

Principals
cc Admissions Officers

1 March 2013

Dear Principal

**The Education (Fees, Awards and Student Support) (Miscellaneous Amendments)
(Scotland) Regulations 2013**

I am writing to make you aware that the above named regulations have now been laid in Parliament and can be found at the following link:

<http://www.legislation.gov.uk/ssi/2013/80/contents/made>

These regulations make amendments to, amongst others, the 2007 and 2011 Fees Regulations. The amendments relating to the Fees Regulations come into force from the 1 August 2013 and as such apply to students commencing their studies after that. The main changes can be summarised as follows:

- **Dual UK/EU nationals** – in tandem with [Learning & Justice Circular 2012/005](#) which was issued in September 2012, amendments are made to Schedule 1, Paragraph 9 of the 2007 Fees Regulations, and Schedule 1, Paragraph 10 of the 2011 Fees Regulations clarifying the circumstances where a UK national can be considered as eligible for home fees on the same basis as an EU national. The two sets of circumstances are:
 - where that UK national (whether or not they are also an EU national) has exercised a right of residence in the EEA/Switzerland as set out in Article 7 of Directive 2004/38 EC (i.e. resident for more than 3 months and working, studying or self-sufficient); or
 - where a UK national has lived outwith the UK in a state within the EEA/Switzerland of which they are also a national, and, where, if they had not been a national of that state, would have been exercising a right of residence in the same way as set out in Article 7 of Directive 2004/38 EC.
- **Definition of family members of EU/EEA/Swiss nationals** – an amendment has been made to the definition of a family member which harmonises the definition across all EC related categories whether the EU/EEA/Swiss national is a worker of

some kind, self-sufficient or not self-sufficient. So for both a migrant worker and an EU national, their spouse or civil partner; direct descendents of themselves, their spouse or civil partner who are under 21 or dependent on them/spouse/civil partner; and, dependent direct relatives in the ascending line of themselves/their spouse or civil partner will all be considered as family members for the purposes of determining eligibility for home fees.

- **Family members of EU nationals** (Paragraph 9 of Schedule 1 of the 2007 Fees Regulations and paragraph 10 of Schedule 1 of the 2011 Fees Regulations). For family members of EU nationals as described above, we have introduced an amendment to now require these family members to be “joining or accompanying” the EU national in the UK. So for example, where a student is not eligible in their own right for home fees, but is moving with their EU parent to the UK then they will be considered eligible. However if that same student’s EU parent remains behind in their home country, and the student is not eligible in their own right then that student can not become eligible as the family member of an EU national. As we are introducing this change fairly late on in the application cycle, I appreciate that you may have already offered home places to students who may now not be considered eligible due to this amendment. The number of cases of students falling into this category is however likely to be very small and it is for the individual institution to decide what to do in these circumstances. SAAS, who open for applications for 2013-14 in mid April 2013 will be applying this change to all new applications.
- **Moving to Scotland for the purpose of attending a course of higher education.** The 2011 Fees Regulations set out in Regulation 2(3) and (4) that a student ordinarily resident in Scotland after moving from the UK and Islands for the purpose of undertaking a course of education was to be considered ordinarily resident in the part of the UK and Islands in which they had previously been living, rather than Scotland, and therefore not eligible for home fees. This has now been extended to include the other groups of students who are also required to be ordinarily resident in Scotland on the relevant date – this includes refugees and family member (Sch 1 para 4), those with another form of leave to remain short of refugee status and their family members (Sch 1 para 5), those Iraqi nationals under the LESAS scheme and their family members (Sch 1 para 6) and those with temporary protection (Sch 1 para 7).

Further details of the changes can be found in the Policy Note included with the regulations on the legislation.gov.uk website. If there are any questions about these amendments and how they are to be applied, please do contact me using the details above.

I would also like to make you aware that following discussion with HE admissions officers, we have now set up a group on “[Knowledge Hub](#)”, the public sector social media and networking site, which will provide an opportunity for admissions officers to share knowledge, provide peer support, and will act as a hub for information on residency relating to tuition fees and admissions. I will be sending email invitations out to all admissions officers shortly and will be developing the content over the coming months.

Yours faithfully

Laura Worku
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