



Northern Ireland
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Scottish Universities – Proof of Residence: Update

1 Introduction

This paper briefly discusses the proof of residence requirements to be met in order to be considered eligible for free tuition ('home fees') as an EU student in Scottish universities.¹ The paper provides an update to the Briefing Note 'Scottish Universities – Proof of Residence', originally published in October 2012.

Section 3 of the paper outlines the residence requirements for those applying for Student Finance NI support. Section 4 considers the financial support available in the Republic of Ireland (ROI) to dual nationality students who have exercised their right of residence in ROI, but wish to attend an undergraduate course in another Member state.

¹ Publicly funded educational institutions in Scotland charge three rates of fee: 1) home rate; 2) middle rate capped fee (institutions have agreed with the Scottish Government to cap this at £9000 for 2012-13 onwards, and until otherwise notified); and 3) a top-rate 'overseas' fee for all other students. UK Council for International Student Affairs *Fee status in Scotland: Higher Education - Information Sheet* <http://www.ukcisa.org.uk/International-Students/Fees--finance/Home-or-Overseas-fees/Scotland-Higher-Education/>

2 Scotland - Proof of Residence

The Student Awards Agency for Scotland (SAAS) has outlined the eligibility requirements for payment of EU tuition fees:²

- You are, on the relevant date, an EU national or the family member of such accompanying or joining that EU national in the UK;
- You have been ordinarily resident in the EU, the EU overseas territories, elsewhere in the EEA or Switzerland for the three years immediately prior to the first day of the first academic year of your course (the relevant date); and
- You are taking a course of full-time study in Scotland and plan to graduate in Scotland.

The guidelines issued by SAAS clarify that a UK national with dual nationality must have exercised their right of residence in order to be considered eligible to qualify for free tuition:³

An EU national does not include a UK national who has not utilised a right of residence. A UK national has utilised a right of residence if that person has exercised a right under Article 7 of the Directive 2004/38 or any equivalent right under the EEA agreement or the Switzerland agreement in a state other than the UK.

Exercising a right of residence as set out in Article 7 of the Directive 2004/38 is generally considered to be a period of at least 3 months, either working, studying or self-sufficient in that state. Therefore, in order to qualify for free tuition ('home fees status') in Scotland, students with dual nationality have to be resident in an EU state other than the UK for a minimum of three months.⁴

SAAS consider three months to be the minimum period of residence acceptable when applying as a student with dual nationality who wishes to qualify for 'home fee status'. As a matter of course, applications from those who have exercised their right of residence in a Member state for between three months and a year are referred on to the SAAS policy team for further investigation. At this point the application is assigned to a caseworker who will liaise directly with the candidate to establish the strength of their case. Most applications from those with dual nationality who have been resident in an EU state for more than a year will be considered on the basis of the contents of the application and the evidence supplied.

Proof of residence is determined on a case by case basis, with the burden of proof lying with the applicant. While the published SAAS guidelines do not give details of the type of evidence required to prove that the applicant has utilised their right of residence

² Student Awards Agency for Scotland (SAAS) *Exceptions to the general residence conditions* pp.2-3
<https://www.saas.gov.uk/forms/residence.pdf>

³ Student Awards Agency for Scotland (SAAS) *Exceptions to the general residence conditions* p.2

⁴ Scottish Parliament. Parliamentary Question S4W-09772
http://www.scottish.parliament.uk/S4_ChamberDesk/WA20121016.pdf

in an EU state, applications are usually supported by documents such as a P60, tenancy agreements and utility bills (essentially any official documentation that can prove an individual lived at a specific address during a cited period).⁵ Discussions with policy staff in the Employability, Skills and Lifelong Learning Directorate of the Scottish Government confirms that there is no definitive list of acceptable evidence and that each case is assessed individually on its own merits⁶. Examples of proof of residence include:⁷

- Payslips/employment contracts;
- Utility Bills;
- European bank account statements;
- Tenancy agreement/mortgage statement;
- Letter from their school/college/university, if they were in education;
- Evidence that they claimed benefits or that their parents/spouse/partner claimed benefits on their behalf; and
- Letter from their employer, if they undertook voluntary work.

On 14 September 2012, the Scottish Government published a press release suggesting that legislation clarifying proof of residence requirements for dual nationality applicants would be issued by 2013-14:⁸

Dual national university applicants, resident in the rest of the UK, will be required to prove they have previously exercised their right of EU residency in order to qualify as an EU student.

The legislation will be put in place by 2013-14 and it will mean prospective students have to show evidence of having lived in another EU member state for a period of at least three months, in order to be admitted as EU nationals, before qualifying to have their tuition fees paid.

Guidance has already been issued to universities to assist with assessing dual nationality applicants for 2012-13, and further guidance for 2013-14 is published today.

It should be noted that the most recent legislation, *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2013*, clarifies the requirement that a candidate must have utilised a right of residence. However, it does not detail the evidence required to prove that this right has been utilised.⁹

⁵ Discussions with Student Awards Agency Scotland (October 2012, March 2014)

⁶ Discussions with Scottish Government, Employability, Skills & Lifelong Learning Directorate - Higher Education & Learner Support Division (April 2014)

⁷ *Ibid.*

⁸ Scottish Government *Action on fees for dual nationality students* (14/09/2012)
<http://www.scotland.gov.uk/News/Releases/2012/09/EU-students14092012>

⁹ *The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2013*
http://www.legislation.gov.uk/ssi/2013/80/pdfs/ssi_20130080_en.pdf

3 Northern Ireland – Student Support

To qualify for Student Finance NI support, the applicant must fulfil the following requirements relating to residence and immigration status on the first day of the first academic year of their course:¹⁰

- Be ‘ordinarily resident’ in Northern Ireland¹¹; and
- Have been ‘ordinarily resident’ in the United Kingdom, the Channel Islands or the Isle of Man for the three years immediately before this date (other than mainly for the purpose of receiving full-time education); and
- Have ‘settled status’ – which means you must be settled in the UK within the meaning of the Immigration Act of 1971.

However, the guidance goes on to state that those who do not meet the three basic residence requirements may still be able to apply for tuition fee support, maintenance loan, grants or bursaries. The exceptions include:¹²

An EU national who has been ordinarily resident in the UK and Islands throughout the three year period immediately before the first day of the first academic year of your course.

For clarification on individual circumstances, applicants are advised to contact the Student Finance NI office.

4 Republic of Ireland – Student Support

Under the Student Grants Scheme, the government in the Republic of Ireland (ROI) offers maintenance grants for undergraduate courses of at least two years’ duration in a publicly funded third-level institution. Depending on income, applicants may be eligible for a maintenance grant provided that they fulfil the conditions as to residence, academic attainments and nationality.

The Students Grants Scheme is open to those who wish to study in an “approved institution” in the Republic of Ireland or in another EU member state.¹³ The *Student Support Act 2011* defines “approved institutions” as:¹⁴

an educational institution that provides higher education and training which is situated in a Member State other than the State which is maintained or

¹⁰ Student Finance NI *Higher education student finance - entitlement to support and payment 2014/15* p.1

http://www.studentfinanceni.co.uk/pls/portal/docs/PAGE/NPIPG001/NPIPS001/NPIPS129/SFNI_HYAP_1415.PDF

¹¹ The term ‘ordinarily resident’ means where a person usually live, and is defined as ‘habitual and normal residence from choice and for a settled purpose throughout the three-year period, apart from temporary or occasional absences’.

¹² Student Finance NI *Higher education student finance - entitlement to support and payment 2014/15* p.2

http://www.studentfinanceni.co.uk/pls/portal/docs/PAGE/NPIPG001/NPIPS001/NPIPS129/SFNI_HYAP_1415.PDF

¹³ S.I. No.159 *Student Grant Scheme 2013*

http://www.studentfinance.ie/downloads/1368781121/SI_159_of_2013_Student_Grant_Scheme_2013_Final.pdf

¹⁴ Section 7 (1)(e) *Student Support Act 2011* <http://www.studentfinance.ie/downloads/Student%20Support%20Act%202011.pdf>

assisted by recurrent grants from public funds of that or any other Member State including the State

To qualify for the means-tested maintenance grant, the applicant must have been legally resident in the ROI for at least three of the last five years up to the day before their approved course commences in an approved college. The type of documentation that may be required to demonstrate that the applicant fulfils this criteria include:¹⁵

- A letter from a school principal in Ireland, the EU, EEA or Switzerland confirming the applicant's attendance at a school
- Evidence that the applicant sat the Junior Certificate and Leaving Certificate exams in Ireland, or equivalent school exams in the EU, EEA or Switzerland;
- Social welfare statements or equivalents from the EU, EEA or Switzerland;
- Utility bills;
- Registration with the Private Residential Tenancies Board (PRTB), or equivalent from the EU, EEA or Switzerland; and
- If the applicant is a non-EEA national, a letter from the Department of Justice and Equality confirming the period of lawful presence in Ireland. Periods of unlawful presence cannot be considered.

The ROI does not offer a government supported student loan scheme such as that operated by the Student Loans Company in the UK.¹⁶ Students may apply to banks who often provide personal loans or overdrafts to students at preferential rates. Credit unions also offer education loans at a cheaper interest rate than other types of loans.

This information is provided to Members in support of their Assembly duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as legal or professional advice, or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

¹⁵ Schedule 5, S.I. No.159 *Student Grant Scheme 2013*

http://www.studentfinance.ie/downloads/1368781121/SI_159_of_2013_Student_Grant_Scheme_2013_Final.pdf

¹⁶ University tuition fees were abolished for undergraduates in the Republic of Ireland in 1996.