SCOTTISH STATUTORY INSTRUMENTS

2004 No. 83

EDUCATION

The Individual Learning Account (Scotland) Regulations 2004

Made - - - -	*4th March 2004*
Laid before the Scottish Parliament - - - -	*8th March 2004*
Coming into force - -	*29th March 2004*

The Scottish Ministers, in exercise of the powers conferred on them by sections 1, 2 and 3(2) of the Education and Training (Scotland) Act 2000(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Individual Learning Account (Scotland) Regulations 2004 and shall come into force on 29th March 2004.

(2) In these Regulations–

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992(**2**);

"account holder's year" means the period commencing upon the date on which the learning account is opened, and expiring on the first day of the same month in the following year, and each subsequent period of 12 months;

"the Act" means the Education and Training (Scotland) Act 2000;

"approved learning" means education or training falling within regulation 10(1) or 10(2);

"European Economic Area" means the European Community and, subject to the conditions laid down in the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**3**), as adjusted by the Protocol signed at Brussels on 17th March 1993(**4**), the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

"learning account" means an account opened and maintained by the Scottish Ministers in the name of the learning account holder which records the amount of grant available to be credited in any account year;

(**1**) 2000 asp 8.
(**2**) 1992, c. 4.
(**3**) Cm 2073.
(**4**) Cm 2183.

"Learning Account Administrator" means a person or body which has been designated by the Scottish Ministers in terms of sections 1(4) and (5) of the Act and whose designated status has not been withdrawn;

"learning account holder" means a person who is a party to qualifying arrangements as specified in regulation 2;

"Learning Provider" means a person or body who is a qualifying person or body as specified in regulation 5, and who provides approved learning;

"Learning Provider Registration Agreement" means the formal agreement to be entered into between the Learning Account Administrator and the Learning Provider, specifying the obligations of the parties, including the maintenance of the Quality Standards;

"Learning Provider Payment Agreement" means the formal agreement to be entered into between the Scottish Ministers and the Learning Provider specifying the obligations of the parties as regards the application for, and payment of grants;

"Operational Rules" means those rules, compliance with which shall be terms of payment of grants under the Scheme, as such rules are determined by the Scottish Ministers from time to time in accordance with section 1(2)(c) of the Act, and notified to Learning Providers by the Scottish Ministers;

"qualifying person" has, in regard to learning account holders, the meaning given in regulation 3 and, in regard to Learning Providers, the meaning given in regulation 5;

"Quality Standards" means those standards, stipulated by a Learning Account Administrator, which have been accepted by a Learning Provider as part of the Learning Provider Registration Agreement, and any subsequent version thereof notified to a Learning Provider by the Learning Account Administrator;

"Scheme" means the learning account scheme established under these Regulations.

Qualifying arrangements (learning account holders)

2.—(1) For the purposes of section 2 of the Act, arrangements qualify under that section if–

(a) they take the form of registration by a qualifying person, being a learning account holder, with the Scottish Ministers in accordance with regulation 4; and

(b) the registration has not been cancelled or withdrawn in accordance with regulation 4(6) to 4(8);

(2) The qualifying arrangements as specified in paragraph (1) are identified under the names "ILA Scotland Targeted Arrangements" and "ILA Scotland Universal Arrangements.".

(3) The qualifying arrangements named "ILA Scotland Targeted Arrangements" and "ILA Scotland Universal Arrangements" are collectively known as "ILA Scotland".

Qualifying persons (learning account holders)

3.—(1) For the purposes of these Regulations, a learning account holder is a qualifying person for the purposes of entering the qualifying arrangements named "ILA Scotland Universal Arrangements" if he or she has registered with the Scottish Ministers in terms of regulation 4, and satisfies at that time the conditions specified in paragraphs (3) to (5) below.

(2) For the purposes of these Regulations, a learning account holder is a qualifying person for the purposes of entering the qualifying arrangements named "ILA Scotland Targeted Arrangements" if he or she has registered with the Scottish Ministers in terms of regulation 4, and satisfies at the date of registration the conditions specified in paragraphs (3) to (5), and (7) below.

(3) The condition in this paragraph is that the person has attained the age of 18.

(4) The condition in this paragraph is that the person–

(a) is a British citizen; or

(b) is settled in the United Kingdom within the meaning of section 33(2A) of the Immigration Act 1971(**5**); or

(c) is a refugee, ordinarily resident in the United Kingdom who has not ceased to be so resident since that person was recognised as a refugee; or

(d) is a person who–

(i) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although that person is considered not to qualify for recognition as a refugee, it is thought right to allow that person to remain in the United Kingdom;

(ii) has been granted leave to enter or remain accordingly; and

(iii) has been ordinarily resident in the United Kingdom throughout the period since that person was granted leave to enter or remain; or

(e) is a person not falling within paragraphs (a) to (d) but is a national of a member state of the European Economic Area who is working in the United Kingdom.

(5) The condition in this paragraph is that the person is either–

(a) resident in Scotland; or

(b) temporarily resident outside Scotland but ordinarily resident in Scotland (unless paragraph (6) applies).

(6) For the purposes of these Regulations, the residence of a member of the naval, military or air force of the Crown ("a member of the armed forces") shall be determined as follows:–

(a) unless sub paragraph (b) applies, a member of the armed forces shall be treated as resident at the establishment where he or she is for the time being serving; and

(b) where the member of the armed forces is serving at an establishment outside the United Kingdom, that person shall be treated as resident at the establishment in the United Kingdom where he or she most recently served, disregarding any establishment at which he or she served for a period of less than one month.

(7) The condition in this paragraph is that the person is either–

(a) a person with a gross income from earnings not exceeding £15,000 in the account holder's year; or

(b) a person in receipt of any one of the following:–

(i) a jobseeker's allowance payable under Part I of the Jobseekers Act 1995 (The Jobseeker's Allowance)(**6**);

(ii) income support payable under section 124 of the 1992 Act (income support)(**7**);

(iii) invalid care allowance payable under section 70 of the 1992 Act (carer's allowance)(**8**);

(iv) incapacity benefit payable under section 30A of the 1992 Act (incapacity benefit: entitlement)(**9**);

(**5**) 1971 c. 77; amended, and subsection (2A) inserted, by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.
(**6**) 1995 c. 18.
(**7**) Section 124 was amended by paragraph 30 of Schedule 2, and Schedule 3, of the Jobseekers Act 1995 (c. 18) and paragraph 28 of Schedule 8 of the Welfare Reform and Pensions Act 1999 (c. 30).
(**8**) Section 130 was amended by paragraph 3 of Schedule 9 of the Local Government Finance Act 1992 (c. 14); paragraph 174(4) of Schedule 13 of the Local Government etc. (Scotland) Act 1994 (c. 39) and Part VI of Schedule 19 of the Housing Act 1996 (c. 52).
(**9**) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(v) the maximum rate of child tax credit payable under section 9 of the Tax Credits Act 2002 (maximum rate)(**10**).

(8) For the purposes of this regulation, a person's gross income from earnings shall include the amount of income tax and social security contributions payable in respect of it.

(9) For the purposes of this regulation, "earnings", in the case of employed earners, has the same meaning as in regulation 35 of the Income Support (General) Regulations 1987(**11**), and, in the case of self-employed earners, has the same meaning as in regulation 37 of those Regulations.

(10) A learning account holder may register with the Scottish Ministers in terms of regulation 4, either as a qualifying person for the purposes of entering the qualifying arrangements named "ILA Scotland Universal Arrangements" or for the purposes of entering the qualifying arrangements named "ILA Scotland Targeted Arrangements", but not both at the same time.

(11) Where a learning account holder is registered as a qualifying person for the purposes of entering the qualifying arrangements named "ILA Scotland Targeted Arrangements" for one account holder's year in accordance with regulation 4(3), but upon the date of expiry of the account holder's year, the learning account holder no longer satisfies the conditions specified in paragraph (7), the learning account holder is automatically entitled to be registered with the Scottish Ministers as a qualifying person for the purposes of entering the qualifying arrangements named "ILA Scotland Universal Arrangements":

Provided that–

(a) he or she shall not be required to submit a further application for registration in accordance with regulation 4(1); and

(b) he or she satisfies at the said date of expiry of the account holder's year, the conditions specified in paragraphs (3) to (5).

Registration (learning account holders)

4.—(1) An application for registration as a learning account holder shall be made in such form and in such manner as the Scottish Ministers may, from time to time, determine, and different forms of application may be determined for ILA Scotland Targeted Arrangements, ILA Scotland Universal Arrangements, or renewal of applications.

(2) An application for registration as a learning account holder for the purposes of entering the arrangements named "ILA Scotland Targeted Arrangements" and an application for registration as a learning account holder for the purposes of entering the arrangements named "ILA Scotland Universal Arrangements" shall not be submitted prior to such respective dates as the Scottish Ministers may determine.

(3) An application for registration as a learning account holder for the purposes of entering the qualifying arrangements named "ILA Scotland Targeted Arrangements" shall be made in respect of the period from the date of registration for one account holder's year only, but upon expiry of the account holder's year, a further application for such registration may be made for the following account holder's year, and so on for successive account holder's years.

(4) The Scottish Ministers may require an applicant for registration as a learning account holder to provide such information or documents as the Scottish Ministers may require, in order for the Scottish Ministers to determine whether the person is eligible to become a learning account holder, and may decline to accept an application for registration unless such information or documents are provided.

(**10**) 2002 c. 21.
(**11**) S.I.1987/1967.

(5) A registered learning account holder may, from time to time, be required to provide to a Learning Account Administrator such information, details and documents as may be required for the purpose of assessing the quality and effectiveness of the approved learning in respect of which a grant has been paid.

(6) The Scottish Ministers may at any time cancel the registration of a learning account holder if–

(a) it appears to the Scottish Ministers that the person does not satisfy the conditions specified in regulation 3(3) to (5) in respect of the qualifying arrangements named "ILA Scotland Universal Arrangements" or the conditions specified in regulation 3(3) to (5) and 3(7) in respect of the qualifying arrangements named "ILA Scotland Targeted Arrangements";

(b) it appears to the Scottish Ministers that any information provided under paragraphs (1) to (5) by or on behalf of the learning account holder was false , or if the learning account holder has failed to provide any other information or documents which were requested by the Learning Account Administrator under paragraph (5); or

(c) the learning account holder has been convicted of an offence involving dishonesty or fraud in relation to ILA Scotland.

(7) A learning account holder may at any time withdraw his or her registration with the Scottish Ministers by notifying the Scottish Ministers in such form as the Scottish Ministers may determine.

(8) Where registration is cancelled or withdrawn, the Scottish Ministers shall close the relevant learning account and shall advise the Learning Account Administrator of that fact.

(9) While a person is a party to qualifying arrangements, as specified in regulation 2, he or she may not at any time during which he or she is a party to the qualifying arrangements become a party to other such arrangements, and accordingly any subsequent registration with the Scottish Ministers shall be of no effect.

(10) A learning account holder shall forthwith notify the Scottish Ministers of any change of circumstances which may affect his or her status as a qualifying person.

Qualifying persons and registration (Learning Providers)

5. For the purpose of these Regulations, in regard to qualification as a Learning Provider, a person or body shall, subject to regulation 7, be a qualifying person or body if they have registered with a Learning Account Administrator in terms of regulation 6 and that registration has not been suspended, withdrawn or cancelled.

Registration (Learning Providers)

6.—(1) An application for registration as a Learning Provider shall be made in such form and in such manner as a Learning Account Administrator may, from time to time, determine.

(2) A Learning Account Administrator may require an applicant for registration as a Learning Provider to provide such information or documents, as the Learning Account Administrator may require to enable it to determine whether the applicant is suitable to become a Learning Provider for the purposes of the Scheme, and the Learning Account Administrator may decline to accept an application for registration unless such information and documents are provided.

(3) A Learning Account Administrator may grant an application for registration as a Learning Provider only if–

(a) it appears to the Learning Account Administrator that the applicant is a suitable person to deliver education and training in conformity with the Quality Standards for the purposes of the Scheme; and

(b) the applicant has delivered a validly executed Learning Provider Registration Agreement to the Learning Account Administrator.