
STATUTORY INSTRUMENTS

1990 No. 1506 (N.I. 11)

NORTHERN IRELAND

**The Education (Student Loans)
(Northern Ireland) Order 1990**

Made 24th July 1990

Laid before Parliament 31st July 1990

Coming into Operation 1st August 1990

At the Court at Buckingham Palace, the 24th day of July 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Education (Student Loans) Act 1990:

1990 c. 6

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 2 of that Act of 1990) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1974 c. 28

Title and commencement

1.—(1) This Order may be cited as the Education (Student Loans) (Northern Ireland) Order 1990.

(2) This Order and the Education (Northern Ireland) Orders 1986 and 1989 may be cited together as the Education (Northern Ireland) Orders 1986 to 1990.

(3) This Order shall come into operation on 1st August 1990.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

1954 c. 33 (N.I.)

(2) In this Order—

“the Department” means the Department of Education;

“university” includes a university college and any college, or institution in the nature of a college, in a university.

Loans for students

3.—(1) The Department may make arrangements for enabling eligible students to receive loans towards their maintenance out of money made available by it for that purpose.

(2) For the purposes of this Article eligible students are those who—

- (a) are attending courses of higher education which are of at least one academic year's duration and either are at institutions receiving support from public funds or (being at other institutions) are designated for the purposes of this Article by or under regulations made by the Department; and
- (b) satisfy such other conditions as may be prescribed by regulations made by the Department.

(3) In this Article "courses of higher education" means courses of any description mentioned in Schedule 1 and "institutions receiving support from public funds" means—

(a) The Queen's University of Belfast, the University of Ulster, a college of education in Northern Ireland within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 and institutions providing in Northern Ireland further education as defined in Article 100 of the Education Reform (Northern Ireland) Order 1989;

1986 NI 3

1989 NI 20

1988 c. 40

(b) universities and other institutions receiving grants under section 131 or 132 of the Education Reform Act 1988, institutions maintained by local education authorities in England or Wales in exercise of their further and higher education functions, institutions designated by or under regulations made under section 218 of that Act as institutions substantially dependent for their maintenance on assistance from local education authorities and institutions receiving recurrent grants towards their costs under regulations made under section 100(1)(b) of the Education Act 1944;

1944 c. 31

1989 c. 39

(c) colleges of further education (as defined in section 80(1) of the Self-Governing Schools etc. (Scotland) Act 1989 or which are managed by a company by virtue of section 65(1) of that Act) and grant-aided colleges within the meaning of section 77(5) of the Education (Scotland) Act 1980.

1980 c. 44

(4) The Department may by order amend Schedule 1, but before doing so shall consult any persons with whom consultation appears to it to be desirable.

(5) Schedule 2 shall have effect in relation to arrangements made under this Article.

(6) Orders under paragraph (4) shall be subject to affirmative resolution.

(7) Regulations under this Article or Schedule 2 shall, subject to paragraph (8) and paragraph 1(2) of that Schedule, be subject to negative resolution.

(8) The first regulations to be made under this Article or Schedule 2 shall be subject to affirmative resolution.

G. I. de Deney
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 3(3).

COURSES OF HIGHER EDUCATION

1. A first degree course.
2. A course for the further training of teachers or youth and community workers.
3. A course for the Diploma of Higher Education.
4. A course for the Higher National Diploma or Higher National Certificate of—
 - (a) the Business & Technician Education Council; or
 - (b) the Scottish Vocational Education Council.
5. A course in the United Kingdom for the initial training of teachers for the time being designated for the purposes of this Schedule by or under regulations made by the Department.
6. A course in preparation for a professional examination of a standard higher than that of—
 - (a) examinations at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
 - (b) the examination for the National Certificate or the National Diploma of either of the Councils mentioned in paragraph 4,not being a course for entry to which a first degree (or equivalent qualification) is normally required.
7. A course providing education (whether or not in preparation for an examination) the standard of which is—
 - (a) higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 6(a) or (b) above; but
 - (b) not higher than that of a first degree course,and for entry to which a first degree (or equivalent qualification) is not normally required.

Article 3(5).

SCHEDULE 2

LOANS FOR STUDENTS

Principal, interest and payments

1.—(1) Regulations made by the Department shall—

- (a) prescribe the maximum amount of the loan that may be made to a student in any year;
- (b) make provision as to the time and manner in which repayments of loans are to be made; and
- (c) make provision for the deferment or cancellation of a borrower's liability in respect of a loan.

(2) The maximum amount prescribed under sub-paragraph (1)(a) for the loan to be made to a student in any year shall not exceed—

- (a) the amount specified as the ordinary maintenance requirement for students of the class or description to which he belongs by regulations having effect for that year under Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986 (awards by boards and the Department); or
- (b) if no such amount is specified for students of the class or description to which he belongs, such amount as the Department considers appropriate for students of that class or description having regard to the amount specified as mentioned in head (a);

but regulations, other than the first, made under sub-paragraph (1)(a) may prescribe a higher maximum if a draft of the regulations has been laid before and approved by the Assembly.

(3) Regulations under sub-paragraph (1)(b) shall make such separate provision as the Department considers appropriate with respect to the repayment of loans by borrowers who are disabled.

(4) Loans shall bear interest at such rates as may be prescribed by regulations made by the Department, but so that—

- (a) the interest (which shall accrue from day to day) shall be added to the outstanding amount of a loan; and
- (b) the rates shall be such as appear to the Department to be requisite for maintaining the value of that amount in real terms.

(5) For the purposes of sub-paragraph (4)(b) the Department shall have regard to the retail prices index published by the Central Statistical Office of the Chancellor of the Exchequer, any substituted index or index figures published by that Office or such other index as appears to the Department to be appropriate.

Certificates etc.

2.—(1) The Department may by regulations require the governing bodies of institutions at which eligible students are attending courses to take such steps (whether by the issue of certificates or otherwise) as may be prescribed by the regulations for the purposes of, or in connection with, applications by those students for loans under the arrangements made under Article 3, including the provision of information when a person ceases to be an eligible student.

1986 NI 3

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- (2) For the purposes of this paragraph the governing body—
- (a) in relation to a university, means the body responsible for the management and administration of its revenue and property and the conduct of its affairs; SCH. 2
 - (b) in relation to a college of further education, as defined in section 80(1) of the Self-Governing Schools etc. (Scotland) Act 1989, with a college council established under section 54 of that Act, means that council; and 1989 c. 39
 - (c) in relation to a college of further education as so defined without such a council, means the education authority within whose area the college is situated.

Administration

3.—(1) The arrangements may provide for the loans to be made and recovered, and other functions in relation to the loans to be discharged, by such person or persons as may agree to do so or by one or more bodies constituted or acquired by the Department for that purpose.

(2) The Department shall provide any person or body having the function of making loans under the arrangements with the funds necessary for making the loans; and any such person or body shall make such periodical repayments to the Department in respect of those funds as the Department may require.

(3) Arrangements made by virtue of this paragraph may include provision for defraying the administrative expenses incurred by the person or body in question in discharging the functions to which the arrangements relate and for remunerating that person or body for discharging them.

(4) Regulations made under paragraph 1(1)(b) or (c) may confer functions on any such person or body as is mentioned in sub-paragraph (1), including power to exercise a discretion in relation to any matter for which the regulations provide.

(5) Any arrangements made by virtue of this paragraph shall provide for the appointment of an independent person approved by the Department with the function of investigating and reporting on disputes between borrowers or intending borrowers under this Order and any person or body having the function of making loans under the arrangements.

(6) Any person or body having the function of making loans by virtue of this paragraph shall make to the Department such periodical reports as the Department may require with respect to the working of the arrangements under which the loans are made.

(7) Any person or body having the function of recovering loans under the arrangements may, for appropriate consideration, assign the right of recovery to a third party.

(8) No document sent in connection with loans under the arrangements by any such person or body as is mentioned in sub-paragraph (1) shall be regarded as sent with a view to financial gain within the meaning of section 50 of the Consumer Credit Act 1974 (circulars to minors).

1974 c. 39

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SCH. 2

Restriction on disclosure of information

4.—(1) No person or body having by virtue of paragraph 3 the function of making and recovering loans shall provide or make available to anyone else (whether for consideration or not) any information held for the purpose of discharging those functions if the information is to be used for soliciting custom for goods or services.

1984 c. 35

(2) As respects information constituting personal data for the purposes of the Data Protection Act 1984 sub-paragraph (1) is without prejudice to the requirements of that Act but applies irrespective of any consent given for the purposes of that Act by the person to whom the information relates.

Insolvency

1989 NI 19

5.—(1) There shall not be treated as part of a bankrupt's estate or claimed for his estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989 any sums to which this paragraph applies and which he receives or is entitled to receive after the commencement of the bankruptcy.

(2) No debt or liability to which a bankrupt is or may become subject in respect of any such sum shall be included in his bankruptcy debts.

(3) This paragraph applies to any sum by way of loan under the arrangements payable to the bankrupt pursuant to an agreement entered into by him before or after the commencement of the bankruptcy.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the Department of Education for Northern Ireland to make arrangements for enabling students in higher education to receive loans towards their maintenance. It is made only for purposes corresponding to those of the Education (Student Loans) Act 1990.