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STATUTORY INSTRUMENTS

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**1995 No. 2016**

**The Education (Assisted Places) Regulations 1995**

**PART II**

*Eligibility for assisted places*

**General**

3.—(1) A school may select a child for an assisted place if, and only if, the school is satisfied that all the conditions mentioned in this Part are, so far as relevant, fulfilled in his case.

(2) Nothing in this regulation shall prevent a child from being provisionally selected for an assisted place subject to the condition that the child will not be finally selected for that place until it is ascertained that all such conditions are fulfilled.

(3) If a school shall ascertain that any relevant condition specified in this Part is not satisfied in respect of a child provisionally selected for an assisted place, the school shall withdraw that assisted place forthwith, and the parents shall be liable to repay any remission of fees provisionally allowed by the school.

(4) It shall be a condition that parents seeking an assisted place for their child at a school shall have applied for an assisted place by the time and in the manner and form specified by the Secretary of State pursuant to regulation 16.

(5) In this Part “first assisted year” means the school year in which the child would take up an assisted place if selected therefor.

**Conditions as to residence**

4.—(1) Subject to paragraphs (3) and (4), it shall be a condition that the child shall—

- (a) have been ordinarily resident in the British Islands throughout the period of two years preceding the relevant date, or
- (b) be an EEA national—
  - (i) who has been ordinarily resident in the European Economic Area throughout the period of two years preceding the relevant date, and
  - (ii) to whom paragraph (2) applies, or
- (c) be a refugee or the child of a refugee who has not been ordinarily resident outside the British Islands since he or, as the case may be, his parent, was recognised as a refugee or granted leave to enter or remain in the British Islands as a refugee.

(2) The child referred to in paragraph (1)(b) is one who is, or whose parents are, entitled to equality of treatment as regards selection for an assisted place by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on Freedom of Movement for Workers within the European Community(1), as extended by the EEA Agreement.

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(1) OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II) p.475).

(3) A child shall be treated for the purposes of paragraph (1)(a) and (b) as having been ordinarily resident in the British Islands or in the European Economic Area if the school is satisfied that he would have been so resident but for the fact that his parent is or was temporarily employed outside the British Islands or the European Economic Area during any part of the period mentioned in those sub-paragraphs.

(4) For the purposes of paragraph (1)(b), a child who is resident in a State which became a Contracting Party to the EEA Agreement on a date later than the beginning of the two year period mentioned in that sub-paragraph, shall be treated as having been ordinarily resident in the European Economic Area for that period if he has been so resident in the said state or elsewhere in the European Economic Area throughout the period of two years preceding the relevant date.

### **Conditions as to age**

5.—(1) It shall be a condition that the child—

- (a) either shall have attained the age of 11 years by the beginning of his first assisted year or in the case of a child who, if selected for an assisted place, would be provided with education with pupils the generality of whom would have attained that age by that date, shall be of such age that he will have attained the age of 11 years before 1st September next following the beginning of his first assisted year, and
- (b) subject to paragraph (2), shall be of such age that he will, on 1st September in the calendar year in which his first assisted year begins, be of an age specified in the participation agreement as a normal age of entry to the school to which it is intended that the child should be admitted, or will attain that age before 1st September next following the beginning of his first assisted year.

(2) Paragraph (1)(b) shall not apply in the case of a child selected for education in the sixth form of a school in accordance with regulation 6 or in the case of a child who, if selected for an assisted place, will be provided with education in the same class as assisted pupils who were admitted to the school in an earlier school year.

### **Conditions as to selection at sixth form level**

6. A child shall be eligible for selection for an assisted place in the sixth form of a school, that is to say in a form where he would be provided with education appropriate to pupils taking advanced level examinations for the General Certificate of Education or other comparable examinations, if—

- (a) the participation agreement expressly provides for the selection of pupils who will be provided with education in the sixth form of the school and the child satisfies any relevant conditions specified in that agreement, or
- (b) the child is already attending the school when being considered for an assisted place and, if selected, would be provided with education in the sixth form of the school along with assisted pupils of a similar age who were admitted in an earlier school year.

### **Conditions as to income**

7.—(1) It shall be a condition that the parents of the child, when applying to the school for an assisted place, shall have furnished the school with—

- (a) a declaration of relevant income for the preceding financial year or, if they have not the necessary information:
  - (i) a declaration of estimated relevant income for that year; and
  - (ii) a declaration of relevant income for the financial year before that year; and

- (b) such other information as may be specified for the purposes hereof by the Secretary of State.
- (2) A school shall not select for an assisted place—
  - (a) a child whose fees for his first assisted year would not fall to be remitted in whole or in part pursuant to Part III; or
  - (b) a child the whole of whose fees for his first assisted year are required to be paid pursuant to an order of a court or a separation agreement.

**Academic conditions**

**8.—(1)** A school shall not select a child for an assisted place unless the school are satisfied that he is likely to benefit from the education provided at the school.

(2) The selection of children for assisted places at a school shall, subject to paragraph (1) and any relevant provisions in the participation agreement, be made by the school in accordance with such methods and procedures as appear appropriate to the school.