
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 154

The Education (Student Loans) (Scotland) Regulations 2007

PART II

ELIGIBILITY AND APPLICATIONS

Eligible students

3.—(1) The Scottish Ministers may pay a loan, in accordance with the provisions of section 73(f) of the Act and these Regulations, to or in respect of an eligible student.

(2) Subject to and in accordance with these Regulations a person shall be eligible for a loan in connection with their undertaking a designated course if that person—

- (a) is a person mentioned in Schedule 1;
- (b) is—
 - (i) under the age of 50 on the first day of the first academic year of the course; or
 - (ii) aged 50 or over and under the age of 55 on that day and the Scottish Ministers are satisfied that that person intends to enter employment after completion of the course;
- (c) is not eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Teaching and Higher Education Act 1998, the Education (Student Support) (Northern Ireland) Order 1998 or any regulations made under any of the foregoing;
- (d) is not eligible to receive in relation to the academic year—
 - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968⁽¹⁾ the amount of which is not calculated by reference to their income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007⁽²⁾;
- (e) is not in breach of any obligation to repay any loan;
- (f) where the designated course is a part-time course, has already received fewer than 8 loans in connection with that person undertaking one or more part-time courses;
- (g) where the designated course is a part-time course, on the relevant date—
 - (i) has attained the age of 25 years;

(1) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

(2) S.I. 2007/151.

- (ii) is married or in a civil partnership;
- (iii) has no parent living; or
- (iv) has been self-supporting out of earnings for periods aggregating not less than 3 years.

(3) Notwithstanding that a person satisfies the requirements specified in paragraph (2), a person shall not be eligible for a loan if—

- (a) that person has, in the opinion of the Scottish Ministers, shown themselves by their conduct to be unfitted to receive a loan; or
- (b) the designated course is a part-time course and the person holds a first degree from an educational institution in the United Kingdom or a comparable qualification from an educational institution outside the United Kingdom.

(4) For the purposes of paragraph (2)(e) and (f) “loan” means a loan made under the Act, the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Teaching and Higher Education Act 1998, the Education (Student Support) (Northern Ireland) Order 1998 or under any regulations made under any of the foregoing.

(5) A person in respect of whom the first day of the first academic year of the course is on or after 1st August 2007 shall not, at any one time, be eligible for support for more than one designated course.

Designated courses

4.—(1) A course shall be designated for the purposes of regulation 3(2) if it is—

- (a) mentioned in Schedule 2;
- (b) a full-time course, a part-time course or sandwich course;
- (c) of at least one academic year’s duration and, in the case of a part-time course, does not have a duration in excess of twice the period normally required to complete a full-time course leading to the same qualification; and
- (d) wholly provided by an educational institution or institutions in the United Kingdom maintained or assisted by recurrent grants out of public funds or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) For the purposes of this regulation a “sandwich course” is a course, other than a course for the initial training of teachers referred to in paragraph 4 of Schedule 2, consisting of alternate periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year; and for the purposes of calculating their attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period.

(3) For the purposes of paragraph (2), where periods of both full-time study and work experience occur within any week of the course, the days of full-time study shall be aggregated with any weeks of full-time study in determining the number of weeks full-time study in each year.

(4) For the purposes of this regulation “periods of work experience” means—

- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outwith the institution; and
- (b) in the case of a course which includes the study of one or more modern languages for not less than one half of the time spent studying on the course, and which includes periods of residence in a country whose language is a language of the course, such periods of residence during which the student is employed.

(5) For the purposes of this regulation a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered into an agreement with the student to provide the course.

(6) For the purposes of paragraph (1) a university and any constituent college or institution in the nature of a college of a university shall be regarded as maintained or assisted by recurrent grants out of public funds if either the university or the constituent college or institution is so maintained or assisted.

(7) For the purposes of paragraph (1) an institution shall not be regarded as maintained or assisted by recurrent grants out of public funds by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(3).

(8) For the purposes of these Regulations, a course, the standard of which is not higher than a first degree course, which leads to a qualification as a medical doctor, a dentist, a veterinary surgeon, an architect, a landscape architect, a landscape designer, a landscape manager, a town planner or a town and country planner, shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that the course may lead to another degree or qualification being conferred before the degree or equivalent qualification, and notwithstanding that part of the course may be optional.

(9) For the purposes of regulation 3(2) the Scottish Ministers may designate courses of higher education which are not designated under paragraph (1).

Applications for loans

5.—(1) A student shall apply for a loan, not exceeding the maximum amount applicable in that student's case, in connection with undertaking a course by completing and submitting to the Scottish Ministers an application in such form as the Scottish Ministers may require.

(2) The completed application shall include such information as the Scottish Ministers require, including the following particulars:—

- (a) the student's United Kingdom national insurance number;
- (b) the student's most recent student loan account number, if any; and
- (c) the names, addresses and telephone numbers of two persons who know the student.

(3) The completed application shall also include a declaration by the student that—

- (a) the particulars given in the form are correct to the best of their knowledge and belief;
- (b) the student will notify the Scottish Ministers of any change in those particulars which might affect their eligibility for a loan; and
- (c) the student will, if required to do so, repay to the Scottish Ministers—
 - (i) any amount paid to them which exceeds for whatever reasons the amount of loan to which that student is entitled under these Regulations; and
 - (ii) any amount lent to them, together with interest and applicable charges and penalties, in accordance with the Act and any regulations made thereunder from time to time.

(4) The application form must reach the Scottish Ministers by such date as they may determine from time to time (and different dates may be determined by them in respect of loans for different courses) unless the Scottish Ministers consider that, having regard to the circumstances of the particular case, the time limit should be relaxed, in which case the application must reach the Scottish Ministers not later than such date as they specify.

(3) 1992 c. 13; section 65(3A) was inserted by section 27 of the Teaching and Higher Education Act 1998 (c. 30).

(5) A student shall demonstrate eligibility for a loan by providing such evidence as the Scottish Ministers may require.

(6) The Scottish Ministers may take such steps and make such inquiries as they consider necessary to determine whether the student is eligible for a loan.

(7) If the Scottish Ministers determine that a student is eligible for a loan they shall notify that student of that fact and of the maximum amount of loan applicable in their case, and thenceforth the student shall be an “eligible student” for the purposes of these Regulations.

(8) In any case where the Scottish Ministers—

- (a) determine that the maximum amount of loan which has been notified to an eligible student in relation to an academic year should be increased (including an increase from nil), as a result of a reassessment of the student’s contribution or otherwise; and
- (b) consider that the increase in the maximum amount does not result from the eligible student—

- (i) failing to provide information promptly which might affect eligibility for a loan or the amount of loan for which they are eligible; or

- (ii) providing information which is inaccurate in any material particular,

they shall notify the increased amount to the eligible student who may apply to borrow an additional amount which when added to the amount already applied for shall not exceed the increased maximum.

(9) Where an eligible student who has submitted an application for a loan in accordance with paragraph (1) has not applied for the maximum amount of loan to which they are entitled in relation to an academic year under the preceding paragraphs that student may apply to borrow an additional amount, which when added to the amount already applied for shall not exceed the maximum applicable in their case.

(10) An application under paragraphs (8) or (9) shall be made by completing and submitting to the Scottish Ministers an application in such form as they may require by such date as they may determine from time to time (and different dates may be determined by them in respect of loans for different courses) and shall contain a declaration by the eligible student in the terms set out in paragraph (3).

Transfers of eligibility

6.—(1) An eligible student may request that the Scottish Ministers transfer their eligibility in any case where—

- (a) on the recommendation of the academic authority of the institution concerned the eligible student starts to undertake another course at the institution;
- (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the eligible student starts to undertake a course at another institution;
- (c) with the written consent of the academic authority of the institution concerned, the eligible student ceases to undertake a full-time course but starts to undertake a part-time course, or ceases to undertake a part-time course but starts to undertake a full-time course, in either case at the same institution;
- (d) after commencing a course for the Certificate in Education, the eligible student is, on or before the completion of that course, admitted to a course for the degree of Bachelor of Education;

- (e) after commencing a course for the degree (other than an honours degree) of Bachelor of Education the eligible student is, on or before the completion of that course, admitted to a course for the honours degree of Bachelor of Education; or
- (f) after commencing a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a course for an honours degree in the same subject or subjects at the institution.

(2) Subject to paragraph (3) the Scottish Ministers, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated course, shall transfer the eligible student's eligibility, and thenceforth the eligible student shall for all purposes be an eligible student in connection with undertaking the second course, whether or not they might have been eligible for a loan if they had applied under regulation 5.

(3) The Scottish Ministers may, after consulting the academic authority concerned, refuse to transfer eligibility where paragraph (1)(a), (b) or (c) applies if they are satisfied that when the student applied for a loan they did not intend to complete the course to which their application related.

(4) For the purposes of the duty of the Scottish Ministers to transfer eligibility where paragraph (1) (d) or (e) applies it shall be immaterial whether or not the two courses are provided by the same institution.

(5) Where the Scottish Ministers have transferred an eligible student's eligibility from a course which is a full-time course to a course which is a part-time course, or from a course which is a part-time course to a course which is a full-time course, in either case during an academic year, then notwithstanding any other provision of these Regulations, the maximum amount of loan applicable in the case of the eligible student in respect of that academic year shall be the amount determined from time to time by the Scottish Ministers under regulation 10 as being applicable in respect of students whose eligibility is so transferred.

(6) The Scottish Ministers shall notify the eligible student of any change in the maximum amount of loan applicable in their case as a result of the transfer of their eligibility.

(7) An eligible student's eligibility for a loan may not be transferred after it has expired or been terminated under regulation 7.

Termination of eligibility

7.—(1) Subject to paragraph (2) an eligible student shall cease to be eligible for a loan on the expiry of the period ordinarily required for the completion of the course, and accordingly that person shall then cease to be an eligible student.

(2) The Scottish Ministers may before or after an eligible student ceases to be an eligible student under paragraph (1) determine that that person shall continue to be eligible for a loan for such further period after the expiry of the period referred to in that paragraph as they specify, and accordingly that person shall be, or be considered to have been, an eligible student throughout that further period until its expiry.

(3) Where an eligible student has withdrawn from a course in circumstances where the Scottish Ministers have not transferred or will not transfer that person's eligibility to another course under regulation 6, or has abandoned or been expelled from their course, the Scottish Ministers shall determine that that person is no longer eligible for a loan, and on such determination that person shall then cease to be an eligible student.

(4) Where the conduct of an eligible student has shown the eligible student to be unfitted to receive a loan the Scottish Ministers may determine that that person is no longer eligible for a loan, and on such determination that person shall then cease to be an eligible student.

Provision of United Kingdom national insurance number

8.—(1) The Scottish Ministers may make it a condition of entitlement to payment of any loan that the applicant or eligible student must provide them with that applicant or eligible student's United Kingdom national insurance number.

(2) Where the Scottish Ministers have imposed a condition under paragraph (1), they must not make any payment of the loan to the applicant or eligible student before they are satisfied that the applicant or eligible student has complied with that condition.

(3) Despite paragraph (2), the Scottish Ministers may make a payment of loan to an applicant or eligible student if they are satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the applicant or eligible student having complied with the condition imposed under paragraph (1).

Information

9.—(1) Every applicant and every eligible student shall as soon as reasonably practicable after being requested to do so provide the Scottish Ministers with such information as they consider necessary for the exercise of their functions under these Regulations.

(2) Every applicant and every eligible student shall forthwith inform the Scottish Ministers if any of the following occurs, and provide them with particulars—

- (a) they withdraw from, abandon or are expelled from their course;
- (b) they transfer to another course, at the same or a different institution, whether or not the new course is a designated course;
- (c) they cease to undertake their course and do not intend to, or are not permitted to, return for the remainder of the academic year;
- (d) they are absent from their course for more than 60 days due to illness, or are absent from their course for any period for any other reason;
- (e) the month for the start or completion of the course changes; or
- (f) their home or term time address, email address, contact details for persons described in regulation 5(2)(c), bank account or telephone number changes.

(3) If the Scottish Ministers are satisfied that an eligible student has wilfully failed to comply with any requirement to provide information, or has provided information that the student knows to be false in a material particular, or has recklessly provided information which is false in a material particular, they may determine that the student shall—

- (a) no longer be eligible for any loan; or
- (b) not be eligible for such a particular loan or particular amount of loan as they consider appropriate in the circumstances.

(4) The Scottish Ministers may at any time require an applicant or eligible student to enter into an agreement to repay a loan by a particular method.

(5) The Scottish Ministers may at any time request from an applicant or eligible student sight of their valid national identity card, their valid passport issued by the state of which they are a national or their birth certificate.

(6) The Scottish Ministers may at any time verify with the Department for Work and Pensions the United Kingdom national insurance number that an applicant or eligible student has provided or may check with the Department for Work and Pensions whether that applicant or eligible student has such a number with a view to obtaining it if that applicant or eligible student does.

(7) Where the Scottish Ministers have requested information or documents under this regulation, they may withhold any payment of a loan until the applicant or eligible student provides what has been requested or provides a satisfactory explanation for not complying with the request.

(8) Where the Scottish Ministers have requested an agreement as to the method of repayment under this regulation, they may withhold any payment of a loan until the applicant or eligible student provides what has been requested.