
STATUTORY INSTRUMENTS

1998 No. 211

**EDUCATION, ENGLAND AND WALES
EDUCATION, SCOTLAND**

The Education (Student Loans) Regulations 1998

Made - - - - *5th February 1998*
Laid before Parliament *6th February 1998*
Coming into force - - *1st March 1998*

In exercise of the power conferred by section 1(2) and (7) of and paragraphs 1 and 2 of Schedule 2 to the Education (Student Loans) Act 1990(1), the Secretary of State for Education and Employment, as respects England and Wales, and the Secretary of State for Scotland, as respects Scotland, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) Regulations 1998 and shall come into force on 1st March 1998.

Revocation

2. The Education (Student Loans) Regulations 1997(2) and the Education (Student Loans) (Amendment) Regulations 1997(3) are hereby revoked.

Interpretation

3.—(1) In these Regulations, except where the context otherwise requires—

“accelerated course” means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration or a course for the degree of BA (Honours) with Qualified Teacher Status awarded by St Martin's College, Lancaster;

(1) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.
(2) S.I.1997/1675.
(3) S.I. 1997/2919.

“the Act” means the Education (Student Loans) Act 1990;

“borrower” means a person to whom a loan has been made;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(4) as adjusted by the Protocol signed at Brussels on 17th March 1993(5);

“EEA migrant worker” has the meaning assigned to it in paragraph (6);

“European Community” means the territory comprised by the member States of the European Community as constituted from time to time;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“eligible” means eligible for the purposes of section 1 of the Act;

“full-time course” has the meaning assigned to it in paragraph (3);

“the Islands” means the Channel Islands and the Isle of Man;

“lender” means any person or body who makes a loan;

“loan” means a loan (whether made before or after the coming into force of these Regulations) towards a student’s maintenance out of money made available by the Secretary of State for that purpose pursuant to arrangements made by the Secretary of State by virtue of section 1 of the Act, including the interest accrued on the loan and the amount of the loan from time to time outstanding;

“periods of work experience” means periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution;

“refugee” means a person who is recognised by Her Majesty’s Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(6) as extended by the Protocol thereto which entered into force on 4th October 1967(7);

“sandwich course” means a course 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 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period.

(2) For the purposes of these Regulations an academic year which begins in the month of July in any year shall be deemed to begin in the month of August immediately following that month.

(3) In these Regulations a reference to a “full-time course” is a reference to a sandwich course or a course—

- (a) which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere)—
 - (i) in the case of a course of one academic year’s duration, for a period of at least 24 weeks; and
 - (ii) in the case of a course of two or more academic year’s duration, for a period of at least 24 weeks in each academic year except the final year and of at least eight weeks in the final year; and

(4) Cmnd. 2073.

(5) Cmnd. 2183.

(6) Cmnd. 9171.

(7) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from the Student Support Division, Department for Education and Employment, Mowden Hall, Staindrop Road, Darlington DL3 9BG or the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

- (b) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each academic year to an average of at least 21 hours a week as respect the periods of attendance mentioned in sub-paragraph (a) above for the year;

(4) For the purposes of these Regulations a person shall be treated as ordinarily resident in the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child is, or was, temporarily employed outside the United Kingdom and Islands, or as the case may be, outside the European Economic Area and paragraph 7(b) of Schedule 1 shall not apply in the case of such a person.

(5) For the purposes of these Regulations an area which—

- (a) was previously not part of the European Community or the European Economic Area, but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(6) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement⁽⁸⁾; or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the above mentioned Council Regulation.

Conditions of eligibility

4.—(1) Subject to paragraph (2), a student shall be eligible for a loan in relation to an academic year if he—

- (a) is attending a course which is—
 - (i) a full-time course; or
 - (ii) a full-time or a part-time course for the initial training of teachers which is for the time being designated by or under regulations made by virtue of section 1(2)(b) and (3)(c) of the Education Act 1962⁽⁹⁾;
- (b) is a person mentioned in Schedule 1; and
- (c) has entered into an agreement for the loan before the 1st August immediately following the beginning of the academic year.

(2) A student shall not be eligible for a loan in relation to an academic year if he—

- (a) has attained the age of 50 years before the first day of the course;
- (b) has received another loan in relation to the same academic year;
- (c) has received another loan in relation to another academic year which began during the same period 1st August to the following 31st July during which the academic year began;
- (d) is eligible in respect of that year to receive—

⁽⁸⁾ OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II), p. 457).

⁽⁹⁾ 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20); section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4; section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2; the Regulations currently in force are the Education (Mandatory Awards) Regulations 1997, S.I. 1997/431, amended by the Education (Mandatory Awards) (Amendment) Regulations 1997, S.I. 1997/1693.

- (i) any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968⁽¹⁰⁾ the amount of which is not calculated by reference to his income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992⁽¹¹⁾;
 - (e) is in breach of any obligation contained in any agreement for a loan; or
 - (f) subject to paragraph (3), he has not ratified any agreement for a loan made with him when he was under the age of 18.
- (3) Paragraph (2)(f) shall only apply in a case where the agreement for a loan is subject to the law of Scotland if it was made—
- (a) before 25th September 1991, and
 - (b) with the concurrence of the borrower’s curator, or at a time when he had no curator.
- (4) For the purposes of paragraph (2)(b), (c), (e) and (f) “loan” includes a loan made under the Education (Student Loans) (Northern Ireland) Order 1990⁽¹²⁾.

Designation of courses by Secretary of State

5. For the purposes of section 1 of the Act the Secretary of State may designate courses of higher education at institutions other than institutions receiving support from public funds.

Amounts of loans

- 6.—(1) Subject to paragraphs (3) to (5), in the case of a student attending a course at the University of London or at any institution within the area comprising the City of London and the metropolitan police district, the maximum amount of the loan in relation to any academic year shall be—
- (a) if the year is the final year of the course, £945 if he resides at his parents' home, and £1,520 if he does not; and
 - (b) if the year is any other year of the course, £1,290 if he resides at his parents' home, and £2,085 if he does not.
- (2) Subject to paragraphs (3) to (5), in the case of any other student the maximum amount of the loan in relation to any academic year shall be—
- (a) if the year is the final year of the course, £945 if he resides at his parents' home, and £1,230 if he does not; and
 - (b) if the year is any other year of the course, £1,290 if he resides at his parents' home, and £1,685 if he does not.
- (3) Where a student’s course includes a period of residence in a country other than the United Kingdom throughout an academic year, the maximum amount of the loan in relation to that academic year shall be £1,230 if the year is the final year of the course and £1,685 if it is not.

⁽¹⁰⁾ 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 (Scotland) Act 1994 (c. 39), section 180(1) and Schedule 13, paragraph 74(1) and (2), and the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 95(1) and (2). The functions of the Minister of Health under section 63 have been transferred to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699).

⁽¹¹⁾ S.I. 1992/580.

⁽¹²⁾ S.I. 1990/1506 (N.I. 11).

(4) Where a student's course is an accelerated course, paragraph (1)(a) shall have effect as if for £945 and £1,520 there were substituted £1,290 and £2,085 respectively and paragraph (2)(a) shall have effect as if for £945 and £1,230 there were substituted £1,290 and £1,685 respectively.

(5) For the purposes of paragraphs (1) to (3), where a postgraduate course of initial training for teachers is of only one academic year's duration that year shall not be treated as a final year, and for the purposes of paragraphs (1) and (2) a student's place of residence is his place of residence on the date a certificate is given in respect of him pursuant to regulation 8.

Terms of loans

7.—(1) Every agreement for a loan made before or after these Regulations come into force shall include the terms set out in Part I of Schedule 2.

(2) Every agreement for a loan made before these Regulations come into force shall in addition include the terms set out in Part II of Schedule 2.

Duties of governing bodies in relation to loans

8.—(1) This regulation prescribes the steps to be taken by the governing body of each institution at which eligible students are attending courses for the purposes of, or in connection with, applications for loans.

(2) Where an eligible student attends a course at more than one institution the governing bodies of the institutions may agree in writing that one governing body shall take the steps prescribed by this regulation, in which case that governing body, and not the other governing bodies, shall be required to take those steps.

(3) An agreement under paragraph (2) may be made in respect of a particular student or in respect of any class or description of students.

(4) The governing body shall as soon as practicable after the commencement of each academic year—

- (a) issue to any student who requests them to certify his eligibility for a loan an eligibility questionnaire provided by the lender;
- (b) in respect of each eligibility questionnaire completed by a student and returned to them, take such steps as are reasonably practicable to verify the particulars inserted in the questionnaire by the student relating to his eligibility for a loan;
- (c) if the student's eligibility cannot be determined solely by verifying the particulars on the questionnaire, take such other steps as are reasonably practicable for that purpose;
- (d) issue to each student in relation to whom they have taken the steps required by subparagraphs (a) to (c) and whom they consider to be eligible an eligibility form provided by the lender for completion by the student and return to them;
- (e) certify to the best of their knowledge and belief the accuracy of the particulars in each completed eligibility form and the amount of loan to which they consider the student to be entitled;
- (f) issue to each student in relation to whom they have taken all other steps required by the preceding provisions of this paragraph a loan application form provided by the lender; and
- (g) send each certified eligibility form to the lender.

(5) The lender on receiving an eligibility form completed and certified in accordance with paragraph (4) shall pay £4 to the governing body which sent it.

(6) Where a student is a borrower who has obtained an eligibility form from the lender and completed it the governing body shall as soon as practicable after the commencement of each academic year—

- (a) accept the completed eligibility form from any such student who requests them to certify his eligibility;
- (b) if the lender has requested that any of the particulars inserted in the form should be verified take such steps as are reasonably practicable to verify those particulars;
- (c) certify to the best of their knowledge and belief the accuracy of the particulars which the lender has requested them to verify and the amount of loan to which they consider that student to be entitled; and
- (d) send each certified eligibility form to the lender.

(7) The lender on receiving an eligibility form completed and certified in accordance with paragraph (6) shall pay £2 to the governing body which sent it.

(8) The governing body shall—

- (a) promptly notify the lender in writing if a person in respect of whom they have certified eligibility (whether under these Regulations or otherwise) ceases to be an eligible student during the academic year in which they certified eligibility or subsequently—
 - (i) because he has completed the course on a date earlier than that specified in the certified eligibility form referred to in paragraph (4)(g) or (6)(d) or notified by them to the lender as the expected date on which he will complete the course,
 - (ii) otherwise than because he has completed the course;
- (b) keep records and copies of all documents except loan application forms which they are required by this regulation to issue or certify and a record of any steps taken by them to establish a student's eligibility;
- (c) permit the lender or the Secretary of State to inspect the records and copies at any reasonable time and provide them with reasonable facilities for that purpose;
- (d) acknowledge receipt of all eligibility and application forms received by them from the lender and provide to it on request brief particulars of such forms which they have issued; and
- (e) as soon as practicable notify the lender in writing if they believe that a person has fraudulently obtained or attempted to obtain a loan and provide the lender with the name of the person (if known) and particulars of the circumstances of that person's obtaining or attempting to obtain the loan.

(9) Without prejudice to the generality of paragraph (4)(b) and (c), the steps to be taken under those paragraphs shall include verifying particulars given in the eligibility questionnaire by reference to—

- (a) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Births and Deaths Registration Act 1953⁽¹³⁾ and the Registration Service Act⁽¹⁴⁾ or the Births and Deaths Registration (Northern Ireland) Order 1976⁽¹⁵⁾ a certified copy of that entry;
- (b) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of section 50 of the Adoption Act 1976⁽¹⁶⁾ or in the Adopted Children Register kept in pursuance of Article 50 of the Adoption (Northern Ireland) Order

⁽¹³⁾ 1953 c. 20.

⁽¹⁴⁾ 1953 c. 37.

⁽¹⁵⁾ S.I. 1976/1041 (N.I. 14).

⁽¹⁶⁾ 1976 c. 36.

1987⁽¹⁷⁾ which contains a record of the date of birth of the person, a certified copy of that entry;

- (c) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Registration of Births, Deaths and Marriages (Scotland) Act 1965⁽¹⁸⁾, an extract of, or an abbreviated certificate of birth relating to, that entry;
- (d) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of Section 45 of the Adoption (Scotland) Act 1978⁽¹⁹⁾ which contains a record of the date of birth of the person, an extract of that entry; or
- (e) in the case of any other person except a refugee, his passport (if he holds one), and a letter or other document issued by a responsible person which contains particulars of his date, place and country of birth and his names at birth.

(10) Nothing in this regulation shall require the governing body to take any steps to establish whether a student falls within regulation 4(1)(c) or (2)(e) or (f), and in considering whether a student is eligible the governing body shall disregard those sub-paragraphs.

(11) In this regulation—

“eligibility form” means a form requesting particulars from a student relevant to his eligibility for a loan and of his bank or building society account; and

“responsible person” means a consular officer, minister of religion, medical or legal practitioner, established civil servant, teacher or police officer.

⁽¹⁷⁾ S.I. 1987/2203 (N.I. 22).

⁽¹⁸⁾ 1965 c. 49.

⁽¹⁹⁾ 1978 c. 28.

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SCHEDULE 1

Regulation 4(1)(b)

ELIGIBLE STUDENTS

- 1.—(1) A person who on the first day of the course—
- (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971⁽²⁰⁾, and
 - (b) meets the residence conditions referred to in paragraph 7.
- (2) Paragraph (1)(a) shall not apply if—
- (a) the first day of the person's course was before 1st August 1997, or
 - (b) before 1st August 1997 the person commenced attending a course in respect of which he was eligible for a loan, and
 - (i) disregarding any intervening vacation immediately after ceasing to attend that course commenced attending his present course, or
 - (ii) in like fashion commenced attending another course or courses one after the other in respect of each of which he was eligible for a loan, until in like fashion he commenced attending his present course.
2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so ordinarily resident since he was recognised as a refugee, or who is the spouse, child or stepchild of such a refugee.
3. A person who—
- (a) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom,
 - (b) has been granted leave to enter or to remain accordingly, and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain
- or who is the spouse, child or stepchild of such a person, where the person, or as the case may be the spouse or child, meets the residence conditions referred to in paragraph 7.
4. A person who is an EEA migrant worker who—
- (a) is entitled to a loan by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement⁽²¹⁾, or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3); and
 - (b) meets the residence conditions referred to in paragraph 7.
5. A person who is the spouse of an EEA migrant worker who—
- (a) is installed in the United Kingdom with the migrant worker, and
 - (b) meets the residence conditions referred to in paragraph 7.
- 6.—(1) A person who is the child of an EEA migrant worker who—

⁽²⁰⁾ 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, and by the Asylum and Immigration Appeals Act 1993 (c. 23) sections 10 to 12.

⁽²¹⁾ OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II), p. 475).

- (a) is entitled to a loan by virtue of Article 12 of the above mentioned Council Regulation, or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12, and
 - (b) meets the residence conditions referred to in paragraph 7.
- (2) For the purposes of this paragraph “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.
7. The residence conditions referred to above are that—
- (a) the person has been ordinarily resident throughout the three years period preceding the first day of the course, in the case of a person mentioned in paragraphs 1 or 3, in the United Kingdom and Islands, or, in the case of a person mentioned in paragraphs 4, 5 or 6, in the European Economic Area; and
 - (b) his residence in the United Kingdom and Islands, or in the European Economic Area, as the case may be, has not during any part of the period referred to in sub-paragraph (a) been wholly or mainly for the purpose of receiving full-time education.

SCHEDULE 2

Regulation 7

TERMS OF LOANS

PART I

1. In the loan agreement:

“APR” means the annual percentage rate of charge calculated under the Consumer Credit (Total Charge for Credit) Regulations 1980(22);

“course” means the course of study on which the borrower was registered when his eligibility for the loan was confirmed by the HEI and includes a different course at the same HEI if the borrower would have been eligible for a loan on that course and he transfers to it without a break in study;

“deferment level” means 85% of the lender’s estimate of average monthly earnings of all full-time employees in Great Britain for the January when the level will apply based on figures published by the Office for National Statistics, or if that Office ceases to publish relevant figures, any other published figures;

“disability related benefits” means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits Act 1992(23), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations 1987(24), or any other statutory disability related benefit which replaces any of those benefits and which the lender gives the borrower details of;

(22) S.I. 1980/51, amended by S.I. 1985/1192 and 1989/596.

(23) 1992 c. 4, amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 1 to 3, 5 to 6, 8 to 11 and Schedules 1 and 2.

(24) S.I. 1987/1967 (see Parts III and IV of Schedule 2); the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/516, 1997/543.

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“disability related costs” means one twelfth of any expenditure which the lender accepts that a borrower who is in receipt of a disability related benefit will have to pay because of his disability during the 12 months following the relevant month;

“gross income” means income from all sources before deduction for or relief from tax or other statutory charge, but not including any disability related benefits, and less any disability related costs;

“HEI” means the Higher Education Institution which the borrower is attending for his course;

“lender” means the Student Loans Company Limited and any person to whom that Company may transfer its rights and obligations under the loan agreement;

“relevant month” means the month before the month in which the borrower asks for deferment;

“RPI rate” means the percentage increase between the retail prices all items indices published by the Office for National Statistics for the two months of March immediately preceding the 1st September on which the interest rate is changed or, if that retail prices index is not published, another index which reflects price increases which the lender gives the borrower details of;

“student loan” means a loan made by the Student Loans Company under the Student Loans Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990(25);

2. Interest will be calculated daily on the amount of the loan outstanding and will be added to the loan monthly and form part of it until the loan is repaid in full. The lender will continue to charge interest on any overdue payments both before and after judgment and during any period when the borrower does not have to make repayments, including any period of deferment.

3. The interest rate for the period between 1st September and the following 31st August will be the daily rate which results in an APR equal to the RPI rate. The lender will tell the borrower what the new rate is each year.

4. The borrower must make the first repayment in the April after he completes or leaves his course unless—

- (a) the borrower defers repayments under paragraph 9;
- (b) the lender cancels the borrower’s loan under paragraph 12; or
- (c) paragraph 13 applies.

5. The number of monthly repayments will be 60, or 84 if the borrower has 5 or more student loans when his first repayment is due. The lender will tell the borrower the date in each month on which repayments are due.

6. If the borrower shows the lender that he receives a disability related benefit and that because of his disability he is unfit for full-time work and is not likely to be fit for at least the next 3 years the number of monthly repayments will be 120, including any repayments already made.

7. The lender will work out the monthly repayment amount for each year by adding to the principal balance as at 1st September (or 1st April in the case of the first repayment amount) the amount of interest which will after taking account of repayments accrue over the remaining period of the loan at the current rate and dividing the total by the number of repayments then unpaid. The first monthly repayment amount will be fixed for five months beginning in April and from then on each monthly repayment amount will be fixed for 12 months beginning in September.

8. The borrower can at any time prepay any or all of the loan without penalty. If he wants to repay the loan in full he can ask the lender for a written statement telling him the exact amount he needs to repay. If he makes a prepayment of part of the loan the lender will not change the borrower’s monthly repayment amount until the September which follows the prepayment.

(25) S.I. 1990/1506 (N.I. 11).

9. Each year the lender will tell the borrower the new deferment level for the period between 1st September and the following 31st August. The borrower can defer making repayments of the loan if—

- (a) the lender has not already asked him to repay the loan in full, and
- (b) he can show—
 - (i) that his gross income for the relevant month is not more than the deferment level, and
 - (ii) if the lender asks, that his gross average monthly income during the 3 months immediately following the relevant month will not or is unlikely to be more than the deferment level.

10. Each deferment period will last for 12 months beginning on a date the lender tells the borrower. This date will be not more than three months before or two months after the date the lender accepts the borrower's deferment application. The borrower can end the deferment period at any time. To do this he must tell the lender in writing when to start collecting payments from his bank account.

11. If the borrower can defer making repayments under paragraph 9 and he can show the lender that he gets a disability related benefit and that his gross monthly income during the 36 months immediately following the relevant month will not or is unlikely to be more than the deferment level the deferment period will last for 36 months.

12. The lender will cancel the borrower's liability to repay the loan if the borrower—

- (a) dies,
- (b) is not behind on any repayments under any agreement for a student loan and—
 - (i) was under the age of 40 when his last agreement for a student loan was made and he reaches the age of 50 or when the last agreement for a student loan has been outstanding for not less than 25 years, whichever is the sooner, or
 - (ii) was aged 40 or older when his last agreement for a student loan was made and he reaches the age of 60, or
- (c) if the borrower can show the lender that he gets a disability related benefit and because of his disability is permanently unfit for work.

13. If after the borrower has completed or left his course, he takes another student loan in relation to a further course of study, the lender will not ask him to make any more repayments under the loan agreement until he begins to repay that student loan. The number of repayments will then be the same as for the new loan.

14. Unless the lender agrees otherwise the lender will collect the borrower's monthly repayments by direct debit. If the borrower's account changes he must give the lender a new direct debiting instruction.

15. If the borrower does not make a repayment under the agreement when it is due, the lender may ask him to repay the loan in full immediately. The lender may do this even if the borrower's obligation to make other repayments is currently deferred.

16. The lender may allow the borrower to make a repayment late or to miss all or part of a repayment without waiving or altering the rights against him.

PART II

17. If the lender has accepted an application for deferment before 1st March 1998 the borrower may defer making repayments until the end of the 12 month period the lender has told the borrower.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

18. If the lender determines an application for deferment before 1st September 1998 “deferment level” shall be £1,374.

5th February 1998

Tessa Blackstone
Minister of State,
Department for Education and Employment

5th February 1998

Donald Dewar
Secretary of State for Scotland

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st March 1998, supersede the Education (Student Loans) Regulations 1997, and the Education (Student Loans) (Amendment) Regulations 1997, which are revoked (regulation 2).

They are made under the Education (Student Loans) Act 1990 (“the Act”), which has been amended by the Education (Student Loans) Act 1998. The amendments to the Act are aimed at facilitating the sale of student loans to the private sector, and have made necessary a number of changes to the regulations made under it. Matters which were governed by regulations made under the Act from time to time, such as the interest loans bear, the time and manner of repayment, and the deferment and cancellation of a borrower’s liability, are now required to be governed by the terms of the relevant loan agreements, which are required to be prescribed by regulation. The prescribed terms are not subject to alteration by amending regulations once the loan agreements are entered. Accordingly the Regulations now prescribe the key terms which all loan agreements are required to include (regulation 7 and Schedule 2).

The key terms of all agreements entered into before 1st March 1998 will be replaced by the terms set out in Parts I and II of Schedule 2. The terms in Part II are transitional provisions to ensure that the agreements will operate properly after 1st March 1998, although they were entered into on a different legal basis before that date. The key terms of loan agreements entered into on or after 1st March 1998 will be those set out in Part I only.

The effect of the terms of loan agreements prescribed in Schedule 2 is in substance the same as the effect of the 1997 Regulations, with minor changes. The interest loans bear (the inflation rate), the time and manner of repayment (60 or 84 months depending on the number of loans made), and the right to deferment (when income falls below 85% of average earnings) and cancellation (after the borrower reaches a certain age or after a number of years), remain substantially unchanged.

However the rights and duties of disabled borrowers are no longer the subject of broad discretions found in the former regulation 10 of the 1997 Regulations, but are set out as contractual terms in some detail. Disabled borrowers in receipt of disability related benefits may be entitled to an extended 10 year repayment schedule (paragraph 6 of Schedule 2), to disregard part of or reduce their gross income for the purposes of determining entitlement to defer repayment (definition of “gross income” in paragraph 1 of Schedule 2), to defer repayment for three years rather than one (paragraph 11 of

Schedule 2), and to cancellation of the loan altogether in the case of disability rendering the borrower permanently unfit for work (paragraph 12(c) of Schedule 2).

The Regulations continue to prescribe conditions of eligibility for a student loan (regulation 4), but several conditions found in the 1997 Regulations have not been included in the Regulations. These include the condition that a certificate of eligibility be provided to the loans administrator, and that the borrower agree to notify the lender in certain cases and to repay the loan by direct debit. The lender will continue to require students to demonstrate their eligibility by means of a certificate of eligibility, but in some cases by other means as well. Students will continue to be required to agree to notify the lender as before and to pay by direct debit in most cases. These matters will be addressed by terms of loan agreements, some of which being key terms are prescribed in Schedule 2. See for example the requirement to pay by direct debit unless the lender otherwise agrees (paragraph 14 of Schedule 2).

The conditions of eligibility set out in Schedule 1 have been redrafted to conform to the model found in the Education (Fees and Awards) Regulations 1997, but the effect of them, as modified by the Education (Student Loans) (Amendment) Regulations 1997, has not been changed. They require, in summary, settlement in the United Kingdom within the meaning of the Immigration Act 1971 and residence in the United Kingdom for three years, or refugee status, or the grant of exceptional leave to remain in the United Kingdom and residence in the United Kingdom for three years, or European Economic Area migrant worker status and residence in the EEA for three years, or the status of a spouse or child of an EEA migrant worker and residence in the EEA for three years.

There have been other minor drafting changes, but no other changes of substance from the 1997 Regulations. In particular the maximum amounts of loans (regulation 6), and the duties of governing bodies of higher education institutions (regulation 8), remain unchanged.