Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Student Fees and Support) Temporary Protection (Scotland) Amendment Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 217

EDUCATION

The Education (Student Fees and Support) Temporary Protection (Scotland) Amendment Regulations 2005

Made - - - -	*8th April 2005*
Laid before the Scottish Parliament - - - -	*15th April 2005*
Coming into force - -	*7th May 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 49(3), 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(**1**); sections 1 and 2 of the Education (Fees and Awards) Act 1983(**2**); and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (Student Fees and Support) Temporary Protection (Scotland) Amendment Regulations 2005 and shall come into force on 7th May 2005.

Commencement Information

I1 Reg. 1 in force at 7.5.2005, see **reg. 1**

Amendment of Nursing and Midwifery Regulations

2.—(1) The Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(**3**) shall be amended as follows.

(**1**) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2); section 73B was inserted by the Teaching and Higher Education Act 1998, section 29(2) and amended by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, section 3(3) and by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, paragraph 149; section 74(1) was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) 1983 c. 40; section 1 was relevantly amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91 and the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraph 8; section 2(3)(a) and the word "other" in paragraph (b) were repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**3**) S.I.1992/580, amended by S.S.I. 2002/423, S.S.I. 2003/401 and S.S.I. 2004/469.

(2) In regulation 2–

(a) at the end of the definition of "Health Board" omit "and";

(b) after that definition insert–

""relevant day" in relation to a course of education for which an allowance is sought means–

(a) as respects a course starting in the period 1st August to 31st December, 1st August; or

(b) as respects a course starting in the period 1st January to 31st July, 1st January,

in either case the relevant day being in the year of commencement of the appropriate academic year of the course;";

(c) at the end of the definition of "Switzerland Agreement" for "2002." substitute "2002; and"; and

(d) after that definition insert–

""temporary protection" means limited leave to enter or remain granted pursuant to Part 11A of the Immigration Rules(**4**).".

(3) In Schedule 1–

(a) after paragraph 6 insert–

"**6A.** A person who–

(a) at the date of the Scottish Ministers receiving his or her application for an allowance has been granted temporary protection and who has been ordinarily resident in the United Kingdom and Islands at all times since he or she was first granted temporary protection;

(b) has not attained the age of 18 years on the relevant day; and

(c) is ordinarily resident in the United Kingdom and Islands on the relevant day."; and

(b) in paragraph 8 after "relevant day" insert ", provided that this paragraph will not apply where it would result in the payment of an allowance to a person after the end of any academic year in which that person attained the age of 18 years where that person qualified only by virtue of paragraph 6A".

Commencement Information

I2 Reg. 2 in force at 7.5.2005, see **reg. 1**

Amendment of Bursaries Regulations

3.—(1) The Education Authority Bursaries (Scotland) Regulations 1995(**5**) shall be amended as follows.

(2) In regulation 2(1)–

(a) at the end of the definition of "relevant date" omit "and";

(b) at the end of the definition of "Switzerland Agreement" for "2002." substitute "2002; and"; and

(**4**) HC 395; relevant amending instrument is HC 194.

(**5**) S.I. 1995/1739, amended by S.I. 1997/1049 and S.S.I. 2004/469.

(c) after that definition insert–

""temporary protection" means limited leave to enter or remain granted pursuant to Part 11A of the Immigration Rules.".

(3) In Schedule 1–

(a) after paragraph 3A insert–

"**3B.** A person who–

(a) at the date of the education authority receiving his application for a bursary has been granted temporary protection and who has been ordinarily resident in the British Islands at all times since he was first granted temporary protection;

(b) has not attained the age of 18 years on the relevant date; and

(c) is ordinarily resident in the area of the education authority on the qualifying day,

provided that a bursary paid to a person only by virtue of that person qualifying under this paragraph shall not continue beyond the end of any academic year in which that person attains the age of 18 years."; and

(b) in paragraph 5 after "relevant date" insert ", provided that this paragraph will not apply where it would result in the payment of a bursary to a person after the end of any academic year in which that person attained the age of 18 years where that person qualified only by virtue of paragraph 3B".

Commencement Information

I3 Reg. 3 in force at 7.5.2005, see **reg. 1**

Amendment of Fees and Awards Regulations

4.—(1) The Education (Fees and Awards) (Scotland) Regulations 1997(**6**) shall be amended as follows.

(2) In regulation 2(1)–

(a) at the end of the definition of "refugee" omit "and";

(b) at the end of the definition of "Switzerland Agreement" for "2002." substitute "2002; and"; and

(c) after that definition insert–

""temporary protection" means limited leave to enter or remain granted pursuant to Part 11A of the Immigration Rules.".

(3) In Schedule 1 after paragraph 3A insert–

"**3B.** A person shall be an excepted student if he–

(a) is a person who has been granted temporary protection;

(b) did not attain the age of 18 years prior to the beginning of the current academic year of the student's course; and

(c) has been ordinarily resident in the United Kingdom and Islands at all times since he was first granted temporary protection.".

(**6**) S.I. 1997/93, amended by S.I. 1997/2008, S.I. 1998/2324 and S.S.I. 2004/469.

(4) In Schedule 2 after paragraph 2 insert–

"**2A.** A person shall be an excepted candidate if he–

(a) is a person who has been granted temporary protection;

(b) has not attained the age of 18 years on the relevant date; and

(c) has been ordinarily resident in the United Kingdom and Islands at all times since he was first granted temporary protection.".

Commencement Information

I4 Reg. 4 in force at 7.5.2005, see **reg. 1**

Amendment of Students' Allowances Regulations

5.—(1) The Students' Allowances (Scotland) Regulations 1999(**7**) shall be amended as follows.

(2) In regulation 2(1)–

(a) at the end of the definition of "relevant day" omit "and";

(b) at the end of the definition of "Switzerland Agreement" for "2002." substitute "2002; and"; and

(c) after that definition insert–

""temporary protection" means limited leave to enter or remain granted pursuant to Part 11A of the Immigration Rules.".

(3) In Schedule 1–

(a) after paragraph 6 insert–

"**6A.** A person who–

(a) at the date of the Scottish Ministers receiving his application for an allowance has been granted temporary protection and who has been ordinarily resident in the United Kingdom and Islands at all times since he was first granted temporary protection;

(b) has not attained the age of 18 years on the relevant day; and

(c) is ordinarily resident in Scotland on the relevant day,

provided that an allowance paid to a person only by virtue of that person qualifying under this paragraph shall not continue beyond the end of any academic year in which that person attains the age of 18 years."; and

(b) in paragraph 8 after "relevant day" insert ", provided that this paragraph will not apply where it would result in the payment of an allowance to a person after the end of any academic year in which that person attained the age of 18 years where that person qualified only by virtue of paragraph 6A".

Commencement Information

I5 Reg. 5 in force at 7.5.2005, see **reg. 1**

(**7**) S.I. 1999/1131, amended by S.S.I. 2001/229 and S.S.I. 2004/469.