
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that it is lawful for a fundable body to charge certain students fees at a higher level than other students. “Fundable body” means a fundable body providing fundable higher education in terms of section 5(3) of the Further and Higher Education (Scotland) Act 2005.

The Regulations apply in the case of any student who is a “post 2011/12 student” within the meaning of the Regulations. A “post 2011/12 student” is defined in regulation 2(1) as a student who is not a “new deferred student” who commences a course of education at a fundable body on or after 1st August 2012.

Regulation 3 provides that a post 2011/12 student has a relevant connection with Scotland if that post 2011/12 student (a) is ordinarily resident in Scotland on the relevant date; (b) has been ordinarily resident in the United Kingdom and Islands throughout the period of 3 years immediately preceding the relevant date; and (c) is settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 on the relevant date.

Regulation 4(1) provides that it is lawful to charge higher relevant fees in the case of post 2011/12 students who do not have a relevant connection with Scotland than in the case of post 2011/12 students having such a connection unless those students are excepted students within the meaning of Schedule 1. Schedule 1 makes provision for 13 categories of excepted student. “Relevant fees” is defined in regulation 2(1).

Regulation 5 gives effect to Schedule 2 which makes provision as regards determining whether a person is to be treated, for the purposes of regulation 3 or Schedule 1, as being, or having been, ordinarily resident in a place at, or for, a particular time.

Regulation 6 amends the Education (Fees and Awards) (Scotland) Regulations 2007 by inserting a new regulation 3A to provide that Part II of those Regulations does not apply to a “post 2011/12 student”.