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STATUTORY INSTRUMENTS

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**1991 No. 834 (S. 78)**

**EDUCATION, SCOTLAND**

**The Education (Fees and Awards, Allowances and Bursaries) (Scotland) Amendment Regulations 1991**

<i>Made</i>	- - - -	<i>25th March 1991</i>
<i>Laid before Parliament</i>		<i>27th March 1991</i>
<i>Coming into force</i>	- -	<i>17th April 1991</i>

The Secretary of State, in exercise of the powers conferred on him by sections 49(3), 73(f) and 74(1) of the Education (Scotland) Act 1980(1) and by sections 1 and 2 of the Education (Fees and Awards) Act 1983(2), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Education (Fees and Awards, Allowances and Bursaries) (Scotland) Amendment Regulations 1991 and shall come into force on 17th April 1991.

**The Education (Fees and Awards) (Scotland) Regulations 1983**

2. The Education (Fees and Awards) (Scotland) Regulations 1983(3) shall be amended as follows:—

(a) in Schedule 1—

(i) in paragraph 2(2)(a), for the word “territories” there shall be substituted the word “territory”;

(ii) the following shall be added at the end of paragraph 2(2)(a):—

“(iii) (as regards any period prior to the unification of the Federal Republic of Germany) the German Democratic Republic; and”;

(iii) in paragraph 5(b), for the words from “in the European Community” to the end of that sub-paragraph, there shall be substituted the words “in the territory specified in paragraph 2(2)(a) of this Schedule,”; and

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(1) 1980 c. 44; section 74(1) was amended by paragraph 8(17) of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39).

(2) 1983 c. 40; section 1 was amended by paragraph 91 of Schedule 12 to the Education Reform Act 1988 (c. 40).

(3) S.I. 1983/1215 amended by S.I. 1984/1361, 1985/1223 and 1987/1383.

- (iv) in paragraph 5, for the words from “outside the European Community” to the end of that paragraph, there shall be substituted the words “outside the said territory”;
- (b) in Schedule 2—
  - (i) for paragraphs 2 and 3, there shall be substituted the following paragraph:—
    - “2. A person shall be an excepted candidate if—
      - (a) he is entitled to equality of treatment in relation to the payment of a maintenance award for the course in respect of which he seeks an award by virtue of Article 7 or 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community<sup>(4)</sup>; and
      - (b) he has been ordinarily resident throughout the period of 3 years immediately preceding the relevant date in the territory comprising —
        - (i) the European Community; and
        - (ii) as regards any period prior to the unification of the Federal Republic of Germany, the German Democratic Republic; and he has not been resident therein during any part of that 3 year period wholly or mainly for the purpose of receiving full-time education.”;
    - (ii) in paragraph 5(2), the words from “would he” to “that relevant connection” shall be deleted and there shall be substituted therefor the following:—
      - “fails to satisfy the criteria set out in paragraph 2(b)”;
    - (iii) in paragraph 5(2)(i), for the words “European Community”, there shall be substituted the words “territory specified in that sub-paragraph”; and
    - (iv) in paragraph 5(2)(ii), for the words “the European Community”, there shall be substituted the words “that territory”; and
  - (c) in Schedule 4—
    - (i) for paragraph 3(3)(a), there shall be substituted the following head:—
      - “(a) he has been ordinarily resident in the territory comprising —
        - (i) the European Community;
        - (ii) (as regards any period prior to their accession to that Community) the Kingdom of Spain and the Portuguese Republic; and
        - (iii) (as regards any period prior to the unification of the Federal Republic of Germany) the German Democratic Republic, throughout the three year period preceding 1st September, 1st January or 1st April closest to the beginning of the first term of his intended course; and”;
      - (ii) in paragraph 5, for the words from “comprising” to “Portuguese Republic”, there shall be substituted the words “specified therein”.

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(4) O.J. No.L257, 19.10.68, p.2 (O.J./S.E. 1968 (II), p.475).

### **The Students' Allowances (Scotland) Regulations 1987**

3. In regulation 2(5A) of the Students' Allowances (Scotland) Regulations 1987(5), the full stop at the end shall be replaced by “, and” and there shall be added immediately thereafter the following sub-paragraph:—

“(c) as regards any period prior to the unification of the Federal Republic of Germany, the German Democratic Republic.”.

### **The Education Authority Bursaries (Scotland) Regulations 1988**

4. In regulation 2(5A) of the Education Authority Bursaries (Scotland) Regulations 1988(6), the full stop at the end shall be replaced by “, and” and there shall be added immediately thereafter the following sub-paragraph:—

“(c) as regards any period prior to the unification of the Federal Republic of Germany, the German Democratic Republic.”.

St. Andrew's House,  
Edinburgh  
25th March 1991

*Michael B. Forsyth*  
Minister of State, Scottish Office

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(5) [S.I. 1987/864](#); relevant amending instrument is [S.I. 1988/1424](#).

(6) [S.I. 1988/1042](#); relevant amending instrument is [S.I. 1988/1423](#).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend certain references to persons being ordinarily resident in the European Community for the purpose of eligibility for awards, and the level of fees chargeable to them, under the Education (Fees and Awards) (Scotland) Regulations 1983 (“the 1983 Regulations”), the Students' Allowances (Scotland) Regulations 1987 and the Education Authority Bursaries (Scotland) Regulations 1988. Following the unification of Germany on 3rd October 1990, these references are now to be read so that ordinary residence in the German Democratic Republic prior to that date should count as equivalent to residence in the European Community for the purposes of the Regulations in question.

The Regulations in addition amend generally the definition of who is an excepted candidate for the purposes of Schedule 2 to the 1983 Regulations (maintenance awards for certain postgraduate agricultural students).