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ASYLUM SEEKERS,
REFUGEES,
MIGRANT WORKERS
AND NON-UK EU NATIONALS:

A GUIDE TO FUNDING 2007-2008
FOR PRACTITIONERS GIVING ADVICE

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This leaflet gives an overview of the funding arrangements available for:

- asylum seekers
- refugees and those with leave to remain
- migrant workers
- non-UK European Union (EU) nationals

who wish to study a course of further or higher education in Scotland.

The information in this leaflet is intended to help practitioners giving advice to these students.

Asylum seekers

Asylum seekers are defined as those whose application for asylum has not yet been processed. They can receive the following help with course fees.

The Scottish Funding Council (SFC) will waive the fees for asylum seekers attending college, and studying:

- a full- or part-time English for speakers of Other Languages (ESOL) course
- or other part-time advanced or non-advanced course.

Adult ESOL learners are those for whom English is not a first language, and who need spoken and written English for everyday life and to participate in the labour market, their local communities and wider society.

Asylum seekers are also eligible to apply for support from the Hardship Fund for help with travel and study costs.

Refugees and those with leave to remain

Those who have been awarded refugee status by the Home Office (under the 1951 UN Convention on the status of refugees), or those who have been refused refugee status but granted some other form of leave to remain (e.g. Humanitarian Protection, Discretionary Leave).

Students who are refugees or have leave to remain are eligible to apply for:

- fee and student support in Higher Education (HE),
- fee waiver and discretionary bursary support in Further Education (FE),

provided they are ordinarily resident in Scotland on the first day of the first academic year of the course, and have been ordinarily resident in the UK and Islands at all times since receiving refugee status or leave to remain.

The spouse, civil partner or child of a refugee or leave to remain who meets the ordinary residence criteria in Scotland is also eligible.

These students are also eligible to apply for an Individual Learning Account (ILA) or an Education Maintenance Allowance (EMA).

What does 'ordinarily resident' in Scotland mean?

The courts have defined 'ordinary residence' as 'habitual and normal residence in one place'. It basically means that you, your parents, or your husband, wife or civil partner live in a country year after year by choice throughout a set period. This allows for temporary or occasional absences such as holidays or business trips, and may cover you if you or your family were temporarily employed abroad.

You may not be treated as 'ordinarily resident' in Scotland if your main purpose in coming here is to study and that you would normally be living somewhere else.

For further information and advice please contact the Student Awards Agency for Scotland (SAAS).

Right of permanent residence

An EU national with a right of permanent residence in the UK, for example after 5 years of residence, will be eligible in the same way as a person with settled status in the UK. Similarly a UK national exercising their right of permanent residence in other areas of the European Economic Area (EEA) may also be eligible to receive fee and student support if they return to study in Scotland.

The applicant must be ordinarily resident in Scotland on the first day of the course, have been settled in the UK prior to utilising the right of residence elsewhere, and have been ordinarily resident in the EEA or Switzerland for the preceding 3-year period.

European Economic Area (EEA) and Swiss employed and self-employed workers, and their families

The EEA consists of the areas of the member states of the EU plus Norway, Iceland, and Liechtenstein. A current list of the countries in the EEA is available at:

<http://www.ind.homeoffice.gov.uk/documents/ecis/chapter1.pdf?view=Binary>

Students who are EEA migrant workers or EEA self-employed workers, or Swiss who are employed or self-employed are eligible to apply for:

- fee and student support in HE
- fee waiver and discretionary bursary support in FE,

if they are ordinarily resident in Scotland on the first day of the first academic year of the course, and have been ordinarily resident in the EEA or Switzerland throughout the immediately preceding 3-year period.

Family members who meet this residence criteria may also be eligible.

They may also be eligible to apply for an ILA or an EMA.

Definition of a migrant worker

Initially an EEA or Swiss national is eligible to be classed as a migrant worker for a period of 6 months after they have arrived in the UK without work as long as they are actively seeking employment.

Following this, a period of work must be secured to be entitled to retain the classification of migrant worker.

There is no minimum period of employment in this situation but it would be advisable to ensure that any work secured by the claimant was not for the sole purpose of securing eligibility for financial support from the college.

This decision is at the colleges' or SAAS' discretion.

European Economic Area (EEA) and Swiss frontier and self-employed frontier workers, and their families

Students who are EEA or Swiss frontier workers, or self-employed frontier workers are eligible to apply for:

- fee and student support in HE
- fee waiver and discretionary bursary support in FE,

if they are working in Scotland and have been ordinarily resident in the EEA or Switzerland throughout the immediately preceding 3-year period. Family members may also be eligible.

They are also eligible to apply for an ILA or an EMA.

Definition of a frontier worker

A frontier worker and self-employed frontier worker are EEA workers or Swiss nationals who are employed in Scotland, but are residents of Switzerland or elsewhere within the EEA (excluding UK) and return there daily or at least once a week.

Family members for these two categories only includes the worker's spouse or civil partner, the worker's child or the child of the spouse or civil partner. For EEA workers, dependent direct relatives in the ascending line of the worker or the spouse can also be included.

Non-UK EU nationals, or their child

Students who are non-UK EU nationals, or the child of a non-UK EU national, are eligible to apply for:

- fee and student support in HE
- fee waiver and discretionary bursary support in FE

provided they are ordinarily resident in Scotland on the first day of the first academic year of the course, and have been ordinarily resident in the UK and Islands for the preceding 3-year period.

They are also eligible to apply for an ILA.

These students can be eligible for an EMA if they are ordinarily resident in the UK and Islands on the first day, and have been so resident for the preceding 3-year period.

For these students ordinary residence can include periods of residence wholly or mainly for the purposes of receiving full-time education. Where the purpose was for education the applicant must have been ordinarily resident in the EEA or Switzerland immediately preceding that time.

Non-UK EU nationals, or their child – fees only

Where a non-UK EU national (including European overseas territories), or the child of a non-UK EU national (including European overseas territories), has been ordinarily resident in the EEA or Switzerland throughout the immediately preceding 3-year period, they may be eligible for fee support in HE and FE if undertaking a course of study in Scotland.

They may also be eligible for an ILA if they are resident in Scotland.

Child of a Swiss national

A student who is the child of a Swiss national and is ordinarily resident in Scotland on the relevant day is eligible for **fee and student support**, providing they were ordinarily resident in the EEA or Switzerland for the preceding 3-year period. If this 3-year period was for educational purposes, they must have been ordinarily resident in the EEA or Switzerland immediately before that period.

Contacts

Scottish Refugee Council

Tel: 0141 248 9799

Web: www.scottishrefugeecouncil.org.uk

Freephone number for newly arrived and dispersed asylum seekers: **0800 085 6087** (Monday to Friday 9:30-16:30)

Student Awards Agency for Scotland

Tel: 0845 111 1711

E-Mail: saas.geu@scotland.gsi.gov.uk