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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 157**

**The Student Support (Scotland) Regulations 2022**

**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(1), the Education (Student Loans) (Northern Ireland) Order 1990(2), the Education (Student Support) (Northern Ireland) Order 1998(3) 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(4), 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(5) 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(6), where that person is undertaking a research course leading to a postgraduate masters degree,

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(1) 1998 c. 30.

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

(3) S.I. 1998 /1760 (N.I. 14).

(4) 1968 c. 46.

(5) 2000 asp 6.

(6) 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).

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- (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.

(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

**II** [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,

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

I2 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 <sup>F1</sup>...

(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—

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- (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(7), 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

**F1** 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\(3\)](#)

#### Commencement Information

**I3** [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

**I4** [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

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- (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

**I5** 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



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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

**I6** [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

**I7** [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

**I8** [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,
- (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

19 Reg. 19 in force at 1.8.2022, see reg. 1

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### 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

**I10** [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

**I11** [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.

(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

I12 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—

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- (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

I13 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(8) (“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

I14 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<sup>(9)</sup> (“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—
  - (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

**I15** Reg. 25 in force at 1.8.2022, see [reg. 1](#)

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<sup>(9)</sup> 2016 asp 21.

**Changes to legislation:**

The Student Support (Scotland) Regulations 2022, PART 4 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**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\(3\)\(b\)](#)