

# Helping you meet the costs of learning

**Asylum Seekers, Refugees, Migrant Workers and EU Nationals:**

**A Guide to Funding 2009-10 - for practitioners giving advice**

This leaflet gives an overview of the funding arrangements available for

- Asylum Seekers
- Refugees and those with leave to remain
- Migrant/frontier workers
- EU nationals (including UK nationals who have never had ordinary residence in Scotland but have exercised the right to residence in the EEA/Switzerland)
- Former Gurkhas and their family members

who wish to study a course of Further Education (FE) or Higher Education (HE) in Scotland.

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

Further information on anything contained within this leaflet can be obtained from Student Awards Agency Scotland (SAAS) (see details at the end of the leaflet).

## **Asylum Seekers**

Asylum seekers are defined as those whose application for asylum has not yet been processed.

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.

Since January 2008, specific residency criteria apply to *young unaccompanied asylum seekers and children of asylum seekers* which determine whether they can receive support. Such individuals, satisfying the following criteria, will be eligible for tuition fee support to study full and part-time Higher and Further Education courses in Scotland.

The criteria to meet eligibility are that the individual:

- is resident in Scotland and is under 25 years old on 1st August 2009, 1st January, 1st April or 1st July 2010 – whichever is closest to the beginning of the first term of the person's course;
- has been resident in Scotland for a minimum period of 3 years; and
- was under 18 years old on the date when the asylum application was made (this application having been made prior to 1st December 2006);

Asylum seekers are also eligible to apply for support from their college's Discretionary 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) 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 or an Education Maintenance Allowance.

### **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.

### **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 EEA (see below) 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 and ordinarily resident in Scotland \*prior to utilising the right of residence elsewhere, and have been ordinarily resident in the EEA or Switzerland for the preceding 3 year period (\*note that since academic year 09/10 applicants no longer have to be ordinarily resident in Scotland *immediately* prior to utilising the right of residence).

For an applicant who was not ordinarily resident in Scotland prior to utilising the right of residence elsewhere in the EEA, or who is a UK national who has spent the whole of their life in the EEA and is now ordinarily resident in Scotland, please see the paragraph below on EU nationals.

### **European Economic Area (EEA) migrant/self-employed workers, Swiss employed/self-employed workers, EEA or Swiss frontier and self-employed frontier workers, their families and children of Turkish workers**

The EEA consists of the areas of the member states of the EU plus Norway, Iceland, and Liechtenstein. A current list is available at: <http://www.bia.homeoffice.gov.uk/eucitizens/>

Students who are EEA migrant/self-employed workers, Swiss employed/self-employed persons, are the children of Turkish workers, or 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 have been ordinarily resident in the EEA or Switzerland throughout the three year period immediately preceding the relevant date. EEA migrant/self-employed workers, Swiss employed/self-employed persons and children of Turkish workers must also be ordinarily resident in Scotland on the first day of the first academic year of the course. Family members who meet these residence criteria may also be eligible.

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

### **Definition of a migrant or Turkish 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 discretion of the college or SAAS.

A Turkish worker is a Turkish national who is ordinarily resident in Scotland and is, or has been, lawfully employed in the United Kingdom.

### **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 of migrant/frontier workers only** include 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.

### **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 Individual Learning Account (ILA Scotland).

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

Where an EU national or the child of a EU national 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. This also applies to a UK national or the child of a UK national who has been ordinarily resident in the EEA or Switzerland throughout the immediately preceding 3 year period and does not meet the residency criteria for full support as a UK returner having exercised the right of residence in the EEA or Switzerland. For example, if a UK national was born and lived in the EEA or Switzerland for their whole life, 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.

### **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.

### **Former Gurkhas and their family members**

The Home Office has recently made changes to the criteria used to consider applications to settle in the UK outside of UK Immigration Rules from former members of the Brigade of Gurkhas. Further information on the changes regarding the right of Gurkhas to settle in the UK can be found in a factsheet on the UK Border Agency Website [www.ukba.homeoffice.gov.uk/sitecontent/documents/news/factsheet-Gurkha-members.pdf](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/news/factsheet-Gurkha-members.pdf).

For former Gurkhas and their families who have settled status in the UK as a result of this change and wish to study in Scotland and apply for fee and student support, the normal residence criteria for UK nationals apply – in addition to being settled in the UK within the meaning given by section 33(2A) of the Immigration Act 1971 on the relevant date, they must also be ordinarily resident in Scotland on the relevant date and have been ordinarily resident in the United Kingdom and Islands for the preceding 3 year period.

### **Contacts**

#### **Scottish Refugee Council**

Tel: **0141 248 9799**

Web: [www.scottishrefugeecouncil.org.uk](http://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 (SAAS)**

Tel: **0845 111 1711**

Web: [www.saas.gov.uk](http://www.saas.gov.uk)

E-Mail: [saas.geu@scotland.gsi.gov.uk](mailto:saas.geu@scotland.gsi.gov.uk)