - (e) in the case where their ordinary residence referred to in sub sub paragraph (d) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of residence referred to in sub sub paragraph (d).
- (2) For the purposes of this paragraph, a person has utilised a right of residence if that person—

- (a) is—
- (i) a United Kingdom national;
 - (ii) a family member of a United Kingdom national with rights under Article 7 of Directive 2004/38(7) (or corresponding provisions under the EEA agreement or the Switzerland Agreement(8)); or
 - (iii) a person who has a right of permanent residence arising under Directive 2004/38; and
- (b) either—
- (i) has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement in a State other than the United Kingdom; or
 - (ii) in the case of a person who has a right of permanent residence in the United Kingdom arising under Directive 2004/38, has gone to the State within the territory comprising the European Economic Area and Switzerland of which that person is a national or of which the person in relation to whom that person is a family member is a national.

[^{F13}(3) Sub-paragraph (1)(a) [^{F14}and the requirement in sub-paragraph (1)(b) to be settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 immediately before leaving the United Kingdom do] not apply where the person applying for support is a person falling within sub-paragraph (2)(a)(ii).]

Textual Amendments

- F10** Words in sch. 1 para. 4(1)(a) inserted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(3)(a)(i)**
- F11** Sch. 1 para. 4(1)(b) substituted (25.6.2009) by The Education (Fees and Awards for EC Nationals and UK Returners) (Scotland) Regulations 2009 (S.S.I. 2009/188), regs. 1, **5(a)**
- F12** Words in sch. 1 para. 4(1)(b) inserted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(3)(a)(ii)**
- F13** Sch. 1 para. 4(3) inserted (1.12.2007) by The Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (S.S.I. 2007/503), regs. 1(1), **6(3)(a)**
- F14** Words in sch. 1 para. 4(3) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(3)(b)**

Commencement Information

- I9** Sch. 1 para. 4 in force at 1.8.2007, see **reg. 1**

5. A person who—
- (a) at the date that the education authority received their application for a bursary is—
 - (i) a refugee who has been ordinarily resident in the British Islands at all times since that person was first recognised as a refugee; or
 - (ii) the spouse, civil partner, or child, of such a refugee; and
 - (b) (i) is ordinarily resident in the area of the education authority on the qualifying day; or
 - (ii) seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority.

(7) O.J. No. L 158, 30.04.04, p.77.

(8) Cm. 5639.

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Changes to legislation: There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007. (See end of Document for details)

Commencement Information

I10 Sch. 1 para. 5 in force at 1.8.2007, see [reg. 1](#)

6. A person who—

- (a) (i) has applied for refugee status but has as a result of that application been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that although that person is considered not to qualify for recognition as a refugee, it is thought right to allow that person to enter or remain in the United Kingdom and that person has been granted leave to enter or remain accordingly;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such leave to enter or remain; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub paragraph (a) and who meets a residence requirement specified in sub paragraph (a)(iii).

Commencement Information

I11 Sch. 1 para. 6 in force at 1.8.2007, see [reg. 1](#)

[^{F15}6A. A person who—

- (a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets a residence requirement specified in sub-paragraph (a)(iii).]

Textual Amendments

F15 Sch. 1 para. 6A inserted (30.9.2009) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2009 \(S.S.I. 2009/309\)](#), regs. 1, 4

[^{F16}6B. A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and

- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets a residence requirement specified in sub-paragraph (a)(iii).]

Textual Amendments

F16 Sch. 1 para. 6B inserted (1.8.2016) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/82\)](#), regs. 1(4), **6(2)**

[^{F17}**6C.** A person who—

- (a)
 - (i) is an Afghan national who has been granted limited leave to remain in the United Kingdom under the Locally Employed Staff Ex-Gratia Scheme operated by the Home Department;
 - (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such limited leave to remain in the United Kingdom; and
 - (iii) 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; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets the residence requirement specified in sub-paragraph (a)(iii).

Textual Amendments

F17 Sch. 1 paras. 6C, 6D inserted (1.8.2018) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/171\)](#), regs. 1, **3**

6D. A person who—

- (a)
 - (i) has been granted limited leave to remain in the United Kingdom as a stateless person under the immigration rules operated by the Home Department;
 - (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such limited leave to remain in the United Kingdom; and
 - (iii) 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; or
- (b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets the residence requirement specified in sub-paragraph (a)(iii).]

Textual Amendments

F17 Sch. 1 paras. 6C, 6D inserted (1.8.2018) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/171\)](#), regs. 1, **3**

[^{F18}**6E.**—(1) A person who—

- (a) has been granted discretionary leave to remain in the United Kingdom due to being identified as a victim of modern slavery,

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- (b) has been ordinarily resident in the British Islands at all times since that person was first granted such discretionary 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.

(2) For the purposes of this paragraph, “modern slavery” includes human trafficking, slavery, servitude and forced or compulsory labour.]

Textual Amendments

F18 Sch. 1 para. 6E inserted (6.4.2019) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(EU Exit\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/70\)](#), regs. 1, **4(a)**

[^{F19}**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.

Textual Amendments

F19 Sch. 1 paras. 6F, 6G inserted (11.9.2020) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/213\)](#), regs. 1, **3**

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.]

Textual Amendments

F19 Sch. 1 paras. 6F, 6G inserted (11.9.2020) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/213\)](#), regs. 1, **3**

7. A person who—
- (a) at the date that the education authority received that person’s application for a bursary has been granted temporary protection and who has been ordinarily resident in the British Islands at all times since that person was first granted temporary protection;
 - (b) has not attained the age of 18 years on the relevant date; and
 - (c) is ordinarily resident in the area of the education authority on the qualifying day, provided that a bursary paid to a person only by virtue of that person qualifying under this paragraph shall not continue beyond the end of any academic year in which that person attains the age of 18 years.

Commencement Information

I12 Sch. 1 para. 7 in force at 1.8.2007, see **reg. 1**

- [^{F20}8.—(1) A person who
- (a) is, on the relevant date, a non UK EC national or the family member of such a national;
 - (b) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course of study in respect of which that person seeks a bursary;
 - (c) has been ordinarily resident in the British Islands throughout the period of 3 years immediately preceding the relevant date; and
 - (d) in the case where their ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of residence referred to in paragraph (c).
- (2) Where a state accedes to the EU after the relevant date and a person is a national of that state, the requirement in sub-paragraph (1)(a) to be a non UK EC national on the relevant date is treated as being satisfied.]

Textual Amendments

F20 Sch. 1 para. 8 substituted (1.4.2012) by *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72)*, **regs. 1, 10(4)**

Commencement Information

I13 Sch. 1 para. 8 in force at 1.8.2007, see **reg. 1**

- [^{F21}9.—(1) A person who—
- [^{F22}(a) is, on the relevant date—
- (i) an EC national; or
 - (ii) the family member of an EC national accompanying or joining that EC national in the United Kingdom; and]
- (b) subject to paragraph (2) has been ordinarily resident in the area comprising the European Economic Area, Switzerland and the EU overseas territories throughout the period of 3 years immediately preceding the relevant date; and
 - (c) seeks a bursary in respect of a course of study at an establishment in the area of the education authority

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Changes to legislation: There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007. (See end of Document for details)

(2) Sub-paragraph (1)(b) does not apply to a family member of an EC national where that EC national has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the EU overseas territories throughout the period of 3 years immediately preceding the relevant date

(3) For the purposes of this paragraph—

(a) an EC national does not include a United Kingdom national who has not utilised a right of residence; and

[^{F23}(b) a United Kingdom national has utilised a right of residence if that person has—

(i) exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement in a state other than the United Kingdom; or

(ii) resided in a state—

((aa)) within the territory comprising the European Economic Area and Switzerland other than the United Kingdom; and

((bb)) of which that person is a national,

in circumstances in which, had the person not been a national of that state, would have involved the person exercising a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland Agreement.]

(4) Where a state accedes to the EU after the relevant date and a person is a national of that state, the requirement in sub-paragraph (1)(a) to be an EC national on the relevant date is treated as being satisfied.]

Textual Amendments

F21 Sch. 1 para. 9 substituted (1.4.2012) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(S.S.I. 2012/72\)](#), regs. 1, **10(5)**

F22 Sch. 1 para. 9(1)(a) substituted (1.4.2013) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/80\)](#), regs. 1(2), **13(3)(a)**

F23 Sch. 1 para. 9(3)(b) substituted (1.4.2013) by [The Education \(Fees, Awards and Student Support\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/80\)](#), regs. 1(2), **13(3)(b)**

Commencement Information

I14 Sch. 1 para. 9 in force at 1.8.2007, see [reg. 1](#)

10. A person who—

(a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Switzerland Agreement;

(b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the period of 3 years immediately preceding the relevant date;

(c) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course in respect of which that person seeks a bursary; and

(d) in the case where their ordinary residence referred to in paragraph (b) was wholly or mainly for the purpose of receiving full time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of residence referred to in paragraph (b).

Commencement Information

I15 Sch. 1 para. 10 in force at 1.8.2007, see [reg. 1](#)

11. A person to whom, or in respect of whom, a bursary has been paid in accordance with these Regulations within the year immediately preceding the relevant date, provided that this paragraph will not apply where it would result in the payment of a bursary to a person after the end of any academic year in which that person attained the age of 18 years where that person qualified only by virtue of paragraph 7.

Commencement Information

I16 Sch. 1 para. 11 in force at 1.8.2007, see [reg. 1](#)

^[F24]**12.** A person who—

- (a) is the child of a Turkish worker;
- (b) is ordinarily resident in Scotland on the ^[F25]qualifying day]; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the period of 3 years preceding the ^[F26]relevant date].]

Textual Amendments

F24 Sch. 1 para. 12 inserted (1.12.2007) by The Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (S.S.I. 2007/503), regs. 1(1), **6(3)(b)**

F25 Words in sch. 1 para. 12(b) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(6)(a)**

F26 Words in sch. 1 para. 12(c) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **10(6)(b)**

^[F27]**13.** A person who would have fallen within one or more of paragraphs 1 to 12 immediately before exit day is to be treated as falling within the same paragraph or paragraphs on and after exit day.]

Textual Amendments

F27 Sch. 1 para. 13 inserted (6.4.2019) by The Education (Fees and Student Support) (Miscellaneous Amendments) (EU Exit) (Scotland) Regulations 2019 (S.S.I. 2019/70), regs. 1, **4(b)**

SCHEDULE 2 **S**

Regulation 3(2)

ORDINARY RESIDENCE

1.—(1) For the purposes of paragraph 1(a) and paragraph ^[F28]8(1)(b)] of Schedule 1 a person shall be treated as being ordinarily resident in the area of the education authority on the qualifying day if the education authority are satisfied that that person was not so resident only because—

(a) that person, their spouse or civil partner or either of their parents; or

Status: Point in time view as at 11/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007. (See end of Document for details)

- (b) in the case of a dependant direct relative in the ascending line, the child upon whom that person was dependent or that child’s spouse or civil partner, was [^{F29}temporarily]–
- (c) employed outside Scotland; or
- (d) attending a course of study or undertaking postgraduate research outside Scotland.

(2) For the purposes of paragraph 1(a) of Schedule 1 and subject to sub paragraph (3), a person shall not be treated as being ordinarily resident in the area of the education authority on the qualifying day if the education authority are satisfied that their residence there on that day is in any sense attributable to, or connected with, any period of residence within 3 years immediately preceding the relevant date any part of which was wholly or mainly for the purpose of receiving full time education.

(3) Sub paragraph (2) shall not apply to a person who has acquired settled status in the United Kingdom under the Immigration Act 1971(9) as a result of residence for full-time education which has led to a right of permanent residence arising under Directive 2004/38(10).

Textual Amendments

F28 Word in *sch. 2 para. 1(1)* substituted (1.4.2012) by *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72)*, regs. 1, **11(2)(a)**

F29 Word in *sch. 2 para. 1(1)* substituted (1.4.2012) by *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72)*, regs. 1, **11(2)(b)**

Commencement Information

I17 *Sch. 2 para. 1* in force at 1.8.2007, see **reg. 1**

2.—(1) Sub paragraphs (2) to (5) shall apply in determining, for the purposes of paragraphs 1(b), 2(b), 3(b), 4(1)(d), [^{F30}8(1)(c)], [^{F31}[^{F32}9(1)(b)], 10(b) and 12(c)] of Schedule 1, whether a person is to be treated as having been or not having been ordinarily resident for the period specified in those paragraphs (in this paragraph, “the specified period”) in the British Islands, the European Economic Area or Switzerland or the EU overseas territories [^{F33}or Turkey] (in this paragraph “the relevant area”).

(2) A person shall not be treated as having been ordinarily resident in the relevant area for the specified period in paragraph 1(b) of Schedule 1, if the education authority are satisfied that that person was resident there for any part of that period wholly or mainly for the purpose of receiving full-time education, unless–

- ^{F34}(a)
- (b) the person has acquired settled status in the United Kingdom under the Immigration Act 1971 as a result of residence for full-time education which has led to a right of permanent residence arising under Directive 2004/38, in which case the person must have been ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the start of that period of residence.

(3) A person shall not be treated as having been ordinarily resident in the relevant area for the specified period in paragraph [^{F35}9(1)(b)] of Schedule 1 if the education authority are satisfied that that person was resident there for any part of that period wholly or mainly for the purpose of receiving full-time education^{F36}....

(9) 1971 c. 77.
(10) O.J. No. L 158, 30.04.04, p.77.

(4) A person shall be treated as having been ordinarily resident in the relevant area for the specified period if the education authority are satisfied that the person was born and spent the greater part of their life in the relevant area and that—

- (a) their parents or either of them have been ordinarily resident in the relevant area throughout the specified period and that person is not an independent person; or
- (b) that person has been ordinarily resident in the relevant area for at least 1 year of the specified period and, in the case of those qualifying by virtue of paragraph 1 or 9 of Schedule 1, no part of that period or residence was wholly or mainly for the purpose of receiving full time education.

(5) A person shall be treated as having been ordinarily resident in the relevant area for the specified period if the education authority are satisfied that the person was not actually so resident in the relevant area for the specified period only because—

- (a) that person, or their spouse or civil partner, or either of their parents; or
- (b) in the case of a dependant direct relative in the ascending line, the child upon whom that person was dependent or that child's spouse or civil partner,

was [^{F37}temporarily]—

- (i) employed outside the relevant area; or
- (ii) attending a course of study or undertaking post graduate research outside the relevant area.

Textual Amendments

- F30** Words in sch. 2 para. 2(1) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(3)(a)**
- F31** Words in sch. 2 para. 2(1) substituted (1.12.2007) by The Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (S.S.I. 2007/503), regs. 1(1), **6(4)(a)**
- F32** Word in sch. 2 para. 2(1) substituted (30.9.2009) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2009 (S.S.I. 2009/309), regs. 1, **5**
- F33** Words in sch. 2 para. 2(1) inserted (1.12.2007) by The Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (S.S.I. 2007/503), regs. 1(1), **6(4)(b)**
- F34** Sch. 2 para. 2(2)(a) omitted (1.4.2012) by virtue of The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(3)(b)**
- F35** Word in sch. 2 para. 2(3) substituted (30.9.2009) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2009 (S.S.I. 2009/309), regs. 1, **5**
- F36** Words in sch. 2 para. 2(3) omitted (1.4.2012) by virtue of The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(3)(c)**
- F37** Word in sch. 2 para. 2(5) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(3)(d)**

Commencement Information

- I18** Sch. 2 para. 2 in force at 1.8.2007, see **reg. 1**

3.—(1) In paragraph 2(4)(a) an “independent person” means a person who prior to the relevant date—

- (a) has attained the age of 25 years;
- (b) is married or in a civil partnership;

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(c) has been self supporting out of their earnings for periods aggregating not less than 3 years;
F38 ...

[F39(ca) had the care of a person under the age of 18 years who was wholly or mainly financially dependent on them; or]

(d) has no parent living.

(2) A person shall be regarded as having been self supporting out of their earnings for any period during which that person—

(a) was participating in arrangements for training for the unemployed under any scheme operated, sponsored or funded by any state authority or agency, national, regional or local;

(b) was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;

(c) was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) or (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit; or

(d) received any pension, allowance or other benefit paid by reason of a disability to which they are subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer or by any other person; [F40 or]

(e) held [F41 an advance postgraduate award] or comparable award; F42 ...

F42(f)

Textual Amendments

- F38 Word in sch. 2 para. 3(1)(c) omitted (1.4.2012) by virtue of The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(4)(a)**
- F39 Sch. 2 para. 3(1)(ca) inserted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(4)(a)**
- F40 Word in sch. 2 para. 3(2)(d) inserted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(4)(b)(i)**
- F41 Words in sch. 2 para. 3(2)(e) substituted (1.4.2012) by The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(4)(b)(ii)**
- F42 Words in sch. 2 para. 3(2) omitted (1.4.2012) by virtue of The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2012 (S.S.I. 2012/72), regs. 1, **11(4)(b)(iii)**

Commencement Information

- I19 Sch. 2 para. 3 in force at 1.8.2007, see **reg. 1**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with only minor and drafting amendments the Education Authority Bursaries (Scotland) Regulations 1995 (S.I. 1995/1739 (S.119)) and subsequent amending instruments, which are revoked with transitional provisions by the Education (Graduate Endowment, Student Fees and Support) (Scotland) Revocation Regulations 2007 (S.S.I. 2007/148).

They regulate the exercise by education authorities of their powers under section 49 of the Education (Scotland) Act 1980 to pay bursaries to persons undertaking courses of study. They prescribe that bursaries may only be paid to persons who fulfil certain criteria as to eligibility and they prescribe the conditions and requirements subject to which allowances may be paid.

The definitions of “employment” (including “employed”) and “parent” (including “child”) have been clarified.

Support in relation to fees only has been extended to include nationals of EU overseas territories.

Tables of Derivations and Destinations have been prepared identifying individual regulations in these Regulations with the equivalent provisions in the superseded Regulations and vice versa. Copies of the Tables may be obtained from the Scottish Executive, Higher Education and Learner Support Division, Europa Building, 450 Argyle Street Glasgow, G2 8LG. The Tables have been prepared to assist readers of the Regulations and do not have any legal effect.

Status:

Point in time view as at 11/09/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Education Authority Bursaries (Scotland) Regulations 2007.