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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 180**

**The Education (Fees and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2017**

**Amendment of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006**

**3.** In regulation 2 (interpretation)—

- (a) in paragraph (1) omit the definition “child of such a national”;
- (b) for paragraph (4) substitute—

“(4) For the purposes of paragraphs 1(b), 2(1)(b), 3(1)(b), 4(1)(d), 8(1)(c), 9(b) and 10(c) of schedule 1, a person shall be treated as having been ordinarily resident in the area specified and for the period specified in those paragraphs if the Scottish Ministers are satisfied that—

- (a) the person was not actually ordinarily resident in the relevant area for the specified period only because—
  - (i) that person, or his or her spouse or civil partner, or either of his or her parents, either of his or her guardians or any other person having parental responsibility for that person, or any person having care of that person when he or she is a child; or
  - (ii) 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 for the time being temporarily employed or studying outside the relevant area; or

- (b) the person was born and has spent the greater part of his or her life in the relevant area and that—
  - (i) either of his or her parents, either of his or her guardians or any other person having parental responsibility for that person, or any other person having care of them when he or she is a child, has been ordinarily resident in the relevant area throughout the specified period and that person is not an independent student; or
  - (ii) person has been ordinarily resident in the relevant area for at least 1 year of the specified period and, in the case of qualifying by virtue of paragraph 1 or 8A of schedule 1, no part of that residence was wholly or mainly for the purposes of receiving full time education.”; and

(c) after paragraph (8) insert—

- (a) “(9) In paragraph 2(4)(b), an “independent student” means a person who prior to the first day of the first academic year of the course—
  - (i) has attained the age of 25 years;
  - (ii) is married or in a civil partnership;
  - (iii) has no parent living;

- (iv) had the care of a person under the age of 18 years who was wholly or mainly financially dependent on him or her; or
  - (v) has been self-supporting out of his or her earnings for periods aggregating not less than 3 years.
- (b) A person is to be regarded as having been self-supporting out of his or her earnings for any period during which that person—
- (i) 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);
  - (ii) 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;
  - (iii) was available for employment and had complied with the requirements of registration imposed by a body referred to in paragraphs (i) or (ii) as a condition of entitlement for participation in arrangements for training or receipt of benefit;
  - (iv) received any pension, allowance or other benefit paid by reason of a disability to which that person is subject, or by reason of confinement, injury or sickness, paid by any state authority (national, regional or local), by an employer or any former employer or any other person; or
  - (v) held an advance postgraduate award or comparable award.”.