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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 248**

**EDUCATION**

**The St Mary's Music School (Aided Places) (Scotland) Regulations 2015**

<i>Made</i>	- - - -	<i>4th June 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>5th June 2015</i>
<i>Coming into force</i>	- -	<i>1st August 2015</i>

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) Regulations 2015 and come into force on 1st August 2015.

**Interpretation**

2. In these Regulations, unless otherwise specified—

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

“aided place” means a place at the school, in respect of which fees are to be remitted in accordance with the Scheme;

“aided pupil” means a child who has been admitted or is about to be admitted to an aided place;

“allowance” means an allowance payable by the Scottish Ministers under these Regulations;

“applicant” means either or both a parent or a partner, who has applied for an aided place for a child;

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

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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) of, and paragraph 8(17) of Schedule 10 to, 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).

“child” means a person who has not attained the age of 20 at the commencement of any school year of the school and is to be construed in accordance with the definition of “parent”;

“chorister” means a child who attends the school wholly or mainly in connection with singing in St Mary’s Cathedral Choir;

“EEA State” means a member State, Norway, Iceland or Lichtenstein;

“employment” means full-time or part-time paid employment including self-employment and the holding of any office and any occupation for gain (and “employed” and related words are to be construed accordingly);

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

“fee” means—

- (a) a tuition or other fee which must be paid to attend the school, including for board and lodging; and
- (b) a fee paid by the school in respect of a public examination for which an aided pupil is a candidate;

“first aided year” means the school year in which a child would first begin an aided place if admitted;

“income”, “relevant income” and “total income” have the meanings given by paragraphs 9(1) and 9(2) of Schedule 1;

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

“partner” means—

- (a) the spouse of a parent;
- (b) the civil partner of a parent; or
- (c) on or after 1st August 2016, a person ordinarily living with a parent as if he or she were the spouse or civil partner of that person;

“refugee” means a person who—

- (a) 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<sup>(2)</sup> as extended by the Protocol thereto which entered into force on 4th October 1967<sup>(3)</sup>; or
- (b) has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although the person is considered not to qualify for recognition as a refugee, it is thought right to allow the person to enter or remain in the United Kingdom, and has been granted leave to enter or remain accordingly;

“relevant date” means 1st January in the calendar year in which an aided pupil’s first aided year begins;

“relevant period” means the period to which a claim under regulation 3 relates;

“resident” means resident in accordance with the statutory residence test in Part 1 of Schedule 45 to the Finance Act 2013<sup>(4)</sup>;

“Scheme” means the Scheme for Aided Places at St Mary’s Music School, set out in Schedule 1;

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(2) Cm. 9171.  
(3) Cm. 3906.  
(4) 2013 c.29.

“school” means St Mary’s Music School, Edinburgh and includes reference to the managers of the school and persons acting with their authority;

“school day” means any day during which the school is open for the attendance of pupils; and

“school year” means a period of 12 months commencing on 1st August of any year.

### **Claims for payment of an allowance**

3.—(1) The school may submit a claim to the Scottish Ministers for payment under regulation 4 in respect of such a period as the school considers appropriate.

(2) The relevant period must include at least one school term.

(3) A claim must be either—

(a) a provisional claim based on an estimate of; or

(b) a reimbursement claim based on actual,

fees or charges remitted, or grants made under Schedule 1.

(4) After submitting a provisional claim but before the end of the following school year, the school must submit a reimbursement claim in respect of the relevant period.

(5) A reimbursement claim supersedes a provisional claim.

### **Payment of an allowance**

4.—(1) The Scottish Ministers may pay an allowance to the school in respect of an aided pupil who attends the school, if they are satisfied that the school has—

(a) submitted a claim in accordance with regulation 3; and

(b) complied with or, as appropriate, will comply with the conditions specified in regulation 5.

(2) If the Scottish Ministers are satisfied of the matters in paragraph (1) in respect of a reimbursement claim, they must pay an allowance to the school in pursuance of the claim as soon as is reasonably practicable.

(3) An allowance paid under paragraph (2) must be of an amount equal to any fees or charges remitted or grants made by the school under the Scheme.

(4) If the Scottish Ministers are satisfied of the matters in paragraph (1) in respect of a provisional claim, they may pay an allowance to the school in pursuance of the claim where they consider it expedient to do so.

### **Conditions of payment**

5.—(1) Prior to paying an allowance in pursuance of a reimbursement claim, the Scottish Ministers must be satisfied that the school—

(a) has, during the relevant period—

(i) applied the Scheme;

(ii) remitted all fees and charges and made all grants detailed in the claim; and

(iii) complied with regulations 6 to 14; and

(b) has not, in the school year in which the relevant period falls, given aided places to more than the maximum number specified by the Scottish Ministers following consultation with the school of—

(i) aided pupils;

(ii) aided pupils who board at the school; and

(iii) choristers.

(2) Prior to paying an allowance in pursuance of a provisional claim, the Scottish Ministers must be satisfied that the school will meet the conditions in paragraph (1).

(3) Following payment of an allowance, the school must comply with regulations 6 to 14.

### **Publication of information**

6.—(1) At least annually, the school must publish the information specified in paragraph (2).

(2) The information is—

- (a) that the school offers aided places in accordance with the Scheme;
- (b) at least one address and telephone number at which information can be obtained about aided places;
- (c) that, on written application, information about the school will be supplied to a parent or partner in relation to a child who is eligible for an aided place;
- (d) that information about the school is available for reference at a time and place that the school must also specify.

(3) Publication under paragraph (1) must be in a manner suitable for bringing the information to the attention of persons likely to have an interest in the Scheme and must include publication on the internet.

### **Supply of information to a parent or partner**

7.—(1) On written application, the school must supply the information specified in Schedule 2 to a parent or partner in relation to a child who is eligible for an aided place.

(2) On supplying the information, the school must state—

- (a) the school year to which it relates; and
- (b) that, to the school's knowledge, the information is correct for that school year at a date which the school must also specify.

(3) The school must annually review the information it provides under paragraph (1) and revise the information as it considers necessary.

### **Provision of information to the Scottish Ministers**

8. The school must provide the Scottish Ministers with—

- (a) the information to be supplied under regulation 7 before the end of each school year;
- (b) such periodic returns and other information about the school and pupils in attendance at the school as the Scottish Ministers may require, including information about any intended increase in fees; and
- (c) such information as the Scottish Ministers may require about any reimbursement claim or provisional claim that has been submitted.

### **Fees and charges**

9.—(1) Fees and charges payable in respect of aided pupils must—

- (a) be approved by the Scottish Ministers; and
- (b) exclude any sum to be paid into a bursary or similar fund.

(2) The school must not require any payment other than fees in relation to the attendance of an aided pupil.

### **School accounts**

**10.**—(1) The school must keep accounts which must be audited annually by an independent auditor.

(2) At the request of the Scottish Ministers, the school must—

- (a) keep its accounts in a form specified by the Scottish Ministers;
- (b) provide the Scottish Ministers with copies of its accounts for such periods as the Scottish Ministers may specify together with copies of the auditor’s certificate that relates to those accounts.

### **School governing body**

**11.**—(1) Following consultation with the school, the Scottish Ministers may direct that, from a specified date, the school must permit—

- (a) one or two members of the school governing body to be appointed by the Scottish Ministers; or
- (b) one or two representatives of the Scottish Ministers to attend and participate in any discussions at meetings of the school governing body, despite those representatives having no role in decision taking at those meetings.

(2) This regulation applies to the meetings of a committee or sub-committee of the school governing body as it applies to the meetings of the school governing body.

(3) On prior arrangement with the school, the school must permit Her Majesty’s inspectors to attend any audition arranged for the selection of aided pupils.

### **Proposals relating to premises**

**12.**—(1) The school must notify the Scottish Ministers if it proposes to—

- (a) acquire new premises; or
- (b) alter existing premises.

(2) The school must not implement a proposal notified under paragraph (1) without the approval of the Scottish Ministers.

(3) Approval may be given unconditionally or subject to conditions specified by the Scottish Ministers.

### **Proposals relating to boarding arrangements**

**13.**—(1) The school must notify the Scottish Ministers if it proposes to—

- (a) make arrangements for boarders; or
- (b) change existing arrangements for boarders.

(2) The school must not implement a proposal notified under paragraph (1) without the approval of the Scottish Ministers.

(3) Approval may be given either unconditionally or subject to conditions specified by the Scottish Ministers.

### **Overpayments**

14.—(1) The school must repay any overpayment of allowance which appears to the Scottish Ministers to have been made.

(2) In particular, the school must repay the difference between a provisional claim and a reimbursement claim where the amount of the reimbursement claim is less than the amount paid to the school in pursuance of the provisional claim.

### **Revocations**

15. The Regulations specified in Schedule 3 are revoked.

St Andrew's House,  
Edinburgh  
4th June 2015

*ALASDAIR ALLAN*  
Authorised to sign by the Scottish Ministers

## SCHEDULE 1

Regulations 2 and 3(3)

### SCHEME FOR AIDED PLACES AT ST MARY'S MUSIC SCHOOL

#### PART 1

#### ELIGIBILITY FOR REMISSION OF FEES

##### Conditions as to eligibility

1.—(1) A child is eligible for remission of fees payable to the school if the conditions in this Part are satisfied.

(2) A child may be admitted to an aided place in advance of these conditions being satisfied on condition that they will be satisfied.

##### Residence

2.—(1) It is a condition of eligibility that a child must—

- (a) have been resident in the British Islands throughout the period of two years immediately preceding the relevant date;
- (b) be a national of an EEA State—
  - (i) who has been resident in the European Economic Area throughout the period of two years immediately preceding the relevant date; and
  - (ii) whose parents are entitled to a remission of fees by virtue of Article 7(2) or (3) or Article 10 of the Council Regulation (EU) No 492/2011<sup>(5)</sup> on freedom of movement for workers within the Community; or
- (c) be a refugee or the child of a refugee who has not been resident outside the British Islands since the child or, as the case may be, the child's parent was recognised as a refugee or granted leave to enter or remain in the British Islands as a refugee.

(2) A child is to be treated for the purposes of sub-paragraphs (1)(a) and (1)(b) as having been resident in the British Islands or, as the case may be, in the European Economic Area if the school is satisfied that the child would have been so resident but for the fact that the child's parent is or was temporarily employed outside the British Islands or, as the case may be, the European Economic Area during any part of the period mentioned in those sub-paragraphs.

##### Age

3.—(1) It is a condition of eligibility that a child—

- (a) must attain the age of 8 years before holding an aided place at the school; or
  - (b) will attain that age on or before 31st July next following the child holding an aided place.
- (2) It is a condition of eligibility that a child who is, or will be, a chorister—
- (a) who entered their first school year at the school before 1st August 2014, must not have attained the age of 13 years at the commencement of a school year in which they hold an aided place;
  - (b) who entered their first school year at the school on or after 1st August 2014, may only hold an aided place for a maximum of five school years.

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<sup>(5)</sup> OJ L 141, 27.5.2011, p.1.

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## Education

4. It is a condition of eligibility that a child must—
- (a) undertake a course of education in music at the school (other than wholly or mainly in connection with singing in a choir); or
  - (b) be a chorister.

## Income

- 5.—(1) It is a condition of eligibility that when applying for an aided place an applicant must provide the school with—
- (a) such information as the Scottish Ministers may require; and
  - (b) either—
    - (i) a declaration of relevant income for the financial year immediately preceding the school year in relation to which an application for fee remission is made; or
    - (ii) if it is not reasonably practicable to provide such a declaration, a declaration of relevant income for the previous financial year and a declaration of estimated relevant income for the financial year referred to in sub-paragraph (1)(b)(i).
- (2) The school may only admit a child to an aided place if the fees for the child’s first aided year fall to be remitted in whole or in part under Part 2 of Schedule 1.
- (3) For the purposes of this Scheme, a child is to be treated as having parents with no income if—
- (a) the child is looked after by a local authority under section 17 of the Children (Scotland) Act 1995(6); and
  - (b) the child has no other parent or the whereabouts of any other parent are unknown.

## Provision of information

6. It is a condition of eligibility that an applicant must provide the school with the information necessary for determining eligibility when applying for an aided place.

## PART 2

### REMISSION OF FEES

#### Remission questions

- 7.—(1) For the purposes of this Part “remission questions” mean questions about—
- (a) whether or not an applicant is entitled to any remission of fees in respect of the child; and
  - (b) the extent of that remission.
- (2) Remission questions must be determined by the school for the school year in which a child holds an aided place and for each subsequent school year by reference to—
- (a) the relevant income as respects the child; and
  - (b) whether or not the applicant has been entitled to remission of fees in a previous school year.
- (3) Remission questions must be determined by the school separately for each part of the school year if—

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(6) 1995 c.36. Section 17 was amended by paragraph 9(4)(b) of schedule 2 to the Adoption and Children (Scotland) Act 2007 (asp 4); paragraph 2(4) of schedule 5 to the Children’s Hearings (Scotland) Act 2011 (asp 1); and S.S.I. 2013/211.



- (a) the child holds an aided place at the school for only part of the school year; or
- (b) the number of aided pupils who are children of the applicant changes throughout the school year.

(4) Fees remitted in relation to those parts of the school year mentioned in sub-paragraph (3) are to be calculated on a pro rata basis according to the total number of school days in that school year and part of that school year.

### **Financial years**

**8.**—(1) For the purposes of this Part but subject to sub-paragraphs (2) to (4)—

“financial year” means a year ending on 5th April;

“preceding financial year” means the financial year preceding a particular school year; and

“current financial year” means the financial year which includes the first day of that particular school year.

(2) If the school is satisfied that the income of an applicant is wholly or mainly derived from the profits of a business, profession or vocation carried on by the applicant, then the school may agree with the applicant that, for the purposes of this Part, “financial year” means a year ending with such date as appears to the school to be expedient.

(3) In considering what date is expedient, the school must have regard to any accounts kept in respect of that business, profession or vocation and the periods covered by those accounts.

(4) Where that financial year ends with a date after 5th April but before the beginning of a school year—

“preceding financial year” means the year last ending on that date prior to 6th April in the calendar year in which the school year begins; and

“current financial year” means the year ending on that date on or after that 6th April and before the beginning of the school year.

### **Income**

**9.**—(1) For the purposes of this Part the income of any person for a financial year, subject to the provisions of Part 4, is the applicant’s total income for that year.

(2) In this Part and Part 4—

“relevant income” in relation to any financial year means—

(a) the applicant’s income that year aggregated with the unearned income that year, if any, of the aided pupil and any other children who are wholly or mainly dependent on the applicant at the time the relevant income is calculated; and

(b) where sub-paragraphs (3) or (4) apply, less the sum referred to in those sub-paragraphs; “total income” has the meaning given in Step 1 of the calculation in section 23 of the Income Tax Act 2007(7)—

(a) together with—

(i) any payments and benefits chargeable to income tax under Chapter 3 of the Income Tax (Earnings and Pensions) Act 2003(8);

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(7) 2007 c.3.

(8) 2003 c.1. Chapter 3 was relevantly amended by section 407(2) of, paragraph 63 of Schedule 35 to, and paragraph 1 of Schedule 42 to the Finance Act 2004 (c.12); section 63 of the Finance Act 2007 (c.11); paragraph 437 of Schedule 1 to the Income Tax Act 2007 (c.3); paragraph 30 of Schedule 7 to the Finance Act 1008 (c.9); paragraph 38 of Schedule 46 to the Finance Act 2013 (c.29); S.I. 2005/3229; S.I. 2006/1963; S.I. 2011/1037; S.I. 2013/234 and S.I. 2014/211.

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- (ii) the cash equivalent of any employer-provided childcare under sections 318 to 318D of the Income Tax (Earnings and Pensions) Act 2003(9),  
to the extent that those payments and benefits are not already a component of total income; and
- (b) under deduction of the personal relief provided for in sections 38 to 40 of the Income Tax Act 2007(10) (blind person's allowance); and  
“unearned income” means income other than that which arises from gainful employment.
- (3) Subject to sub-paragraph (4), relevant income is to be reduced by £1,908 in respect of each person other than the aided pupil who—
  - (a) is a child or other relative of the applicant;
  - (b) normally resides in the same household as the applicant and the aided pupil; and
  - (c) at the time the relevant income is calculated, is wholly or mainly dependent on—
    - (i) the applicant; or
    - (ii) payments made by the applicant for that person's benefit under a deed of covenant other than to a child of the applicant who is wholly or mainly dependant on the applicant.
- (4) The parental contribution which it is assumed forms part of the resources of a child (other than an aided pupil) must be deducted from the relevant income instead of the sum prescribed by sub-paragraph (3) if—
  - (a) the child is the holder of an award of a kind described in sub-paragraph (5);
  - (b) in calculating the amount of that award, there has been deducted a sum exceeding £1,908; and
  - (c) the child is wholly or mainly dependent on the applicant or on payments made to the child or for the child's benefit by the applicant.
- (5) The awards referred to in sub-paragraph (4) are—
  - (a) an allowance granted by the Scottish Ministers pursuant to regulations from time to time in force or having effect under sections 73 and 74 of the Act(11) providing for the payment of allowances to students(12);
  - (b) a bursary granted by an education authority pursuant to regulations from time to time in force and having effect under section 49 of the Act(13) providing for the payment of bursaries to persons undertaking courses of full-time education which are not courses of school education(14);

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(9) 2003 c.1. Sections 318 to 318D were substituted for section 318 by paragraph 1 of Schedule 13 to the Finance Act 2004 (c.12) and have been amended by section 16 of the Finance Act 2005 (c.7); section 36 of and paragraphs 4 to 6 of Schedule 8 to the Finance Act 2011 (c.11); section 12 of the Finance Act 2013 (c.29); S.I. 2005/770; S.I. 2005/3229; S.I. 2007/849; S.I. 2007/2478; S.I. 2008/2170; S.I. 2009/1544; S.I. 2009/2888; S.I. 2011/775; S.S.I. 2011/2581; S.I. 2013/513; S.I. 2013/630 and S.I. 2015/346.

(10) Section 38 was amended by section 2(1)(b) of the Finance Act 2015 (c.11) with effect for the tax year 2015-16. Section 40 was amended by paragraph 55 of Schedule 39 to the Finance Act 2008 (c.9).

(11) Section 73 was amended by section 73 of the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6). Section 74 was amended by section 82(1) and paragraph 8(17) of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989.

(12) The Regulations in force when these Regulations were made are the Students' Allowances (Scotland) Regulations 2007 (S.S.I. 2007/153). The administrative arrangements for assessing assumed parental contributions are set out in the booklet “Guide to Undergraduate Support” available electronically at: <https://www.saas.gov.uk/forms/sas4.pdf>.

(13) Section 49 was amended by section 82(1) and paragraph 8(9) of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c.39) and section 5(1) of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 (asp 15).

(14) The Regulations in force when these Regulations were made are the Education Authority Bursaries (Scotland) Regulations 2007 (S.S.I. 2007/149).

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- (c) a mandatory award paid by a local education authority in England and Wales pursuant to regulations from time to time in force under section 1 of the Education Act 1962(15) providing for the payment of awards to students attending specified courses of further or higher education(16); and
- (d) an award made by the Northern Ireland Executive—
  - (i) under article 50 of the Education and Libraries (Northern Ireland) Order 1986(17) and regulations from time to time in force made under that Order(18), being an award in respect of attendance at—
    - (aa) a course which commenced before 1st September 1999;
    - (bb) a first degree course; or
    - (cc) a postgraduate course for the training of teachers; or
  - (ii) under article 51 of that Order(19), being an award—
    - (aa) in respect of attendance at an approved course including a postgraduate course at university, college or another institution; or
    - (bb) for the purposes of enabling or encouraging the holder to take advantage of educational facilities.

(6) In this paragraph, any reference to the applicant is a reference to the applicant at the time the relevant income is calculated and, if a remission question is redetermined under paragraph 11(2) includes the dead applicant.

### **General provisions relating to remission**

**10.**—(1) The applicant is only entitled to remission of fees—

- (a) for which they are liable in respect of the period during which the child holds an aided place; and
- (b) if the applicant applies for remission of fees in respect of a particular school year and provides the school with the information necessary to determine eligibility.

(2) If the Scottish Ministers are satisfied that an applicant has knowingly or recklessly provided information to the school which is materially false, they may direct that the applicant is not entitled to remission of fees in relation to one or more specified school years for any of the children of the applicant who are aided pupils.

(3) Before making such a direction, the Scottish Ministers must—

- (a) give the applicant an opportunity to make representations; and
- (b) have regard to those representations.

(4) The Scottish Ministers may vary or revoke such a direction.

**11.**—(1) Subject to sub-paragraphs (2) to (4), remission questions must be determined by reference to relevant income in the preceding financial year.

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(15) 1962 c.12; section 1 was amended by section 19 of and Schedule 5 to the Education Act 1980 (c.20) and section 4 of the Education (Grants and Awards) Act 1984 (c.11); the entire Act was repealed by Schedule 4 to the Teaching and Higher Education Act 1998 (c.30), subject to the transitional and saving provisions set out in S.I. 1998/3237 and S.I. 2010/1158.

(16) The Regulations in force when these Regulations were made are the Education (Mandatory Awards) Regulations 2003 (S.I. 2003/1994).

(17) S.I. 1986/594 (N.I. 3). Article 50(1) and (2) was repealed by S.I. 1998/1760 (N.I. 14), subject to the transitional and saving provisions in S.R. (NI) 1998 No 460.

(18) The Regulations in force at the date on which these Regulations were made are the Students Awards Regulations (Northern Ireland) 2000 (S.R. (NI) 2000 No 311).

(19) Article 51 was substituted by S.I. 1996/274 (N.I. 1).

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(2) Remission questions must be redetermined by reference to relevant income in the current financial year if—

- (a) an applicant dies between the determination of a remission question and the end of the financial year; and
- (b) the school are satisfied that the income of any surviving applicant aggregated with that of the dead applicant in that year, is likely to be less than their aggregated income in the preceding financial year.

(3) Unless the Scottish Ministers direct otherwise, remission questions must be determined by reference to relevant income in the current financial year if the school are satisfied that—

- (a) the relevant income in the current financial year is likely to be 85% or less of the relevant income in the preceding financial year due to some event beyond the control of the applicant; or
- (b) with the approval of the Scottish Ministers, the relevant income in the current financial year is likely to be less than the relevant income in the preceding financial year to such an extent that determining remission questions by reference to the preceding financial year would cause financial hardship.

(4) Remission questions may be determined provisionally with reference to relevant income for earlier financial years if it is not reasonably practicable for the applicant to provide the information about relevant income that is necessary for determining eligibility under paragraph 5 before the beginning of the school year.

(5) A provisional determination must not result in a greater remission of fees than a determination based on the estimate provided by the applicant under paragraph 5(1)(b).

(6) A provisional determination ceases to have effect when—

- (a) the applicant provides the requisite information; or
- (b) the school is satisfied that it has become reasonably practicable for the applicant to provide the requisite information.

(7) Any over-remission or under-remission of fees must be adjusted by payments between the applicant and the school within three months of the determination of the remission question.

**Remission of fees (boarders)**

12.—(1) This paragraph applies in relation to an aided pupil who is a boarder at the school.

(2) Where the relevant income for a particular financial year does not exceed £12,722, fees must be wholly remitted.

(3) In any other case, fees must be remitted to the extent necessary to ensure that the residual liability of the applicant for those fees is of an amount (rounded down to the nearest multiple of £3) equal to the aggregate of the specified percentages (set out in columns (2) and (3) of the following table) of the corresponding parts of the relevant income (set out in column (1) of that table):

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<b><i>Part of relevant income to which specified percentage applies</i></b>	<b><i>Only one aided pupil</i></b>	<b><i>Each of two or more aided pupils</i></b>
That part which exceeds £12,525 but does not exceed £15,833	10%	7.5%
That part (if any) which exceeds £15,833 but does not exceed £22,194	20%	15%

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<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<b><i>Part of relevant income to which specified percentage applies</i></b>	<b><i>Only one aided pupil</i></b>	<b><i>Each of two or more aided pupils</i></b>
That part (if any) in excess of £22,194	12.5%	7.5%

### **Remission of fees (day pupils)**

**13.**—(1) This paragraph applies in relation to an aided pupil who is a day pupil at the school.

(2) Where the relevant income for a particular financial year does not exceed £16,028, fees shall be wholly remitted.

(3) In any other case, fees must be remitted to the extent necessary to ensure that the residual liability of the applicant for those fees is of an amount (rounded down to the nearest multiple of £3) equal to the specified percentage (set out in columns (2) and (3) of the following table) of the corresponding part of the relevant income (set out in column (1) of that table):

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<b><i>Part of relevant income to which specified percentage applies</i></b>	<b><i>Only one aided pupil</i></b>	<b><i>Each of two or more aided pupils</i></b>
That part which exceeds £15,833	10%	7.5%

## **PART 3**

### **MAKING OF GRANTS AND REMISSION OF CHARGES**

#### **Qualifying charges and grants**

**14.**—(1) This Part applies to the making of grants and remission of charges in respect of an aided pupil.

(2) The school must make grants in respect of school travel expenditure (“travel grants”) and school clothing expenditure (“clothing grants”) and remit charges in respect of meals and participation in field study courses, in accordance with this Part.

(3) The applicant is only entitled to a grant or remission of charges in respect of the period during which the child holds an aided place.

(4) In this Part—

“clothing expenditure” has the meaning given by paragraph 16(1);

“field study course” has the meaning given by paragraph 23; and

“school travel expenditure” has the meaning given by paragraph 17.

#### **Remission of charges for meals (day pupils)**

**15.**—(1) In relation to an aided pupil who is a day pupil at the school, the school must remit the whole of any charges for meals if they are satisfied that the applicant is in receipt of—

(a) income support under the Social Security Contributions and Benefits Act 1992<sup>(20)</sup>;

<sup>(20)</sup> 1992 c.4; section 124 (which provides for income support) was amended by section 41 of and Schedules 2 and 3 to the Jobseekers Act 1995 (c.18); section 70 of and Schedule 8 to the Welfare Reform and Pensions Act 1999 (c.30); Schedules 2 and 3 to the State Pension Credit Act 2002 (c.16)); Schedule 24 to the Civil Partnership Act 2004 (c.33); Schedules 3 and 8 to

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- (b) income-based jobseeker’s allowance (payable under the Jobseekers Act 1995<sup>(21)</sup>);
  - (c) an income-related allowance under Part 1 of the Welfare Reform Act 2007<sup>(22)</sup> (employment and support allowance);
  - (d) child tax credit under Part 1 of the Tax Credits Act 2002<sup>(23)</sup> in the circumstances set out in sub-paragraph (2); or
  - (e) universal credit (payable under Part 1 of the Welfare Reform Act 2012)<sup>(24)</sup>.
- (2) The circumstances referred to in sub-paragraph (1)(d) are that the applicant—
- (a) is in receipt of an award of child tax credit which is based on the relevant income not exceeding the amount determined for the purposes of section 7(1)(a) of the Tax Credits Act 2002 as the income threshold for child tax credit<sup>(25)</sup>; and
  - (b) is not in receipt of an award of working tax credit under Part 1 of the Tax Credits Act 2002 except where—
    - (i) the award is based on an annual income not exceeding the amount determined for the purposes of section 7(1)(a) of the Tax Credits Act 2002 as the income threshold for working tax credit<sup>(26)</sup>; or
    - (ii) the applicant is treated as being engaged in qualifying remunerative work (within the meaning of the Tax Credits Act 2002) by virtue of regulation 7D of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(27)</sup>.
- (3) The school must remit charges for meals if the school is satisfied of the matters in sub-paragraph (1), as follows—
- (a) for the whole of the school year if the school is so satisfied in the month preceding the commencement of that school year; or
  - (b) for the remainder of the school year if the school is so satisfied during the course of that school year even if the applicant then ceases to be in receipt of the benefits specified in sub-paragraph (1) before the end of that school year.

### **Clothing grants**

**16.**—(1) In this paragraph, “clothing expenditure” means expenditure on items of clothing (including sports clothing) to be worn by an aided pupil either at school or for the purposes of school activities, which the school is satisfied—

- (a) has been incurred by the applicant; or
- (b) is about to be incurred by the applicant and would cause financial hardship without payment of a clothing grant.

(2) The school must only pay a clothing grant to the applicant if the aided pupil has not attended the school prior to holding an aided place.

(3) In an aided pupil’s first year at the school, clothing grant is payable if the relevant income does not exceed £16,610 and must be of an amount equal to that part of the clothing expenditure that

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the Welfare Reform Act 2007 (c.5); section 3 of the Welfare Reform Act 2009 (c.24) and Schedule 14 to the Welfare Reform Act 2012 (c.5) with effect from 1st April 2013 subject to savings and transitional provisions specified in S.I. 2013/358.

(21) 1995 c.18.

(22) 2007 c.5.

(23) 2002 c.21.

(24) 2012 c.5.

(25) The income threshold for child tax credit was determined for the purposes of section 7(1)(a) of the Tax Credits Act 2002 by S.I. 2002/2008, as relevantly amended by S.I. 2015/451.

(26) The income threshold for working tax credit was determined for the purposes of section 7(1)(a) of the Tax Credits Act 2002 by S.I. 2002/2008, as relevantly amended by S.I. 2008/796.

(27) S.I. 2002/2005; regulation 7D was inserted by S.I. 2007/968, substituted by S.I. 2009/1829 and amended by S.I. 2012/848.

does not exceed the maximum amount specified in column (2) of the following table in relation to the corresponding relevant income mentioned in column (1) of that table—

<i>(1)</i>	<i>(2)</i>
<b>Relevant income</b>	<b>Maximum amount of clothing grant</b>
Does not exceed £14,583	£253
Exceeds £14,583 but does not exceed £15,264	£189
Exceeds £15,264 but does not exceed £15,917	£125
Exceeds £15,917 but does not exceed £16,610	£62

(4) Clothing grant payable under sub-paragraph (3) may be paid during the school year referred to in that sub-paragraph or in the two months immediately preceding that year.

(5) In all other cases, clothing grant is payable if the relevant income does not exceed £15,917 and must be of an amount equal to that part of the clothing expenditure for which a clothing grant has not already been made and that does not exceed the maximum amount specified in column (2) of the following table in relation to the corresponding relevant income mentioned in column (1) of that table—

<i>(1)</i>	<i>(2)</i>
<b>Relevant income</b>	<b>Maximum amount of clothing grant</b>
Does not exceed £14,797	£98
Exceeds £14,797 but does not exceed £15,917	£52

### **School travel expenditure**

17. Paragraphs 18 to 21 apply to the making of grants for the aggregate expenses incurred for an aided pupil's journeys to and from the school—

- (a) by public transport, including by train, bus, boat, hovercraft or air services available to the public;
- (b) by transport provided at the request of the school with the approval of the Scottish Ministers;
- (c) by transport provided by an education authority; or
- (d) by any combination of the above.

### **Travel grants (boarders)**

18.—(1) This paragraph applies in relation to an aided pupil who is a boarder at the school.

(2) The school must pay a travel grant to the applicant in relation to school travel expenditure reasonably incurred in that school year for twelve single journeys made to or from the school in that year by the aided pupil to visit an applicant or other relative.

(3) If school travel expenditure is incurred for the following journeys, travel grant is not payable in respect of the excess—

- (a) by public transport in excess of what would have been incurred had advantage been taken of available arrangements for reduced or concessionary fares;
- (b) by air in excess of what would have been incurred had advantage been taken of available train, boat or hovercraft services and arrangements for reduced or concessionary fares;

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- (c) to a place other than the aided pupil's home in excess of what would have been incurred if the visit had been to the aided pupil's home; and
- (d) to a place outside the British Islands, in which case, school travel expenditure between a port, hoverport or airport within the British Islands and that place is to be treated as an excess.

### **Travel grants (day pupils)**

19.—(1) This paragraph applies in relation to an aided pupil who is a day pupil at the school.

(2) If the walking distance between an aided pupil's home and the school exceeds 4.8 kilometres, the school must pay a travel grant to the applicant for school travel expenditure reasonably incurred in that school year for journeys between the aided pupil's home and the school in that year.

(3) If school travel expenditure is incurred for such a journey by public transport in excess of what would have been incurred had advantage been taken of available arrangements for season tickets or reduced or concessionary fares, travel grant is not payable in respect of the excess.

(4) If school travel expenditure is incurred for such a return journey in excess of 80.4 kilometres by any of the forms of transport mentioned in paragraph 17, a travel grant must only be paid for the proportion of the expenditure equivalent to the proportion of that journey that is constituted by 80.4 kilometres.

(5) Such a return journey is to be measured with reference to the shortest available route between the aided pupil's home and the school.

### **Travel grants (travel to universities, etc.)**

20.—(1) A travel grant is payable in relation to school travel expenditure reasonably incurred for journeys within the British Islands made by an aided pupil in that school year between an aided pupil's home or the school and a university, college or other establishment of further education at the invitation of the establishment with a view to being admitted to that establishment for the purpose of further education.

(2) In a particular school year, a travel grant is payable in respect of a maximum of three such journeys from the school or aided pupil's home and three such journeys from the establishment.

### **Amount of travel grants**

21.—(1) If the relevant income in a particular year does not exceed £14,821, a travel grant must be of an amount equal to the school travel expenditure to which it relates.

(2) In any other case, the travel grant must be of the amount, if any, by which the school travel expenditure to which it relates exceeds the amount (rounded down to the nearest multiple of £3) equal to one-twelfth of that part of the relevant income which exceeds £14,583.

(3) Travel grants may be paid in the course of, or immediately before, a school year, on account of the grant which it appears to the school will be payable for that year.

(4) Any overpayment or underpayment of travel grant for a particular school year must be adjusted by payments between the applicant and the school within three months of the final determination of the amount.

### **Entitlement to and extent of remissions and grants**

22.—(1) Questions about whether or not an applicant is entitled to remission of charges for meals, clothing grants, or travel grants are to be determined in the same manner as remission questions under paragraph 7.



(2) However, paragraph 7(3) does not apply to clothing grants where the child is an aided pupil for only part of the school year or the number of aided pupils who are children of the applicant changes throughout the school year.

(3) In addition, paragraphs 7(2), 8, 9, 10 and 11 and Part 4 apply for the purposes of paragraphs 14 to 21 as if any references in those provisions to—

- (a) “remission of fees” are references to the grants and remission of charges for meals mentioned in sub-paragraph (1); and
- (b) “remission questions” are references to the questions mentioned in sub-paragraph (1).

### **Remission of charges for field study courses**

**23.**—(1) In this paragraph, a “field study course” means a course of field study (provided by the school or otherwise) which forms a compulsory part of a course of education at the school for any examination conducted by the Scottish Qualifications Authority or other comparable examination in any subject provided by the school (a “relevant public examination”).

(2) Charges by the school for the participation by an aided pupil in a field study course must be remitted.

(3) The remission of charges for a field study course must only be remitted if—

- (a) the aided pupil is a candidate or prospective candidate for a relevant public examination; and
- (b) the applicant is entitled in accordance with Part 3 of this Scheme to remission of fees in whole or in part for the school year in which the field study course is held.

## **PART 4**

### **COMPUTATION OF INCOME**

#### **Total income: inclusions and deductions**

**24.**—(1) This Part applies to the computation of a person’s total income for the purposes of this Scheme.

(2) Where any income of a person is not part of that person’s total income by reason only that—

- (a) the person is not resident or domiciled in the United Kingdom;
- (b) the income does not arise in the United Kingdom; or
- (c) the income arises from an office, service or employment, income from which is exempted from tax in pursuance of any enactment,

such income must be included in that person’s total income.

(3) Where a person receives one the following payments, that payment shall be deducted from their total income—

- (a) an allowance paid to them by an adoption agency pursuant to a scheme approved by the Scottish Ministers under section 51(5) of the Adoption (Scotland) Act 1978<sup>(28)</sup> or in accordance with section 71 of the Adoption and Children (Scotland) Act 2007<sup>(29)</sup>;
- (b) a contribution paid to them by a local authority pursuant to section 50 of the Children Act 1975<sup>(30)</sup>.

<sup>(28)</sup> 1978 c.28; section 51 was amended by section 98 of and paragraph 24 of Schedule 2 to the Children (Scotland) Act 1995 (c.36).

<sup>(29)</sup> 2007 asp 4.

<sup>(30)</sup> 1975 c.72; section 50 was amended by section 105 of and paragraph 36 of Schedule 4 to the Children (Scotland) Act 1995.

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### **Total income: maintenance payments**

**25.**—(1) Where any income of a person includes a maintenance payment, that payment shall be included in their total income, whether or not such payment or any part of it would be included in their total income for tax purposes.

(2) Where a person makes a maintenance payment, that payment shall be deducted from their total income, whether or not such payment or any part of it would be deductible for tax purposes.

(3) For the purposes of this paragraph, “maintenance payment” means a periodical payment (not including an instalment of a lump sum) which—

- (a) is made in accordance with a maintenance assessment under the Child Support Act 1991(31); or
- (b) is made under an order by a court (whether in the United Kingdom or elsewhere) or under a written agreement by one of the parties to a marriage or civil partnership (including a marriage or civil partnership which has been dissolved or annulled) either—
  - (i) to or for the benefit of the other party and for the maintenance of the other party;
  - (ii) to the other party for the maintenance by the other party of any child of the said parties; or
  - (iii) to a child of the said parties for the child’s own maintenance, benefit or education, and is due at a time when the said parties are not living together, and in that connection a person shall be treated as living with his or her spouse or civil partner unless the said parties are separated under an order of a court of competent jurisdiction, or by deed of separation.

## SCHEDULE 2

Regulation 7

### INFORMATION TO BE SUPPLIED BY THE SCHOOL

1. Arrangements for the admission of pupils to the school.
2. Any entrance requirements including in relation to any specific categories of pupils.
3. Name, address, telephone number, email address and any website of the school.
4. Present roll of the school.
5. Stages of education provided at the school.
6. Any denominational affiliation of the school.
7. Gender of pupils admitted to the school.
8. The headteacher’s name and the number of other teaching staff at the school.
9. Arrangements for a parent or partner to visit the school.
10. Opportunities for parental involvement in the school.
11. A statement of the school’s educational aims, culture, ethos and values.
12. Arrangements in place for transitions to and from the school.
13. Arrangements for when a parent has a concern about a pupil and how these concerns will be dealt with.
14. The complaints procedure.

(31) 1991 c.48. Part 1 was relevantly amended by S.I. 2012/2677.

15. Range and level of curriculum provided for pupils of different ages at the school, including available subject options and arrangements for parents to be consulted about such options.
16. Provision for religious education and arrangements for parents who wish to withdraw their child from the religious education provided at the school.
17. The school's policy or practice on homework.
18. Provision for curricular, personal and careers guidance at the school.
19. Arrangements for assessing pupils' progress and reporting this to parents.
20. Any arrangements made at or in connection with the school for pupils with additional support needs within the meaning of the Education (Additional Support for Learning) (Scotland) Act 2004<sup>(32)</sup>.
21. Extra-curricular activities at the school.
22. Facilities available at the school for sports and outdoor activities.
23. The school's policy or practice on clothing or uniform; the approximate cost of each item of required uniform; and any assistance given with costs.
24. The school's policy or practice on discipline; including school rules and the action to be taken by parents and the school in the event of a pupil's absence.
25. Arrangements for health care at the school.
26. Organisation of the school day including time of arrival and dismissal; school term dates and holidays for the forthcoming session.
27. The school's policy or practice with regard to mixed ability classes and separating pupils by academic ability.
28. The school's policy or practice with regard to entering pupils for public examinations and the following information for the most recent school year for which the information is available—
  - (a) the number of pupils who attained each band of awards in each public examination, shown separately for each subject and for each stage of secondary education;
  - (b) the number of pupils in each of the stages of school education concerned, shown separately for each stage, as recorded in the first term of the school year to which the examination results relate.
29. Arrangements for meals and snacks taken at the school including any assistance given with the costs of these meals or snacks and the facilities at the school for the consumption of packed lunches.
30. Any arrangements for the transport of pupils to and from the school and any assistance given with the costs of this transport.
31. Any other financial assistance available under schemes administered by the school.

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(32) 2004 asp 4.

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## SCHEDULE 3

Regulation 15

## REVOCATIONS

<b><i>Regulations revoked</i></b>	<b><i>Citation</i></b>
The St Mary's Music School (Aided Places) (Scotland) Regulations 2001	<a href="#">S.S.I. 2001/223</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2002	<a href="#">S.S.I. 2002/248</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2003	<a href="#">S.S.I. 2003/280</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2004	<a href="#">S.S.I. 2004/238</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2005	<a href="#">S.S.I. 2005/269</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2006	<a href="#">S.S.I. 2006/318</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2007	<a href="#">S.S.I. 2007/115</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2008	<a href="#">S.S.I. 2008/214</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2009	<a href="#">S.S.I. 2009/181</a>
The St Mary's Music School (Aided Places) (Scotland) Amendment Regulations 2014	<a href="#">S.S.I. 2014/143</a>

**EXPLANATORY NOTE**

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

These Regulations consolidate, with amendments, the St Mary's Music School (Aided Places) (Scotland) Regulations 2001 ("the 2001 Regulations") which, with the Regulations amending them, are revoked by regulation 15 and Schedule 3. The Regulations come into force on 1st August 2015.

The Regulations provide for the payment of allowances to St Mary's Music School, Edinburgh ("the school") to reimburse it for its expenditure in respect of fees and charges remitted and grants made in operating the aided pupil scheme described in Schedule 1. In addition to minor drafting changes, changes of substance have been made to the 2001 Regulations. The principal changes of substance are described below.

Regulations 1 and 2 make general provision for citation, commencement and interpretation. Regulation 2 includes definitions of "child", "parent", "partner" and "applicant" (to encompass both a parent and a parent's partner) to ensure that the Regulations cover the children of civil partnerships

and same sex marriages as well as requiring that the income of cohabittees should be factored into the means testing under the Scheme from 1st August 2016.

Regulations 3 to 14 deal with reimbursement claims, conditions of payment of allowances and requirements as to the supply of information, fees and other miscellaneous matters.

Part 1 of Schedule 1 provides for eligibility for remission of fees, including conditions as to residence (paragraph 2); age (paragraph 3); education (paragraph 4); income (paragraph 5); and the provision of information (paragraph 6).

Part 2 deals with the remission of fees. The extent of remission is determined by reference to relevant income. The deduction for each dependent child and relative which is made from relevant income has been increased from £1,865 to £1,908 (paragraph 9). The level of income at or below which fees are to be wholly remitted is increased from £12,436 to £12,722 for boarders, with corresponding increases in the income scales to determine the parental contribution to fees (paragraph 12). For day pupils the relevant income is increased from £15,668 to £16,028 (paragraph 13).

Part 3 deals with the incidental expenses of pupils holding aided places and provides for the remission of charges for meals (paragraph 15) and certain field study courses (paragraph 23), and for making grants in respect of expenditure on clothing (paragraph 16) and school travel (paragraphs 17 to 21). The following are changes of substance in Part 3—

- (a) school travel grant is paid in full where relevant income does not exceed £14,821 (formerly £14,488) and scaled down where relevant income exceeds that figure; and
- (b) the limit of relevant income for clothing grant in the first year is raised from £16,237 to £16,610, with corresponding increases in the maximum amount of grant payable where relevant income is below that figure, varying from £62 to £253 (formerly £61 to £247); and in subsequent years from £15,559 to £15,917, with maximum grants increasing to £52 and £98 (formerly £51 and £96).

Part 4 deals with the computation of income for the purposes of the Scheme and contains a broader definition of “maintenance payments” to reflect the extension of the Scheme to cover children of same sex marriages and civil partnerships as well as the inclusion of the income of cohabittees.

Schedule 2 provides for additional information to be supplied by the school to a parent or partner on written application.