
STATUTORY INSTRUMENTS

1989 No. 1133

The Education (Assisted Places) (Scotland) Regulations 1989

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Education (Assisted Places) (Scotland) Regulations 1989 and shall come into force on 1st August 1989.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:—

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

“assisted place” means any place at a participating school, in respect of which place fees are to be remitted in accordance with these Regulations;

“assisted pupil”, subject to regulation 13(1), means any pupil in attendance at a participating school who has been admitted to an assisted place at that school;

“child” includes a step-child and a child adopted in pursuance of adoption proceedings (and “father” and “mother” shall be construed accordingly) and, notwithstanding the definition in section 135(1) of the Act, includes a person who is over school age but has not attained the age of 20 years at the commencement of any school year of the participating school which he attends or proposes to attend in that year;

“determination” in relation to a school means a determination made under section 75A(2) of the Act;

“employment” includes the holding of any office and any occupation for gain; and “employed” shall be construed accordingly;

“European Community” means the area comprised by the member states of the European Economic Community (including the United Kingdom) as constituted from time to time;

“fees” means—

- (a) tuition and other fees the payment of which is a condition of attendance at a participating school excluding—
 - (i) boarding fees;
 - (ii) such other charges if any as may be excluded in the determination relating to the school; and
- (b) fees for public examinations paid by a participating school in respect of candidates from the school;

“financial year” has the meaning assigned thereto by regulation 8(1);

“first assisted year” has the meaning assigned thereto by regulation 3(3);

“income” and “relevant income” have the meanings respectively assigned thereto by regulation 9(1) and (2);

“national of a member state of the European Community” means any person who is a national of any member state of the European Community (including the United Kingdom) as constituted from time to time;

“participating school” means a school determined under section 75A(2) of the Act to be a participating school for the purposes of the scheme mentioned in section 75A(1) of the Act, and references to a school include references to the proprietors and managers thereof;

“scheme” means the scheme for the time being in force established and operated by the Secretary of State under section 75A(1) of the Act;

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

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

(2) Except where the context otherwise requires, any reference in these Regulations to the parents of a child or assisted pupil is a reference—

- (a) in the ordinary case, to his father and mother or, where one is dead, to the survivor and, should he remarry, his spouse;
- (b) where his father or mother, having actual custody of him, has married a person who is not his parent, to that parent and his spouse;
- (c) where his parents, defined as in sub-paragraph (a) are divorced or, in any of the circumstances mentioned in paragraph (4), separated, to that one of them who has, or in pursuance of an order of a court is entitled to, actual custody of the child or assisted pupil and, should that person being divorced remarry, his spouse;
- (d) where he has no parents defined as in sub-paragraphs (a) to (c), to his guardian or guardians (if any) or to any person or persons who have been granted custody in pursuance of an order of a court (including any order made in terms of section 47 of the Children Act 1975⁽¹⁾);
- (e) where he has no parents so defined and no guardian, or where there is no order of a court granting custody, to the person or persons who have actual custody of the child or assisted pupil.

(3) Where—

- (a) a child or assisted pupil either has no parents defined as in paragraph (2)(a), (b), (c) or (d) or he has such parents whose whereabouts are unknown; and
- (b) he is in the care of a local authority or a voluntary organisation under any enactment or is subject to a supervision requirement imposed by a children’s hearing under section 44 of the Social Work (Scotland) Act 1968⁽²⁾,

then, for the purposes of these Regulations, he shall be treated as a child or assisted pupil whose parents have no income and, subject thereto, any reference in these Regulations to his parents shall be construed as a reference to the authority or organisation in whose care or under whose supervision he is.

(4) The circumstances referred to in paragraph (2)(c) are that the parents are separated under an order of a court of competent jurisdiction or by a deed of separation or, where they are not separated as aforesaid, that either it is not reasonably practicable to find one of the parents or that in pursuance of an order of a court—

(1) 1975 c. 72; section 47 was amended by paragraph 16 of Schedule 3 to the Adoption (Scotland) Act 1978 (c. 28), and by paragraph 14 of Schedule 1 and by Schedule 2 to the Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9)

(2) 1968 c. 49

- (a) one parent is liable to make periodic payments to or for the benefit of the other or one or more of their children; or
 - (b) one parent has been given custody of, or access to, one or more of their children; or
 - (c) one parent is prohibited from entering the matrimonial home.
- (5) In these Regulations, any reference to a regulation or Schedule is a reference to a regulation of, or a Schedule to, these Regulations and any reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule, as the case may be.