



Education (Student Loans) Act 1990

1990 CHAPTER 6

E+W+S

An Act to provide for the making to students in higher education of loans towards their maintenance. [26th April 1990]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Loans for students. E+W+S

- (1) The Secretary of State may make arrangements for enabling eligible students to receive loans towards their maintenance out of money made available by him for that purpose.
- (2) For the purposes of this section eligible students are those who—
 - (a) are attending courses of higher education which are of at least one academic year's duration and either are at institutions receiving support from public funds or (being at other institutions) are designated for the purposes of this section by or under regulations made by the Secretary of State; and
 - (b) satisfy such other conditions as may be prescribed by regulations made by him.
- (3) In this section "courses of higher education" means courses of any description mentioned in Schedule 1 to this Act and "institutions receiving support from public funds" means—
 - (a) universities and other institutions receiving grants under section 131 or 132 of the Education Reform Act 1988, institutions maintained by local education authorities in exercise of their further and higher education functions, institutions designated by or under regulations made under section 218 of that Act as institutions substantially dependent for their maintenance on assistance from local education authorities and institutions receiving recurrent grants

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- towards their costs under regulations made under section 100(1)(b) of the ^{M1}Education Act 1944;
- [^{F1}(b) educational establishments within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible, colleges of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 managed by boards of management established under Part I of that Act and designated institutions within the meaning of Part II of that Act of 1992]
- (c) the Queen's University of Belfast, the University of Ulster, a college of education in Northern Ireland within the meaning of Article 2(2) of the ^{M2}Education and Libraries (Northern Ireland) Order 1986 and institutions providing in Northern Ireland further education as defined in Article 5(c) of that Order.
- (4) The Secretary of State may by order amend Schedule 1 to this Act but before doing so shall consult any persons with whom consultation appears to him to be desirable.
- (5) Schedule 2 to this Act shall have effect in relation to arrangements made under this section.
- (6) The power to make orders under subsection (4) above shall be exercisable by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (7) The power to make regulations under this section or Schedule 2 to this Act shall be exercisable by statutory instrument which, subject to subsection (8) below and paragraph 1(2) of that Schedule, shall be subject to annulment in pursuance of a resolution of either House of Parliament and any such regulations may make different provision for different cases.
- (8) A draft of the first regulations to be made under this section or Schedule 2 to this Act shall be laid before each House of Parliament and those regulations shall not be made unless the draft has been approved by a resolution of each House.

Textual Amendments

- F1** S. 1(3)(b) substituted (16.5.1992 subject to saving in S.I. 1992/817, art. 4, **Sch. 5**) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 12(2)**; S.I. 1992/817, art. 3(2), **Sch.1**.

Marginal Citations

- M1** 1944 c. 31.
M2 S.I.1986/594 (N.I.3).

VALID FROM 27/01/1998

[^{F2}1A **Transfer of public sector student loans to the private sector.** **E+W+S**

- (1) A relevant lender may assign to any other person all or any of the lender's rights in respect of any public sector student loans.

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- (2) The Secretary of State may make such arrangements as he thinks fit for the purpose of facilitating, or otherwise in connection with, an assignment under subsection (1) above.
- (3) Arrangements under this section may provide for the Secretary of State to make payments of any specified description which—
 - (a) are payable in such circumstances, and at such times, as may be specified, and
 - (b) are of such amounts as may be specified in, or determined in accordance with, the arrangements.
- (4) Such arrangements may authorise the Secretary of State in specified circumstances—
 - (a) to take an assignment from the purchaser of all or any of his rights in respect of any loan to which the arrangements relate, or
 - (b) to direct the purchaser to assign all or any such rights to some other person under subsection (1) above.
- (5) Such arrangements may also provide for the appointment of an independent person approved by the Secretary of State with the function of investigating and reporting on any dispute between the purchaser and the borrower under a loan to which the arrangements relate.
- (6) Subsections (3) to (5) above shall not be read as affecting the generality of subsection (2) above.
- (7) In this section—
 - “assignment”, in relation to Scotland, means assignation;
 - “the purchaser” means the assignee under an assignment under subsection (1) above;
 - “relevant lender”, in relation to a public sector student loan, means the person who made the loan or the assignee under an assignment under subsection (1) above;
 - “specified” means specified in arrangements under this section.]

Textual Amendments

F2 S. 1A inserted (27.1.1998) by 1998 c. 1, s.1

2 Northern Ireland. **U.K.**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M3}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to the purposes of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Marginal Citations

M3 1974 c. 28.

3 Financial provisions. **E+W+S**

- (1) There shall be paid out of money provided by Parliament any sums required by the Secretary of State for making payments under this Act.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

4 Short title, citation, interpretation and extent. **E+W+S**

- (1) This Act may be cited as the Education (Student Loans) Act 1990.
- (2) This Act and the Education Acts 1944 to 1988 may be cited together as the Education Acts 1944 to 1990.
- (3) In this Act “university” includes a university college and any college, or institution in the nature of a college, in a university.
- (4) Except for section 2 and, as respects institutions in Northern Ireland, the power to make regulations under paragraph 2 of Schedule 2, this Act does not extend to Northern Ireland.

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SCHEDULES

SCHEDULE 1 **E+W+S**

Section 1(3).

COURSES OF HIGHER EDUCATION

- 1 A first degree course.
- 2 A course for the further training of teachers or youth and community workers.
- 3 A course for the Diploma of Higher Education.
- 4 A course for the Higher National Diploma or Higher National Certificate of—
 - (a) the Business & Technician Education Council; or
 - (b) the Scottish Vocational Education Council.
- 5 A course for the initial training of teachers for the time being designated by or under regulations made by virtue of section 1(2)(b) and (3)(c) of the ^{M4}Education Act 1962.

Marginal Citations

M4 1962 c. 12.

- 6 A course in preparation for a professional examination of a standard higher than that of—
 - (a) examinations at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
 - (b) the examination for the National Certificate or the National Diploma of either of the Councils mentioned in paragraph 4 above,not being a course for entry to which a first degree (or equivalent qualification) is normally required.
- 7 A course providing education (whether or not in preparation for an examination) the standard of which is—
 - (a) higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 6(a) or (b) above; but
 - (b) not higher than that of a first degree course,

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and for entry to which a first degree (or equivalent qualification) is not normally required.

SCHEDULE 2 **U.K.**

Section 1(5).

LOANS FOR STUDENTS

Modifications etc. (not altering text)

C1 Sch. 2 amended(*prosp.*) by 1998 c. 29, ss. 74(1), 75(2)(3), Sch. 15 para.10

Principal, interest and payments

- 1 (1) Regulations made by the Secretary of State shall—
- (a) prescribe the maximum amount of the loan that may be made to a student in any year;
 - (b) make provision as to the time and manner in which repayments of loans are to be made; and
 - (c) make provision for the deferment or cancellation of a borrower's liability in respect of a loan.
- (2) The maximum amount prescribed under sub-paragraph (1)(a) above for the loan to be made to a student in any year shall not exceed—
- (a) the amount specified as the ordinary maintenance requirement for students of the class or description to which he belongs by regulations having effect for that year under section 1(1) of the ^{M5}Education Act 1962 (mandatory awards); or
 - (b) if no such amount is specified for students of the class or description to which he belongs, such amount as the Secretary of State considers appropriate for students of that class or description having regard to the amount specified as mentioned in paragraph (a) above;
- but regulations, other than the first, made under sub-paragraph (1)(a) above may prescribe a higher maximum if a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (3) Regulations under sub-paragraph (1)(b) above shall make such separate provision as the Secretary of State considers appropriate with respect to the repayment of loans by borrowers who are disabled.
- (4) Loans shall bear interest at such rates as may from time to time be prescribed by regulations made by the Secretary of State but so that—
- (a) the interest (which shall accrue from day to day) shall be added to the outstanding amount of a loan; and
 - (b) the rates shall be such as appear to the Secretary of State to be requisite for maintaining the value of that amount in real terms.
- (5) For the purposes of sub-paragraph (4)(b) above the Secretary of State shall have regard to the retail prices index published by the Central Statistical Office of the

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Chancellor of the Exchequer, any substituted index or index figures published by that Office or such other index as appears to him to be appropriate.

Marginal Citations

M5 1962 c. 12.

Certificates etc.

- 2 (1) The Secretary of State may by regulations require the governing bodies of institutions at which eligible students are attending courses to take such steps (whether by the issue of certificates or otherwise) as may be prescribed by the regulations for the purposes of, or in connection with, applications by those students for loans under the arrangements made under section 1 of this Act, including the provision of information when a person ceases to be an eligible student.
- (2) For the purposes of this paragraph the governing body, in relation to a university, means the body responsible for the management and administration of its revenue and property and the conduct of its affairs, in relation to a college of further education as defined in section 80(1) of the ^{M6}Self-Governing Schools etc. (Scotland) Act 1989 with a college council established under section 54 of that Act, means that council and, in relation to a college of further education as so defined without such a council, means the education authority.

Extent Information

E1 Sch. 2 para. 2: in so far as it relates to institutions in Northern Ireland, the power to make regulations under this paragraph does not extend to Northern Ireland see s. 4(4)

Marginal Citations

M6 1989 c. 39.

Administration

- 3 (1) The arrangements may provide for the loans to be made and recovered, and other functions in relation to the loans to be discharged, by such person or persons as may agree to do so or by one or more bodies constituted or acquired by the Secretary of State for that purpose.
- (2) The Secretary of State shall provide any person or body having the function of making loans under the arrangements with the funds necessary for making the loans; and any such person or body shall make such periodical repayments to him in respect of those funds as he may require.
- (3) Arrangements made by virtue of this paragraph may include provision for defraying the administrative expenses incurred by the person or body in question in discharging the functions to which the arrangements relate and for remunerating that person or body for discharging them.

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- (4) Regulations made under paragraph 1(1)(b) or (c) above may confer functions on any such person or body as is mentioned in sub-paragraph (1) above, including power to exercise a discretion in relation to any matter for which the regulations provide.
- (5) Any arrangements made by virtue of this paragraph shall provide for the appointment of an independent person approved by the Secretary of State with the function of investigating and reporting on disputes between borrowers or intending borrowers under this Act and any person or body having the function of making loans under the arrangements.
- (6) Any person or body having the function of making loans by virtue of this paragraph shall make to the Secretary of State such periodical reports as he may require with respect to the working of the arrangements under which the loans are made.
- (7) Any person or body having the function of recovering loans under the arrangements may, for appropriate consideration, assign the right of recovery to a third party.
- (8) No document sent in connection with loans under the arrangements by any such person or body as is mentioned in sub-paragraph (1) above shall be regarded as sent with a view to financial gain within the meaning of section 50 of the ^{M7}Consumer Credit Act 1974 (circulars to minors).

Marginal Citations

M7 1974 c. 39.

VALID FROM 29/04/1996

[^{F3} Circulars to minors]

Textual Amendments

F3 Heading and Sch. 2 para. 3A substituted (29.4.1996) for Sch. 2 para. 3(8) by 1996 c. 9, s. 1(2), **Sch. para. 3(5)**

- ^{F4}3A No document sent—
- (a) in connection with public sector student loans by any such person or body as is mentioned in paragraph 3(1) above; or
 - (b) in connection with subsidised private sector student loans by any person making or proposing to make such loans,
- shall be regarded as sent with a view to financial gain within the meaning of section 50 of the ^{M8}Consumer Credit Act 1974 (circulars to minors).

Textual Amendments

F4 Heading and Sch. 2 para. 3A substituted (29.4.1996) for Sch. 2 para. 3(8) by 1996 c. 9, s. 1(2), **Sch. para. 3(5)**

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Marginal Citations

M8 1974 c. 39.

Restriction on disclosure of information

- 4 (1) No person or body having by virtue of paragraph 3 above the function of making and recovering loans shall provide or make available to anyone else (whether for consideration or not) any information held for the purpose of discharging those functions if the information is to be used for soliciting custom for goods or services.
- (2) As respects information constituting personal data for the purposes of the ^{M9}Data Protection Act 1984 sub-paragraph (1) above is without prejudice to the requirements of that Act but applies irrespective of any consent given for the purposes of that Act by the person to whom the information relates.

Marginal Citations

M9 1984 c. 35.

Insolvency: England and Wales

- 5 (1) There shall not be treated as part of a bankrupt's estate or claimed for his estate under section 307 or 310 of the ^{M10}Insolvency Act 1986 any sums to which this paragraph applies and which he receives or is entitled to receive after the commencement of the bankruptcy.
- (2) No debt or liability to which a bankrupt is or may become subject in respect of any such sum shall be included in his bankruptcy debts.
- (3) This paragraph applies to any sum by way of loan under the arrangements payable to the bankrupt pursuant to an agreement entered into by him before or after the commencement of the bankruptcy.

Marginal Citations

M10 1986 c. 45.

Insolvency: Scotland

- 6 Where, after the date of sequestration of a person's estate, he receives, or is entitled to receive, sums by way of loan under the arrangements pursuant to an agreement entered into by him before or after that date—
- (a) the sheriff shall not, in fixing an amount under subsection (2) of section 32 of the ^{M11}Bankruptcy (Scotland) Act 1985, treat the sums as income of the person;

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- (b) for the purposes of subsection (6) of that section the sums shall not be treated as estate vesting in, or requiring to be conveyed or delivered to, the person's permanent trustee; and
- (c) any debt or liability to which the person is, or may become, subject in respect of the sums shall not 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 person is discharged, on the expiry of a period after the date of sequestration, under or by virtue of section 54 or 75(4) of that Act (or on an order being made under paragraph 11 of Schedule 4 to that Act as respects him and the permanent trustee).

Marginal Citations

M11 1985 c. 66.

Status:

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