
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 157

The Student Support (Scotland) Regulations 2022

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Student Support (Scotland) Regulations 2022 and come into force on 1 August 2022.

Commencement Information

II [Reg. 1](#) in force at 1.8.2022, see [reg. 1](#)

Interpretation

2.—(1) In these Regulations—

“academic year” in relation to a course, means the period of twelve months beginning on the relevant date,

“the Act” means the Education (Scotland) Act 1980,

“allowance” means an allowance paid or to be paid under these Regulations,

“bursary” means a bursary, scholarship or other allowance granted under section 49 (1) or (2) (power of education authorities to assist persons to take advantage of educational facilities) of the Act,

“child of an asylum seeker” means a person who is the child of an asylum seeker as defined in section 18 (asylum-seeker: definition) of the Nationality, Immigration and Asylum Act 2002⁽¹⁾,

“Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020⁽²⁾,

[^{F1}“college of further education” means an educational establishment at which further education is provided,]

“Directive 2004/38” means [Directive 2004/38/EC](#) of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely in the territory of the Member States⁽³⁾, and reference to a provision of the Directive—

(a) is reference to the Directive as it had effect immediately before IP completion day,

⁽¹⁾ 2002 c. 41.

⁽²⁾ S.I. 2020/1209.

⁽³⁾ OJ L 158, 30.4.2004, p. 77.

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(b) is to be read, where appropriate, as if references to a “Member State” include the United Kingdom,

“education maintenance allowance” means an education maintenance allowance paid or to be paid under Part 6,

“eligible student” means a person whom the Scottish Ministers have determined is eligible for a loan in connection with their undertaking a course in accordance with Part 4 (student loans),

“EEA agreement” means the agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁴⁾, together with the protocol signed at Brussels on 17 March 1993⁽⁵⁾, as modified or supplemented from time to time, but does not include any [^{F2}assimilated direct] legislation,

“EEA EFTA separation agreement” means (as modified from time to time in accordance with any provision of it) the agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA agreement and other agreements applicable between the United Kingdom and the EEA EFTA states by virtue of the United Kingdom’s membership of the European Union⁽⁶⁾,

“EEA frontier self-employed person” means an EEA national who—

- (a) is a self-employed person in Scotland, and
- (b) resides in Switzerland, Gibraltar or the territory of an EEA state and returns to their residence in Switzerland, Gibraltar or that EEA state, as the case may be, daily or at least once a week,

“EEA frontier worker” means an EEA national who—

- (a) is a worker in Scotland, and
- (b) resides in Switzerland, Gibraltar or the territory of an EEA state and returns to their residence in Switzerland, Gibraltar or that EEA state, as the case may be, daily or at least once a week,

“EEA migrant worker” means an EEA national in the United Kingdom who is a worker but who is not an EEA frontier worker,

“EEA national” means any person who is a national of any EEA State,

“EEA self-employed person” means an EEA national in the United Kingdom who is a self-employed person but who is not an EEA frontier self-employed person,

“EEA state” means—

- (a) any Member State of the European Union, or
- (b) any other state that is party to the EEA agreement,

“employment” means full time or part time employment which, in a normal week, involves a significant number of hours of work and “employed” is construed accordingly, and references to employment include references to the holding of any office and to any occupation for monetary gain,

“EU national” means any person who is a national of any Member State of the European Union,

“EU overseas territories” means Aruba, Faroe Islands, French Polynesia, French Southern and Antarctic Territories, Greenland, Mayotte, Netherlands Antilles (Bonaire, Curacao, Saba, Sint Eustatius and Sint Maarten), the Territory of New Caledonia and Dependencies, St Pierre et Miquelon and Wallis and Futuna Islands,

⁽⁴⁾ CP 2073 and OJ L 1, 3.1.1994, p.3.

⁽⁵⁾ CP 2183 and OJ L 1, 3.1.1994, p.572.

⁽⁶⁾ CP 217.

“European Economic Area” means the European Union and, subject to the conditions laid down in the EEA agreement, Iceland, Norway and Liechtenstein,

[^{F3}“evacuated or assisted British national from Afghanistan” means a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a British subject under the British Nationality Act 1981(6) or a British protected person within the meaning of that Act who was either—

- (a) evacuated from Afghanistan by or on behalf of the United Kingdom, a North Atlantic Treaty Organisation member state, Pakistan, Uzbekistan, Tajikistan, Iran or Qatar during the period of the operation known as Operation Pitting, which began on 14 August 2021 and ended on 28 August 2021, or
- (b) assisted by or on behalf of the United Kingdom, after 28 August 2021 and before 6 January 2022, to leave Afghanistan,]

“family member” means, in relation to any person—

- (a) their spouse or civil partner, or
- (b) their direct descendants or those of their spouse or civil partner who are—
 - (i) under the age of 21, or
 - (ii) their dependants or those of their spouse or civil partner, or
- (c) their dependent direct relatives in the ascending line or those of their spouse or civil partner,

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

“loan” means in relation to—

- (a) a student undertaking a course at an RUK institution, a loan towards that student’s tuition fees under the Act,
- (b) a student undertaking a full-time or part-time taught course leading to a postgraduate diploma or to a postgraduate masters degree, or undertaking a full-time or part-time research course leading to a postgraduate masters degree, a loan towards that student’s tuition fees under the Act,
- (c) a student undertaking a full-time (but not a part-time) taught course leading to a postgraduate diploma or to a postgraduate masters degree, or undertaking a full-time (but not a part-time) research course leading to a postgraduate masters degree, a loan towards that student’s maintenance under the Act,
- (d) a student who is a person mentioned in paragraph 2(3) (EU nationals etc. with protected rights who have been living in the UK and Islands for three years) of schedule 1 or in schedule 2, a loan towards that student’s tuition fees under the Act and any regulations made under the Act,
- (e) any other student, a loan towards that student’s maintenance under the Act and any regulations made under the Act, including the interest accrued on the loan and any penalties or charges made in connection with it,

“parent” includes a step-parent, a guardian, any other person having parental responsibilities for a child and any person having care of a child, and “child” is construed accordingly,

“person with protected rights” means—

- (a) a person within the scope of Article 10 (personal scope) of the EU withdrawal agreement, Article 9 (personal scope) of the EEA EFTA separation agreement, or Article 10 (personal scope) of the Swiss citizens’ rights agreement who—

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- (i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,
 - (ii) is an applicant within the meaning of regulation 4 (applications which have not been finally determined by the deadline) of the Citizens' Rights Regulations where the relevant period (within the meaning of that regulation) has not ended,
 - (iii) otherwise has rights deemed to apply by virtue of Article 18(1)(d), (2) and (3) (issuance of residence documents) of the EU withdrawal agreement, Article 17(1)(d), (2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement, or Article 16(1)(d), (2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement, or
 - (iv) is an Irish national who, pursuant to section 3ZA (Irish citizens) of the Immigration Act 1971(7), does not require leave to enter or remain in the UK, or
- (b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,

“refugee” means a person within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28 July 1951(8), as extended by article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31 January 1967(9), and any reference to the child of a refugee includes a reference to a step-child,

“relevant date” in relation to a course, means, for a course starting in the period—

- (a) 1 August to 31 December, 1 August,
- (b) 1 January to 31 March, 1 January,
- (c) 1 April to 30 June, 1 April,
- (d) 1 July to 31 July, 1 July,

in each case the relevant date being in the year of commencement of the appropriate academic year of the course,

“relevant person of Northern Ireland” has the meaning given in residence scheme immigration rules,

“residence scheme immigration rules” has the meaning given by section 17(1) (Interpretation: Part 3) of the European Union (Withdrawal Agreement) Act 2020(10),

“RUK institution” means an institution located in the United Kingdom but outside Scotland,

“self-employed person” means—

- (a) in relation to an EEA national in the United Kingdom, a person who is self-employed within the meaning of either Article 7 (right of residence for more than three months) of Directive 2004/38 or Article 28 of the EEA agreement, as the case may be, or
- (b) in relation to a Swiss national in the United Kingdom, a person who is a self-employed person (within the meaning of Annex 1 to the Switzerland agreement), but who is not a Swiss frontier self-employed person,

“student support” means—

- (a) an allowance payable under Parts 2 (allowances), 3 (paramedic science, nursing and midwifery student allowances) or 6 (education maintenance allowances),

(7) 1971 c. 77.

(8) Cmnd 9171.

(9) Cmnd 3906.

(10) The residence scheme immigration rules can be viewed at: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-index>.

(b) a loan payable under Part 4 (student loans),

(c) a bursary payable under Part 5 (bursaries),

“Swiss citizens’ rights agreement” means the agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens’ rights following the withdrawal of the United Kingdom from the European Union and the free movement of persons agreement⁽¹¹⁾,

“Swiss employed person” means a Swiss national in the United Kingdom who is an employed person (within the meaning of Annex 1 to the Switzerland agreement), but who is not a Swiss frontier employed person,

“Swiss frontier employed person” means a Swiss national who—

(a) is an employed person (within the meaning of Annex 1 to the Switzerland agreement) in Scotland, and

(b) resides in Switzerland, Gibraltar or the territory of an EEA state and returns to their residence in Switzerland, Gibraltar or that EEA state, as the case may be, daily or at least once a week,

“Swiss frontier self-employed person” means a Swiss national who—

(a) is a self-employed person (within the meaning of Annex 1 to the Switzerland agreement) in Scotland, and

(b) resides in Switzerland, Gibraltar or the territory of an EEA state and returns to their residence in Switzerland, Gibraltar or that EEA state, as the case may be, daily or at least once a week,

“Switzerland agreement” means the agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons signed at Luxembourg on 21 June 1999⁽¹²⁾ and which came into force on 1 June 2002, and reference to a provision of the agreement—

(a) is reference to the agreement as it had effect immediately before IP completion day,

(b) is to be read, where appropriate, as if references to a “Member State” include the United Kingdom,

“worker” means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA agreement as the case may be,

(2) Where a student (“A”)—

(a) is a person eligible for student support within the meaning of schedule 1 for the purposes of an application for student support for—

(i) the first year of A’s current course, or

(ii) an earlier year of A’s current course, and

(b) as at the day before the relevant date for the academic year in respect of which A is applying for student support—

(i) A’s limited leave to remain granted by virtue of residence scheme immigration rules has expired, and no further leave to remain has been granted,

(ii) A has not made an in-time application within the meaning of regulation 4(6) of the Citizens’ Rights Regulations, or

(iii) A is an applicant for the purposes of regulation 4 of the Citizens’ Rights Regulations, the relevant period (within the meaning of that regulation) has ended in the

⁽¹¹⁾ CP 64.

⁽¹²⁾ OJ L 114, 30.4.2002, p. 6.

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circumstances described in paragraph (6)(b) or (c) of that regulation, and A is not otherwise a person eligible for student support within the meaning of schedule 1,

A ceases to be a student eligible for student support immediately before the first day of the academic year in respect of which the student is applying for student support.

(3) A person receiving student support in accordance with these Regulations [^{F4}, or as a consequence of any exceptional payment scheme operated by the Scottish Ministers under separate secondary legislation or on an extra statutory basis,] continues to remain eligible for student support in the next academic year provided the person—

- (a) is continuing to undertake the same course of education,
- (b) is not ineligible by virtue of paragraph (2), and
- (c) in relation to student support received under Part 6 (education maintenance allowances), any application will not result in that person being awarded an education maintenance allowance for more than 3 years.

(4) Paragraph (3)(c) does not preclude the payment of the monetary value of 3 years of education maintenance allowance over a period of 4 years.

(5) Where paragraph (3) applies to a person who qualified for student support only by virtue of Part 2 of schedule 1, or any of the paragraphs of schedule 2, student support payable to, or in respect of, the person may include sums only for tuition and other fees payable in respect of that person.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) inserted (1.8.2023) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/142\)](#), regs. 1, **3(2)(a)**
- F2** Words in [reg. 2\(1\)](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), **sch. 2 para. 40**
- F3** Words in [reg. 2\(1\)](#) inserted (1.8.2023) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/362\)](#), regs. 1, **3(2)**
- F4** Words in [reg. 2\(3\)](#) inserted (1.8.2023) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/142\)](#), regs. 1, **3(2)(b)**

Commencement Information

- I2** [Reg. 2](#) in force at 1.8.2022, see [reg. 1](#)

PART 2

Allowances

Persons eligible for allowances

3.—(1) The Scottish Ministers may pay an allowance, in accordance with the provisions of section 73(f) (power of Secretary of State to make grants to education authorities and others) of the Act and this Part, to or in respect of any person undertaking a course of education who is a person described in one or more paragraphs of schedule 1 but a person will not be eligible for an allowance if the Scottish Ministers have determined that the person has shown themselves by their conduct to be unfit to receive an allowance.

- (2) In paying an allowance under paragraph (1), the Scottish Ministers may determine to—
 - (a) pay different allowances for different purposes, and

(b) impose different terms and conditions in relation to different allowances.

(3) Schedule 3 is to have effect for determining whether a person is to be treated, for the purposes of schedule 1 as being, or having been, ordinarily resident in a place at, or for, a particular time.

(4) For the purposes of this Part, and subject to paragraph (5), in assessing a person's eligibility under schedule 1 for an allowance for a course of education, that course of education will be deemed to have started on the date that the first constituent part of any programme which contributes to the final award for that course of education commenced.

(5) In assessing a person's eligibility under schedule 1 for an allowance for a course of education—

(a) a programme leading to—

(i) a degree,

(ii) a Higher National Diploma, or

(iii) a Higher National Certificate, and

(b) such other programmes as the Scottish Ministers may determine,

are to be treated as separate and distinct courses of education.

Commencement Information

I3 [Reg. 3](#) in force at 1.8.2022, see [reg. 1](#)

Amount of allowances

4.—(1) The amount of an allowance will be determined by the Scottish Ministers and, subject to paragraph (2), may include sums in respect of—

(a) tuition and other fees payable in respect of the holder of the allowance,

(b) travelling expenses necessarily incurred, or to be incurred, by the holder in undertaking the course of education in respect of which the allowance is awarded,

(c) the maintenance of the holder and of any persons dependent on them during periods of full time study and during vacations, and

(d) other expenses incurred, or to be incurred, by the holder in taking advantage of educational facilities.

(2) An allowance payable to, or in respect of, a person who is eligible for an allowance only by virtue of Part 2 of schedule 1 may include sums only in respect of tuition and other fees payable in respect of that person.

(3) In determining the amount of an allowance, the Scottish Ministers may take account of the sums, if any, which, in accordance with principles determined by them from time to time, the holder, the holder's partner, the holder's parents and the holder's parents' partners can reasonably be expected to contribute towards the holder's expenses.

(4) The amount of the determination of an allowance may be revised at any time if the Scottish Ministers think fit having regard to—

(a) the failure of the holder to comply with the requirements of the allowance,

(b) all the circumstances of the holder, the holder's partner, the holder's parents and the holder's parents' partners, or

(c) any error made in determining the amount of, or entitlement to, the allowance.

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Commencement Information

I4 [Reg. 4](#) in force at 1.8.2022, see [reg. 1](#)

Conditions and requirements of allowances

5.—(1) Payment of an allowance for each academic year is conditional on the following—

- (a) receipt of an application in such form as the Scottish Ministers may require by such date as they may determine in respect of that year, and different dates may be determined by them in respect of different courses,
- (b) that application must include an undertaking by the applicant to repay to the Scottish Ministers any amount of which they request repayment following a revisal in terms of regulation 4(4) (amount of allowances), and
- (c) that application must include acceptance by the applicant that any sum in respect of which the holder has given an undertaking in terms of paragraph (1)(b) and which falls to be repaid following a revisal in terms of regulation 4(4) may be recovered by the Scottish Ministers in one or more of the ways specified in paragraph (2).

(2) The Scottish Ministers may recover any sum in respect of which the holder has given an undertaking in terms of paragraph (1)(b) and which falls to be repaid following a revisal in terms of regulation 4(4) in one or more of the following ways as the Scottish Ministers consider appropriate in all the circumstances—

- (a) by subtracting the amount of which the Scottish Ministers request repayment following revisal in terms of regulation 4(4) from the amount of any other allowance payable under these Regulations for which the student is eligible in respect of any other academic year,
- (b) by taking such other action for the recovery of the amount of which the Scottish Ministers request repayment following revisal in terms of regulation 4(4) as is available to them.

(3) The Scottish Ministers may treat an application received after any date determined for the purposes of paragraph (1)(a) as having been received by that date where they consider that, having regard to the circumstances of the particular case, it should be so treated.

(4) Every allowance is to be held subject to the following requirements—

- (a) the holder must comply with the requirements of the course of education in respect of which the allowance is awarded,
- (b) the Scottish Ministers must be satisfied as to the conduct and progress of the holder,
- (c) the holder must provide the Scottish Ministers with such information and such documents as they may from time to time require to enable them to exercise their functions under this Part, and
- (d) the holder must repay to the Scottish Ministers any sum in respect of which the holder has given an undertaking in terms of paragraph (1)(b) and which falls to be repaid following a revisal in terms of regulation 4(4).

Commencement Information

I5 [Reg. 5](#) in force at 1.8.2022, see [reg. 1](#)

Method of payment

6.—(1) The allowance may be paid to the holder or to another person for their benefit, or in part to the holder and in part to that other person, and any sum in respect of fees payable to an educational institution which is included in the amount of the allowance may be paid on behalf of the holder to the institution.

(2) The allowance may be paid in a single payment or by instalments as the Scottish Ministers think fit, but no payment is to be made before the holder has been accepted for admission to the course of education for which the allowance is awarded.

(3) Payments may be made in such manner as the Scottish Ministers consider appropriate, and they may make it a condition of entitlement to payment that the person eligible for support must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Commencement Information

I6 Reg. 6 in force at 1.8.2022, see [reg. 1](#)

PART 3

Paramedic science, nursing and midwifery student allowances

Persons eligible for allowance

7.—(1) The Scottish Ministers may pay an allowance in accordance with this Part to, or in respect of any person undertaking—

- (a) a course of pre-registration nursing and midwifery education leading to registration with the Nursing and Midwifery Council(13), or
- (b) an undergraduate degree programme in pre-registration paramedic science education leading to eligibility to apply for registration as a paramedic with the Health and Care Professions Council(14),

who is a person described in one or more paragraphs of schedule 1.

(2) In paying an allowance, the Scottish Ministers may determine to—

- (a) pay different allowances for different purposes, and
- (b) impose different terms and conditions in relation to different allowances.

(3) Schedule 3 is to have effect for the purposes of determining whether a person is to be treated, for the purposes of schedule 1 as being, or having been, ordinarily resident in a place at, or for, a particular time.

Commencement Information

I7 Reg. 7 in force at 1.8.2022, see [reg. 1](#)

(13) The Nursing and Midwifery Council, a body corporate, was established by Article 3 of the Nursing and Midwifery Order (2001) (S.I. 2002/253).

(14) The Health and Care Professionals Council, a regulatory body, was established by Article 3 of the Health Professions Order 2001 (S.I. 2002/254).

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Amount of allowances

8.—(1) The amount of an allowance will be determined by the Scottish Ministers and may include sums in respect of—

- (a) tuition and other fees payable in respect of the holder of the allowance,
- (b) travelling expenses necessarily incurred, or to be incurred, by the holder in undertaking the course of education in respect of which the allowance is awarded,
- (c) the maintenance of the holder and of any persons dependent on them during periods of full time study and during vacations, and
- (d) other expenses incurred, or to be incurred, by the holder in taking advantage of educational facilities.

(2) An allowance payable to, or in respect of, a person who is eligible for an allowance only by virtue of Part 2 of schedule 1 may include sums only in respect of tuition and other fees payable in respect of that person.

(3) In determining the amount of an allowance, the Scottish Ministers may take account of the sums, if any, which in accordance with principles determined by them from time to time—

- (a) persons dependent on the holder can reasonably be expected to contribute towards their own maintenance, and
- (b) the holder's partner can reasonably be expected to contribute to the holder's expenses.

(4) The amount of an allowance may be revised at any time if the Scottish Ministers think fit having regard to—

- (a) the failure of the holder to comply with the requirements of the allowance,
- (b) all the circumstances of the holder, the holder's partner and persons dependent on the holder, or
- (c) any error made in determining the amount of, or entitlement to, the allowance.

Commencement Information

I8 [Reg. 8](#) in force at 1.8.2022, see [reg. 1](#)

Conditions and requirements of allowances

9.—(1) Payment of every allowance for each academic year is conditional on the following—

- (a) receipt of an application in such form as the Scottish Ministers may require by such date as they may determine in respect of that year, and different dates may be determined by them in respect of different courses,
- (b) that application must include an undertaking by the applicant to repay to the Scottish Ministers any amount of which the Scottish Ministers requests repayment following a revisal in terms of regulation 8(4) (amount of allowances), and
- (c) that application must include acceptance by of the applicant that any sum in respect of which the holder has given an undertaking in terms of paragraph (1)(b) and which falls to be repaid following a revisal in terms of regulation 8(4) may be recovered by the Scottish Ministers in one or more of the ways specified in paragraph (2).

(2) The Scottish Ministers may recover any sum in respect of which the holder has given an undertaking in terms of paragraph (1)(b) and which falls to be repaid following a revisal in terms of regulation 8(4) in one or more of the following ways as the Scottish Ministers consider appropriate in all the circumstances—

- (a) by subtracting the amount of which the Scottish Ministers request repayment following revisal in terms of regulation 8(4) from the amount of any other allowance payable under these Regulations for which the student is eligible in respect of any other academic year,
 - (b) by taking such other action for the recovery of the amount of which the Scottish Ministers request repayment following revisal in terms of regulation 8(4) as is available to them.
- (3) The Scottish Ministers may treat an application received after any date determined for the purposes of paragraph (1)(a) as having been received by that date where they consider that, having regard to the circumstances of the particular case, it should be so treated.
- (4) Every allowance is to be held subject to the following requirements—
- (a) the holder must comply with the requirements of the course of education in respect of which the allowance is awarded,
 - (b) the Scottish Ministers must be satisfied as to the conduct and progress of the holder,
 - (c) the holder must provide the Scottish Ministers with such information and such documents as they may from time to time require to enable them to exercise their functions under this Part, and
 - (d) the holder must repay to the Scottish Ministers any sum in respect of which the holder has given an undertaking in terms of paragraph (1)(b) and which falls to be repaid following a revisal in terms of regulation 8(4).

Commencement Information

I9 [Reg. 9](#) in force at 1.8.2022, see [reg. 1](#)

Method of payment

10.—(1) The allowance may be paid to the holder or to another person for their benefit, or in part to the holder and in part to such other person, and any sum in respect of fees payable to an educational institution which is included in the amount of the allowance may be paid on behalf of the holder to the institution.

(2) The allowance may be paid in a single payment or by instalments as the Scottish Ministers think fit, but no payment is to be made before the holder has been accepted for admission to the course of education for which the allowance is awarded.

(3) Payments may be made in such manner as the Scottish Ministers consider appropriate, and they may make it a condition of entitlement to payment that the person eligible for support must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Commencement Information

I10 [Reg. 10](#) in force at 1.8.2022, see [reg. 1](#)

PART 4

Student loans

Students eligible for student loans

11.—(1) The Scottish Ministers may pay a loan, in accordance with the provisions of section 73(f) (power of Secretary of State to make grants to education authorities and others) of the Act and this Part, to or in respect of an eligible student.

(2) Subject to and in accordance with this Part a person is eligible for a loan in connection with their undertaking a designated course if that person—

- (a) is a person mentioned in Part 1 of schedule 1 or in schedule 2,
- (b) is under the age of 61 on the relevant date,
- (c) is not eligible for a loan in relation to an academic year of the course under the Teaching and Higher Education Act 1998⁽¹⁵⁾, the Education (Student Loans) (Northern Ireland) Order 1990⁽¹⁶⁾, the Education (Student Support) (Northern Ireland) Order 1998⁽¹⁷⁾ or any regulations made under any of those instruments,
- (d) is not eligible to receive in relation to the academic year—
 - (i) a bursary or award of similar description under section 63 (provision of instruction for officers of hospital authorities and other persons employed, or contemplating employment, in certain activities connected with health or welfare) of the Health Services and Public Health Act 1968⁽¹⁸⁾, the amount of which is not calculated by reference to their income,
 - (ii) any allowance under Part 3 (paramedic science, nursing and midwifery student allowances),
 - (iii) such other allowances awarded under Part 2 (allowances) as the Scottish Ministers may determine,
 - (iv) any grant made by the Scottish Ministers under section 42 (grants in respect of activities relating to school education) of the Standards in Scotland’s Schools etc. Act 2000⁽¹⁹⁾ under the Educational Psychologist Training Grant, Scotland, or
 - (v) any allowance, bursary or award of a similar description paid by United Kingdom Research and Innovation⁽²⁰⁾, where that person is undertaking a research course leading to a postgraduate masters degree,
- (e) is not in breach of any obligation to repay any loan, and
- (f) has not, in the opinion of the Scottish Ministers, shown themselves by their conduct to be unfit to receive a loan.

(3) Paragraph (2)(b) does not apply when assessing a person’s eligibility for a loan falling within paragraph (b) of the definition of loan in regulation 2(1) (interpretation).

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

⁽¹⁵⁾ 1998 c. 30.

⁽¹⁶⁾ S.I. 1990/1506 (N.I.11).

⁽¹⁷⁾ S.I. 1998 /1760 (N.I. 14).

⁽¹⁸⁾ 1968 c. 46.

⁽¹⁹⁾ 2000 asp 6.

⁽²⁰⁾ United Kingdom Research and Innovation, a body corporate, was established by section 91 of Part 3 of the Higher Education and Research Act 2017 (c. 29).

(5) A person cannot, at any one time, be eligible for support for more than one designated course.

(6) For the purposes of this Part, and subject to paragraph (7), in assessing a person's eligibility under schedule 1 or schedule 2 for a loan in respect of a course, that course will be deemed to have started on the date that the first constituent part of any programme which contributes to the final award for that course commenced.

(7) In assessing a person's eligibility under Part 1 of schedule 1 or schedule 2 for a loan in respect of a course—

(a) a programme leading to—

(i) a degree,

(ii) a Higher National Diploma, or

(iii) a Higher National Certificate, and

(b) such other programmes as the Scottish Ministers may determine,

are to be treated as separate and distinct courses of education.

(8) Schedule 3 is to have effect as regards determining whether a person is to be treated, for the purposes of schedule 1 or schedule 2, as being, or having been, ordinarily resident in a place at, or for, a particular time.

Commencement Information

III [Reg. 11](#) in force at 1.8.2022, see [reg. 1](#)

Students eligible for student loans for tuition fees for RUK institutions

12.—(1) The Scottish Ministers may pay a loan, in accordance with the provisions of section 73(f) (power of Secretary of State to make grants to education authorities and others) of the Act and this Part, to or in respect of an eligible student.

(2) A person is eligible for a loan for tuition fees in connection with their undertaking a designated course if the person—

(a) is a person mentioned in Part 1 of schedule 1,

(b) is not in breach of any obligation to repay any loan, and

(c) has not, in the opinion of the Scottish Ministers, shown themselves by their conduct to be unfit to receive a loan.

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

(4) For the purposes of this Part, in assessing a person's eligibility under Part 1 of schedule 1 for a loan in respect of a course, that course will be deemed to have started on the date that the first constituent part of any programme which contributes to the final award for that course commenced.

(5) In assessing a person's eligibility under Part 1 of schedule 1 for a loan in respect of a course—

(a) a programme leading to—

(i) a degree,

(ii) a Higher National Diploma, or

(iii) a Higher National Certificate, and

(b) such other programmes as the Scottish Ministers may determine,

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are to be treated as separate and distinct courses of education.

(6) Schedule 3 is to have effect as regards determining whether a person is to be treated, for the purposes of Part 1 of schedule 1, as being, or having been, ordinarily resident in a place at, or for, a particular time.

Commencement Information

I12 Reg. 12 in force at 1.8.2022, see [reg. 1](#)

Designated courses for student loans

13.—(1) A course is designated for the purposes of regulation 11(2) (students eligible for student loans) if it is—

- (a) contained in schedule 4,
- (b) either—
 - (i) in relation to a taught course leading to a postgraduate diploma or to a postgraduate masters degree, or in relation to a research course leading to a postgraduate masters degree, a full-time course, or a part-time course wholly provided by an educational institution or institutions in Scotland, or
 - (ii) in relation to any other course, a full-time course or a sandwich course,
- (c) of at least one academic year’s duration, 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 ^{F5}...

(2) In this Part—

- (a) a “sandwich course” is a course, other than a course for the initial training of teachers referred to in paragraph 3 of schedule 4, 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 is to be treated as beginning with the first period of full-time study and ending with the last such period,
- (b) where periods of both full-time study and work experience occur within any week of the course, the days of full-time study are to be aggregated with any weeks of full-time study in determining the number of weeks full-time study in each year,
- (c) “periods of work experience” means—
 - (i) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outwith the institution, and
 - (ii) 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,
- (d) “taught course”—
 - (i) means a course which requires a minimum amount of teaching or contact time between the student and teaching staff at the institution, in the form of lectures, tutorials or seminars, and

- (ii) includes a course which is delivered by distance learning, where the sole or principal method of teaching by the institution does not require the student to attend on campus, but instead where lessons or classes are conducted remotely via digital or electronic means and where course work is submitted by correspondence,
 - (e) “research course” means a course where the primary manner of study and assessment is based on independent research conducted by the student,
 - (f) “part-time course” means a course where the normal period for completion of the total number of credits required for the course when studied at a full-time pace is extended over a longer period of time, but where—
 - (i) the duration of the course does not exceed twice the usual duration of the full-time equivalent course leading to the same qualification, or
 - (ii) in the absence of any full-time equivalent for the course in question, it is ordinarily possible to complete the course on a part-time basis in up to three academic years,
 - (g) 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,
 - (h) a university and any constituent college or institution in the nature of a college or a university is 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,
 - (i) an institution is not 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) (administration of funds by the HEFCW) of the Further and Higher Education Act 1992(21), and
 - (j) 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, is considered to be a single course for a first degree or for an equivalent qualification even though the course may lead to another degree or qualification being conferred before the degree or equivalent qualification, and even though that part of the course may be optional.
- (3) In this Part—
- “partner” means in relation to the eligible student or the eligible student’s parent—
- (a) the spouse of that person,
 - (b) the civil partner of that person, or
 - (c) a person ordinarily living with that person as if he or she were the spouse or civil partner of that person,
- (4) Where a course of education is not designated under paragraph (1), the Scottish Ministers may determine that the course is designated for the purposes of regulation 11(2) by reference to that particular course of education or to a particular category of courses of education.

Textual Amendments

- F5** Words in [reg. 13\(1\)\(d\)](#) omitted (1.8.2023) by virtue of [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/142\)](#), [regs. 1, 3\(3\)](#)

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Commencement Information

I13 [Reg. 13](#) in force at 1.8.2022, see [reg. 1](#)

Designated courses for student loans for tuition fees for RUK institutions

14.—(1) A course is designated for the purposes of regulation 12(2) (students eligible for student loans for tuition fees for RUK institutions) if it is—

- (a) contained in Part 1 of schedule 4,
- (b) a full-time course or sandwich course,
- (c) of at least one academic year’s duration, and
- (d) wholly provided by an educational institution or institutions in the United Kingdom but outside Scotland, 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) Where a course of education is not designated under paragraph (1), the Scottish Ministers may determine that the course is designated for the purposes of regulation 12(2) by reference to that particular course of education or to a particular category of courses of education.

Commencement Information

I14 [Reg. 14](#) in force at 1.8.2022, see [reg. 1](#)

Applications for loans

15.—(1) A loan application for an amount, not exceeding the maximum amount applicable in that student’s case in connection with undertaking a designated course, is to be made by the student completing and submitting to the Scottish Ministers an application in such form as the Scottish Ministers may require.

(2) In relation to a loan issued under regulation 12 (students eligible for student loans for tuition fees for RUK institutions), the maximum amount applicable in the student’s case is the maximum amount of tuition fee charged to the student for the current academic year of the designated course which the student is undertaking.

(3) The completed application is to include such information as the Scottish Ministers require, including the following particulars—

- (a) the student’s United Kingdom national insurance number, where applicable,
- (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.

(4) The completed application will also include a declaration, either in writing or electronically, 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 or to any other person on their behalf which exceeds for any reason the amount of loan to which that student is entitled under this Part, and

(ii) any amount lent to them, together with interest and applicable charges and penalties, in accordance with the Act and any regulations made under the Act.

(5) The application form must reach the Scottish Ministers by the date they determine (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 no later than the date they specify.

(6) A student demonstrates eligibility for a loan by providing such evidence as the Scottish Ministers may require.

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

(8) If the Scottish Ministers determine that a student is eligible for a loan they will notify that student of that fact and of the maximum amount of loan applicable in their case, and that the student will then be an “eligible student” for the purposes of this Part.

(9) In relation to loans issued under regulation 11 (students eligible for student loans), 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 of loan 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,

they will 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 must not exceed the increased maximum.

(10) 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 must not exceed the maximum applicable in their case.

(11) An application under paragraphs (9) or (10) is made by completing and submitting to the Scottish Ministers an application in such form as they may require no later than the date the Scottish Ministers determine and will contain a declaration, either in writing or electronically, in the terms set out in paragraph (4).

(12) In this regulation “student loan account number” means the account number assigned by the lender to a loan made under the Act, the Teaching and Higher Education Act 1998, the Education (Student Loans) (Northern Ireland) Order 1990, the Education (Student Support) (Northern Ireland) Order 1998 or any regulations made under any of those instruments.

Commencement Information

I15 Reg. 15 in force at 1.8.2022, see [reg. 1](#)

Transfers of eligibility

16.—(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) 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,
- (d) 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
- (e) 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 in paragraph (1) and that the second course is a designated course, are to transfer the eligible student's eligibility, and the eligible student will then 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 15 (applications for loans).

(3) In relation to loans issued under regulation 11 (students eligible for student loans), the Scottish Ministers may, after consulting the academic authority concerned, refuse to transfer eligibility where paragraph (1)(a) or (b) 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) (c) or (d) applies it is immaterial whether or not the two courses are provided by the same institution.

(5) In relation to loans issued under regulation 11, the Scottish Ministers will 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.

(6) An eligible student's eligibility for a loan may not be transferred after it has expired or been terminated under regulation 17 (termination of eligibility).

(7) In relation to loans issued under regulation 12 (loans for tuition fees for RUK institutions), an eligible student who transfers their eligibility after the Scottish Ministers have assessed that person's loan in connection with the academic year of the course from which they are transferring but before they complete that year may not, in connection with the academic year of the course to which they transfer, apply for another loan of a kind that they have already applied for under this Part in connection with the academic year of the course from which they are transferring.

Commencement Information

I16 Reg. 16 in force at 1.8.2022, see [reg. 1](#)

Termination of eligibility

17.—(1) Subject to paragraph (2) an eligible student ceases to be eligible for a loan on—

- (a) the expiry of the period ordinarily required for the completion of the course, or

(b) in relation to a loan issued under regulation 11 (students eligible for student loans), transferring from a full-time course to a part-time course, and accordingly that person then ceases 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 continues 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 that person is to 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 16 (transfers of eligibility, or has abandoned or been expelled from their course, the Scottish Ministers will determine that that person is no longer eligible for a loan, and on such determination that person ceases to be an eligible student.

(4) Where the conduct of an eligible student has shown the eligible student to be unfit 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 ceases to be an eligible student.

Commencement Information

I17 Reg. 17 in force at 1.8.2022, see [reg. 1](#)

Provision of United Kingdom national insurance number

18.—(1) The Scottish Ministers may make it a condition of eligibility for a loan that the applicant must provide them with their 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 before they are satisfied that the applicant has complied with that condition.

(3) Despite paragraph (2), the Scottish Ministers may make a payment of loan to an applicant 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).

Commencement Information

I18 Reg. 18 in force at 1.8.2022, see [reg. 1](#)

Information

19.—(1) Every applicant and every eligible student must 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 this Part.

(2) Every applicant and every eligible student must inform the Scottish Ministers and provide them with any further information that the Scottish Ministers consider necessary if any of the following occurs—

- (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,

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- (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 15(3)(c) (applications for loans), 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, or has recklessly provided information which is false, they may determine that the student will—
- (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 required the applicant or eligible student to enter into an agreement to repay a loan by a particular method, they may withhold any payment of a loan until the applicant or eligible student has entered into that agreement.

Commencement Information

I19 Reg. 19 in force at 1.8.2022, see [reg. 1](#)

Maximum amounts of loans

20.—(1) In relation to a loan issued under regulation 11 (students eligible for student loans), the maximum amount of loan in respect of each academic year must—

- (a) not exceed any amount determined by the Scottish Ministers, or
- (b) different maximum amounts may be determined for different categories of student.

(2) In relation to a loan issued under regulation 12 (students eligible for student loans for tuition fees for RUK institutions), the maximum amount of loan in respect of each academic year must not exceed an amount determined by the Scottish Ministers, or the maximum amount of tuition fee charged to the student for the current academic year of the designated course which the student is undertaking.

Commencement Information

I20 Reg. 20 in force at 1.8.2022, see **reg. 1**

Means Test

21.—(1) This regulation applies to loans issued under regulation 11 (students eligible for student loans).

(2) In determining the amount of a loan payable, the Scottish Ministers may take account of the sums, if any, which—

- (a) in accordance with the principles determined by them, and
- (b) after having regard to any sums taken into account under regulation 4(3) (amount of allowances), in determining the amount of an allowance payable to the eligible student under that Part,

the eligible student, the eligible student's parents, the eligible student's parents' partners and the eligible student's partner can reasonably be expected to contribute towards the eligible student's expenses.

(3) For the purpose of the exercise of their functions under this regulation, the Scottish Ministers may require an eligible student to provide such information as the Scottish Ministers consider necessary as to the income of any person whose means are relevant to the assessment of a contribution under this regulation.

Commencement Information

I21 Reg. 21 in force at 1.8.2022, see **reg. 1**

Payment of loans

22.—(1) The Scottish Ministers may pay loans for which an eligible student has applied under this Part at such times and in such number of instalments (which need not be of equal amounts) as they consider appropriate.

(2) Paragraphs (3) to (12) apply to loans issued under regulation 11 (students eligible for student loans).

(3) The Scottish Ministers may make provisional payments pending the final calculation of the amount of loan for which the student is eligible.

(4) No instalment of a loan is to be paid in respect of the period of the academic year during which, in the opinion of the Scottish Ministers, the longest of any vacations is taken.

(5) Payments may be made in such a manner as the Scottish Ministers consider appropriate, and they may make it a condition of entitlement to payment that the eligible student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(6) Subject to regulation 16 (transfers of eligibility), no instalment is to be paid after an eligible student has withdrawn from, abandoned or been expelled from their course.

(7) No instalment is to be paid in respect of a period during any part of which an eligible student is absent from their course if attendance at the course is a requirement of it, unless in the opinion of the Scottish Ministers in all the circumstances it would be appropriate to pay all or part of the loan.

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(8) In deciding whether it would be appropriate to pay all or part of the loan when an eligible student is absent from their course, the circumstances which the Scottish Ministers will have regard to include the reasons for the student's absence, the length of the absence and the financial hardship which not paying all or part of the instalment of loan would cause.

(9) An eligible student is not considered to be absent from their course if that student is unable to attend due to illness and their absence has not exceeded 60 days.

(10) If the payment of instalments has been suspended and before the end of the academic year the eligible student commences undertaking their course again the Scottish Ministers may pay further instalments but so that the amount lent in relation to that year does not exceed such amount as the Scottish Ministers in all the circumstances consider appropriate.

(11) Where the Scottish Ministers have paid any instalment of loan and the eligible student applies for an additional loan in respect of an academic year, the Scottish Ministers will pay the first instalment as soon as is reasonably practicable after a satisfactory application has been received and any subsequent instalments with instalments already payable.

(12) Where the Scottish Ministers have paid an instalment of loan for which a student is eligible in respect of an academic year and they make a determination that the amount of loan for which the student is eligible is less than the amount previously determined, either by way of revision of a provisional determination or otherwise—

- (a) they are to subtract such amount as is necessary to ensure that the student does not borrow an amount greater than the amount which that student is eligible to borrow from any instalments of loan which remain to be paid,
- (b) if the amount to be subtracted is greater than the amount of loan remaining to be paid that amount is reduced to nil,
- (c) any remaining overpayment is to be recovered in accordance with regulation 23 (overpayments).

Commencement Information

I22 [Reg. 22](#) in force at 1.8.2022, see [reg. 1](#)

Overpayments

23.—(1) This regulation applies to a loan issued under regulation 11 (students eligible for student loans).

(2) Any overpayment of a loan in respect of any academic year may be recovered by the Scottish Ministers if, in their opinion—

- (a) the overpayment is a result of a failure of the student to provide promptly information which might affect their eligibility for a loan or the amount of loan for which that student is eligible, or
- (b) any information which that student has provided is inaccurate,

but otherwise it is treated as a loan properly made under this Part which is repayable in accordance with the Act and any regulations made under it.

(3) Where an overpayment of loan is treated, by virtue of paragraph (2), as a loan properly made, the Scottish Ministers may subtract the overpayment from the amount of loan for which the student is eligible in respect of any other academic year.

(4) Where an overpayment of loan is recoverable in accordance with paragraph (2) it is to be recovered in one or more of the following ways as the Scottish Ministers consider appropriate in all the circumstances—

- (a) by subtracting the overpayment from the amount of loan for which the student is eligible in respect of any other academic year,
- (b) where a student upon completion of their course immediately commences another course (disregarding any intervening vacation) by subtracting the overpayment from the amount of any loan for which that person is eligible in respect of any academic year in connection with the second course,
- (c) by taking such other action for the recovery of a payment made without statutory authority as is available to them.

Commencement Information

I23 [Reg. 23](#) in force at 1.8.2022, see [reg. 1](#)

Interest

24.—(1) Subject to paragraph (2), if the Scottish Ministers determine that loans are to bear interest, loans made in each 12 month period commencing on 1st September will bear interest at a rate which will result in an annual percentage rate of charge determined in accordance with rules made by the Financial Conduct Authority under article 60M (total charge for credit) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**22**) (“the Order”) for the purposes of Chapter 14A (regulated credit agreements) of Part 2 of the Order equal to the percentage by which the retail prices all items index published by the Office for National Statistics for the month of March immediately preceding the commencement of that period has increased compared with that for the previous March.

(2) If the rate in paragraph (1) exceeds the rate for the time being specified by article 60G(3) (d) (exempt agreements: exemptions relating to the total charge for credit) of the Order, loans will bear interest at the rate so specified.

(3) Interest is calculated on the principal outstanding daily, and is added to the principal monthly.

Commencement Information

I24 [Reg. 24](#) in force at 1.8.2022, see [reg. 1](#)

Insolvency

25. Where, before, on or after the date of sequestration of an eligible student’s estate, that student receives, or is entitled to receive, sums by way of loan—

- (a) the Accountant in Bankruptcy must not, in fixing an amount under section 90 (debtor contribution order) of the Bankruptcy (Scotland) Act 2016(**23**) (“the 2016 Act”) treat the sums as income of the eligible student,
- (b) for the purpose of section 86(5) (further provision as regards vesting of estate) of the 2016 Act the sums are not to be treated as estate vesting in, or requiring to be conveyed or delivered to, the eligible student’s permanent trustee, and
- (c) any debt or liability to which the eligible student is, or may become, subject in respect of the sums is not to be treated as a debt or liability—

(22) S.I. 2001/544.

(23) 2016 asp 21.

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- (i) for the purposes of the sequestration (or of any offer of composition to the permanent trustee), or
- (ii) from which the eligible student is discharged on the expiry of a period after the date of sequestration, under or by virtue of section 137 (discharge of debtor where Accountant in Bankruptcy not trustee), 138 (discharge of debtor where Accountant in Bankruptcy trustee) or 140 (discharge of debtor to whom section 2(2) applies) of the 2016 Act.

Commencement Information

I25 [Reg. 25](#) in force at 1.8.2022, see [reg. 1](#)

PART 5

Bursaries

Exercise of power to grant a bursary

26.—(1) The power of an education authority to grant a bursary in accordance with section 49(1) or (2) (power of education authorities to assist persons to take advantage of educational facilities) of the Act—

- (a) is to be exercised in accordance with the following provisions of this Part, and
- (b) is not to be exercised except in relation to a person described in one or more paragraphs of schedule 1.

(2) Schedule 3 is to have effect as regards determining whether a person is to be treated, for the purposes of schedule 1 as being, or having been, ordinarily resident in a place at or for a particular time.

Commencement Information

I26 [Reg. 26](#) in force at 1.8.2022, see [reg. 1](#)

Amount of bursaries

27.—(1) The amount of a bursary is to be determined by the education authority and may include sums in respect of—

- (a) tuition and other fees payable in respect of the holder of the bursary,
- (b) travelling expenses necessarily incurred, or to be incurred, by the holder in undertaking the course of study for which the bursary is awarded,
- (c) the maintenance of the holder and of any person dependent on the holder during periods of full-time study and during vacations, and
- (d) other expenses incurred, or to be incurred, by the holder in taking advantage of educational facilities.

(2) A bursary payable to or in respect of a person who is eligible for a bursary only by virtue of Part 2 of schedule 1 may include sums only in respect of tuition and other fees payable in respect of that person.

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(3) In determining the amount of a bursary, the education authority may take account of the sums, if any, which in their opinion the holder of the bursary, the holder's parents and the holder's spouse or civil partner can reasonably be expected to contribute towards the holder's expenses.

(4) The amount of a bursary may be revised at any time if the education authority think fit having regard to—

- (a) the failure of the holder to comply with the conditions of the bursary,
- (b) all the circumstances of the holder, their parents, their spouse or civil partner or any as the case may be, or
- (c) any error made in the computation of the amount of the bursary.

Commencement Information

I27 [Reg. 27](#) in force at 1.8.2022, see [reg. 1](#)

Conditions of bursary

28.—(1) Every bursary is held subject to the following conditions—

- (a) the holder must regularly attend the course of study for which the bursary is awarded,
- (b) the education authority must be satisfied as to the conduct and progress of the holder, and
- (c) the holder must provide the education authority with such information and such documents as they may require to enable them to exercise their functions under this Part.

(2) If the conditions specified in paragraph (1) are not complied with or if the holder receives from any other source any sum which, in the opinion of the education authority, makes it unnecessary for the holder to be assisted by means of a bursary, the education authority may suspend payment of the bursary or terminate the bursary.

(3) It is to be a condition of payment of a bursary that the applicant gives a written undertaking to pay to the education authority any amount of which they may request repayment in the circumstances specified in paragraph (4) and that, if the applicant is below the age of legal capacity and has any parent or guardian, the parent or guardian must consent to the undertaking.

(4) Where the education authority are satisfied that there has been an overpayment of bursary for any reason and request repayment of the overpayment or any part of that as they think fit, and the holder of the bursary has given an undertaking under paragraph (3), the holder of the bursary is obliged to pay to the education authority the amount requested.

Commencement Information

I28 [Reg. 28](#) in force at 1.8.2022, see [reg. 1](#)

PART 6

Education maintenance allowances

Exercise of power to grant an education maintenance allowance

29.—(1) The Scottish Ministers may pay an education maintenance allowance in accordance with section 73(f) (power of Secretary of State to make grants to education authorities and others)

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of the Act and this Part to ^{F6}or in respect of] any person undertaking a course of education in the United Kingdom and Islands who—

- (a) is deemed to have attained the age of 16 years under section 33 (school leaving dates), of the Act,
- (b) has not, on the relevant date, attained the age of 20 years, and
- (c) is described in one or more paragraphs of ^{F7}Part 1 of] schedule 1.

(2) Schedule 3 is to have effect as regards determining whether a person is to be treated, for the purposes of schedule 1 as being, or having been, ordinarily resident in a place at or for a particular time.

(3) In this Part—

- (a) “course of education” means a ^{F8}...—
 - (i) course of school education,
 - (ii) course of non-advanced education undertaken at a home within an area of an education authority and approved by that education authority, or
 - (iii) course of non-advanced education undertaken elsewhere within an area of an education authority under the supervision of that education authority, ^{F9}or,
 - (iv) course of non-advanced education undertaken at a college of further education,]
- (b) “course of non-advanced education” means any course which prepares a person to a standard not higher than that required for—
 - (i) a qualification awarded by the Scottish Qualifications Authority, or
 - (ii) a General Certificate of Education qualification of England and Wales or Northern Ireland.

Textual Amendments

- F6** Words in [reg. 29\(1\)](#) inserted (1.8.2023) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/142\)](#), regs. 1, [3\(4\)\(a\)](#)
- F7** Words in [reg. 29\(1\)\(c\)](#) inserted (1.8.2023) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/362\)](#), regs. 1, [3\(3\)](#)
- F8** Words in [reg. 29\(3\)\(a\)](#) omitted (1.8.2023) by virtue of [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/142\)](#), regs. 1, [3\(4\)\(b\)\(i\)](#)
- F9** [Reg. 29\(3\)\(a\)\(iv\)](#) and word inserted (1.8.2023) by [The Education \(Fees and Student Support\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/142\)](#), regs. 1, [3\(4\)\(b\)\(ii\)](#)

Commencement Information

- I29** [Reg. 29](#) in force at 1.8.2022, see [reg. 1](#)

Amount of education maintenance allowances

30.—(1) The amount of an education maintenance allowance is determined by the Scottish Ministers and may include sums in respect of the maintenance of the holder during periods of full time study excluding vacations.

(2) In determining the amount of an education maintenance allowance, the Scottish Ministers may take account of the sums, if any, which in their opinion the holder of the education maintenance allowance, the holder’s parents and the holder’s spouse or the holder’s civil partner can reasonably be expected to contribute towards the holder’s expenses.

(3) The amount of an education maintenance allowance may be revised at any time if the Scottish Ministers think fit having regard to—

- (a) the failure of the holder of the education maintenance allowance to comply with the conditions of the education maintenance allowance,
- (b) all the circumstances of that holder, their parents and their spouse or civil partner, or
- (c) any error made in the computation of the amount of the education maintenance allowance.

(4) In this regulation—

- (a) “holder’s spouse”, where the Scottish Ministers consider it appropriate, includes the other member of a couple who are not married to each other but who are living together as husband and wife, and
- (b) “holder’s civil partner”, where the Scottish Ministers consider it appropriate, includes the other member of a couple who are not civil partners of each other but who are living together as civil partners to each other.

Commencement Information

I30 Reg. 30 in force at 1.8.2022, see [reg. 1](#)

Conditions of education maintenance allowance

31.—(1) Every education maintenance allowance is to be held subject to the following conditions—

- (a) the holder of the educational maintenance allowance must attend in accordance with any requirements specified by the educational establishment for the course of education in respect of which the education maintenance allowance is awarded,
- (b) the Scottish Ministers must be satisfied as to the conduct and progress of that holder, and
- (c) that holder must provide the Scottish Ministers with such information and such documents as they may require to enable them to exercise their functions under this Part.

(2) If the conditions specified in paragraph (1) are not complied with or if the holder receives from any other source any sum which, in the opinion of the Scottish Ministers, makes it unnecessary for the holder to be assisted by means of an education maintenance allowance, the Scottish Ministers may suspend payment of the education maintenance allowance or terminate the education maintenance allowance.

(3) It is to be a condition of payment of an education maintenance allowance that the applicant gives a written undertaking to pay to the Scottish Ministers any amount of which they may request repayment in the circumstances specified in paragraph (4).

(4) Where the Scottish Ministers are satisfied that there has been an overpayment of education maintenance allowance for any reason and request repayment of the overpayment or any part of that as they think fit, the holder of the education maintenance allowance is obliged to pay to the Scottish Ministers the amount requested.

Commencement Information

I31 Reg. 31 in force at 1.8.2022, see [reg. 1](#)

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PART 7

Revocations

32. The regulations listed in schedule 5 are revoked.

Commencement Information

I32 [Reg. 32](#) in force at 1.8.2022, see [reg. 1](#)

St Andrew's House,
Edinburgh

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 1 para. 1 heading substituted by [S.S.I. 2024/140 reg. 3\(6\)](#)
- Sch. 1 para. 8 substituted by [S.S.I. 2024/140 reg. 3\(7\)](#)
- Sch. 1 para. 14 substituted by [S.S.I. 2024/140 reg. 3\(14\)](#)
- Sch. 1 para. 17(a)(i)(ii) substituted for sch. 1 para. 17(a)(i)-(iii) by [S.S.I. 2024/140 reg. 3\(17\)\(b\)](#)
- Sch. 1 para. 9(a)(iii) word omitted by [S.S.I. 2024/140 reg. 3\(8\)\(b\)](#)
- Sch. 1 para. 9(a)(ii) words omitted by [S.S.I. 2024/140 reg. 3\(8\)\(a\)](#)
- Sch. 1 para. 10(a)(ii) words omitted by [S.S.I. 2024/140 reg. 3\(9\)](#)
- Sch. 1 para. 11(a)(ii) words omitted by [S.S.I. 2024/140 reg. 3\(10\)](#)
- Sch. 1 para. 12(a)(ii) words omitted by [S.S.I. 2024/140 reg. 3\(11\)](#)
- Sch. 1 para. 13(a)(ii) words omitted by [S.S.I. 2024/140 reg. 3\(12\)](#)
- Sch. 1 para. 15(a)(ii) words omitted by [S.S.I. 2024/140 reg. 3\(15\)](#)
- Sch. 1 para. 16(1) words omitted by [S.S.I. 2024/140 reg. 3\(16\)](#)
- Sch. 1 para. 1 and heading words substituted by [S.S.I. 2024/140 reg. 3\(17\)\(a\)](#)
- Sch. 2 para. 2 words substituted by [S.S.I. 2024/140 reg. 3\(19\)](#)
- Sch. 3 para. 2(a)-(h) omitted by [S.S.I. 2024/140 reg. 3\(21\)\(b\)](#)
- Sch. 3 para. 2 word omitted by [S.S.I. 2024/140 reg. 3\(21\)\(a\)](#)
- Sch. 3 para. 1(1) words substituted by [S.S.I. 2024/140 reg. 3\(20\)](#)
- Sch. 3 para. 2 words substituted by [S.S.I. 2024/140 reg. 3\(21\)\(c\)](#)
- Sch. 3 para. 2 words substituted by [S.S.I. 2024/140 reg. 3\(21\)\(d\)](#)
- Sch. 4 para. 9-11 omitted by [S.S.I. 2024/140 reg. 3\(23\)](#)
- reg. 2(1) words inserted by [S.S.I. 2024/140 reg. 3\(2\)](#)
- reg. 11(2)(d) word omitted by [S.S.I. 2024/140 reg. 3\(3\)\(a\)](#)
- reg. 20(1) substituted by [S.S.I. 2024/140 reg. 3\(4\)](#)
- reg. 22(4) omitted by [S.S.I. 2024/140 reg. 3\(5\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 13B inserted by [S.S.I. 2024/140 reg. 3\(13\)](#)
- Sch. 1 para. 17A inserted by [S.S.I. 2024/140 reg. 3\(18\)](#)
- Sch. 4 para. 7A-7C inserted by [S.S.I. 2024/140 reg. 3\(22\)](#)
- reg. 11(2)(d)(vi) and word inserted by [S.S.I. 2024/140 reg. 3\(3\)\(b\)](#)