
STATUTORY INSTRUMENTS

1998 No. 2026

The Education (Student Loans) (Scotland) Regulations 1998

PART III

LOANS FOR MAINTENANCE

Application for a loan

6.—(1) An eligible student shall apply for a loan for maintenance in relation to an academic year by completing and submitting to the Secretary of State the form issued to him under regulation 5(8) not later than one month before the end of that academic year.

(2) The application form shall include—

- (a) the full name of the student, and his or her sex;
- (b) the student's United Kingdom national insurance number, unless he does not have one;
- (c) the student's most recent student loan account number, if any;
- (d) the student's bank or building society sort code and account number;
- (e) the names, addresses and telephone numbers of two persons who know the student;
- (f) a statement whether the student has ever been declared bankrupt or whether his estate has ever been sequestrated; and
- (g) the amount the student wishes to borrow in relation to the academic year in respect of which the application is made, not exceeding the relevant maximum sum specified in regulation 7.

(3) The applicant shall sign a declaration on the application form that—

- (a) the particulars given in the application form are correct to the best of his knowledge and belief;
- (b) he will notify the Secretary of State of any change in them; and
- (c) he will repay any amount lent to him, together with interest and applicable charges and penalties, in accordance with the 1980 Act and Regulations made thereunder from time to time.

(4) If the application form is received by the Secretary of State more than 30 days after the date on which the certificate of eligibility is signed he shall inquire of the institution which provides the student's course whether the student is still attending that course, and shall not proceed with the application until the institution has satisfied him that the student is still attending the course.

(5) The Secretary of State on being satisfied that the student is an eligible student in relation to an academic year shall lend him for his maintenance the amount requested for that year in accordance with regulation 8.

(6) Where a borrower has not applied for the maximum amount of loan to which he is entitled in relation to the academic year he may apply to borrow an additional amount once only, which when added to the amount already applied for shall not exceed the relevant maximum amount specified in regulation 7.

(7) An application under paragraph (6) shall be made not less than one month before the end of the academic year by completing and submitting a form issued to him by the Secretary of State which includes—

- (a) the full name of the student;
- (b) the student's most recent student loan account number; and
- (c) the student's bank or building society sort code and account number.

(8) If the student's bank or building society sort code or account number has changed from the code or number given in an application under paragraph (1) the student shall provide evidence of the code or number.

(9) The student shall sign a declaration on the application form in the terms set out in paragraph (3).

(10) The Secretary of State, on receiving the application form, shall inquire of the institution which provides the student's course whether the student is still attending that course and shall not proceed with the application until the institution has satisfied him that the student is still attending the course.

(11) The Secretary of State on being satisfied that the student remains an eligible student and is entitled to borrow an additional amount for the academic year shall lend him for his maintenance the additional amount requested in accordance with regulation 8.

Amounts of loans

7.—(1) Subject to paragraphs (2) to (5) the maximum amount which may be lent in relation to any one academic year of a course shall be—

- (a) for a student who resides at his parent's home £2,325;
- (b) for a student who does not reside at his parent's home, if he attends a course provided by the University of London or by an institution within the area comprising the City of London and the metropolitan police district, £3,145, otherwise £2,735.

(2) Subject to paragraphs (3) to (5) the maximum amount which may be lent in relation to an academic year which is the final year of a course other than an accelerated course shall be—

- (a) for a student who resides at his parent's home £1,970;
- (b) for a student who does not reside at his parent's home, if he attends a course provided by the University of London or by an institution within the area comprising the City of London and the metropolitan police district, £2,565, otherwise £2,265.

(3) Subject to paragraph (4), where a student's course includes a period of residence in a country other than the United Kingdom throughout the academic year, the maximum amount of the loan in relation to that academic year shall be £2,735 or if the year is the final year of the course £2,265.

(4) For the purposes of paragraphs (1) to (3) where a postgraduate course of initial training for teachers is of only one academic year's duration that year shall not be treated as a final year, and for the purposes of paragraphs (1) and (2) a student's place of residence shall be his place of residence on the date of the certificate of eligibility given under regulation 5(7).

(5) Where in relation to an academic year a student is eligible to receive any payment pursuant to any bursary or award bestowed under section 63 of the Health Services and Public Health Act 1968, or made under the Students' Allowances (Scotland) Regulations 1996⁽¹⁾ the amount of which is calculated by reference to the student's income, unless the course leads to qualification as a medical doctor or as a dentist paragraphs (1) to (3) shall have effect as if £1000 had been deducted from all the amounts referred to.

(1) S.I.1996/1754, amended by S.I. 1997/1049.

Payments

8.—(1) The Secretary of State shall pay the amount to be lent for maintenance under regulation 6(5) in the following instalments—

- (a) if the first instalment is paid during the first period of the academic year it shall be paid in three equal instalments;
- (b) if the first instalment is paid during the second period of the academic year it shall be paid in two instalments, the first amounting to two thirds of the amount to be lent, and the second one third of that amount; and
- (c) if the first instalment is paid during the third or fourth period of the academic year it shall be paid in one instalment.

(2) The Secretary of State shall pay the additional amount to be lent for maintenance under regulation 6(6) in the following instalments—

- (a) if the first instalment is paid during the first period of the academic year it shall be paid in three equal instalments, the second and third of which shall be paid with the second and third instalments to be paid under paragraph (1)(a);
- (b) if the first instalment is paid during the second period of the academic year it shall be paid in two instalments, the first amounting to two thirds of the amount to be lent and the second amounting to one third of that amount the second to be paid with the remaining instalment to be paid under paragraph (1); and
- (c) if the first instalment is paid during the third or fourth period of the academic year it shall be paid in one instalment.

(3) Each instalment shall be paid in relation to the period of the academic year during which it is paid, and no instalment shall be paid in respect of the period during which, in the opinion of the Secretary of State, the longest of any vacations is taken.

(4) The first instalment shall be paid not later than 30 days after the Secretary of State has received a satisfactory application under regulation 6(1), and any subsequent instalment shall be paid during the period in respect of which it is paid.

(5) Payments shall be made by electronic transfer to the student's bank or building society account.

(6) Subject to regulation 9 no instalment shall be paid after a student has withdrawn from, abandoned or been expelled from his course.

(7) No instalment shall be paid when a student is absent from his course, unless in the opinion of the Secretary of State in all the circumstances it would cause exceptional hardship to suspend the payment of instalments.

(8) A student shall not be considered to be absent from his course if he is unable to attend due to illness and his absence has not exceeded 60 days.

(9) If the payment of instalments has been suspended and before the end of the academic year the student commences attending his course again the Secretary of State may pay further instalments but so that the amount lent in relation to that year does not exceed such amount as the Secretary of State in all the circumstances considers appropriate.

Transfers

9.—(1) If with the agreement of the institution in question a borrower in relation to an academic year withdraws from his course without completing it during that year and disregarding any intervening vacation immediately commences attending another designated course provided by the same institution his loan shall be treated for all purposes as if it were a loan in relation to the academic year of the second course.

(2) A borrower who has commenced attending another designated course as described in paragraph (1) shall notify the Secretary of State of any change in the particulars set out in his certificate of eligibility in accordance with regulation 5, and in particular shall provide particulars of the matters referred to in regulation 5(5)(l) to (o).

(3) If with the agreement of the institutions in question a borrower in relation to an academic year withdraws from his course without completing it during that year and disregarding any intervening vacation immediately commences attending another designated course provided by a different institution, subject to paragraphs (4) and (5) he shall be treated as having withdrawn from his course and no further payment of instalments shall be made.

(4) A borrower described in paragraph (3) may notwithstanding regulation 3(1)(e) be eligible for a new loan in relation to the academic year of the second course.

(5) An application for a new loan in reliance on paragraph (4) shall be made in accordance with regulations 5 and 6; but there shall be subtracted from the relevant maximum amount specified in regulation 7 the amount of any instalments already paid to the borrower in relation to the academic year of the first course.

Hardship loan

10.—(1) A borrower who has applied for the maximum amount of loan in relation to an academic year may apply once only for an additional loan on grounds of hardship, which shall be known as a “hardship loan”.

(2) A hardship loan shall not be less than £100 and not more than £250, and shall be a multiple of £25.

(3) A borrower shall demonstrate hardship by providing such evidence of his requirements and resources as the Secretary of State may require.

(4) On being satisfied that due to exceptional financial hardship a borrower may not be able to continue to attend his course for the remaining part of the academic year the Secretary of State shall advise the borrower of the amount of the hardship loan which he considers that the borrower requires, and issue to him an application form.

(5) The borrower shall apply for a hardship loan not greater than the amount referred to in paragraph (4) by completing the form issued to him under that paragraph not later than one month before the end of the academic year.

(6) The application form shall include—

- (a) the full name of the borrower;
- (b) the borrower’s home and term-time address and telephone number, and an indication to which address correspondence should be sent;
- (c) the borrower’s most recent student loan account number; and
- (d) the borrower’s bank or building society sort code and account number.

(7) If the borrower’s bank or building society sort code or account number has changed from the code or number given in the most recent application under regulation 6, the borrower shall provide evidence of the code or number.

(8) The borrower shall sign a declaration on the application form in the terms set out in regulation 6(3).

(9) The Secretary of State shall certify on the form that—

- (a) to the best of his knowledge and belief the particulars in the application form are correct and the borrower continues to attend his course; and

- (b) he is satisfied that due to exceptional financial hardship the borrower might not be able to continue to attend his course for the remaining part of the academic year, and that he ought to be lent the amount applied for.

(10) The borrower shall submit the completed and certified application form to the Secretary of State not more than 30 days after the date of the certificate referred to in paragraph (9) and not later than one month before the end of the academic year, and the Secretary of State shall pay the amount to be lent within 14 days of receipt of a satisfactory application.

Interest

11.—(1) Subject to paragraph (2), loans shall bear interest at the rate which results in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980(2) of 3.5 per cent.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974(3) loans shall bear interest at the rate so specified.

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

(4) The index of prices which the Secretary of State is required by section 73B(7) of the 1980 Act to have regard to in prescribing the rate of interest which loans shall bear shall be the retail prices all items index published by the Office for National Statistics.

Repayments

12.—(1) A borrower may pay any part of, or all of, any moneys he owes to the Secretary of State under the 1980 Act in respect of loans and these Regulations at any time without charge or penalty.

(2) A borrower shall not be required to pay any moneys he owes before 6th April 2000.

(3) Any liability of a borrower under the 1980 Act and these Regulations shall be cancelled if he—

- (a) dies;
- (b) is not in breach of any obligation to repay any loan and he has attained the age of 65; or
- (c) receives a disability related benefit and the Secretary of State is satisfied that because of his disability he is permanently unfit for work.

(4) For the purposes of paragraph (3) “loan” has the meaning given to it in regulation 3(3).

Insolvency

13.—(1) In England and Wales there shall not be treated as part of a bankrupt’s estate or claimed for his estate under section 307 or 310 of the Insolvency Act 1986(4) any sum payable to a borrower by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy.

(2) In Scotland, where after the date of sequestration of a borrower’s estate, he receives, or is entitled to receive, sums by way of loan—

- (a) the sheriff shall not, in fixing an amount under subsection (2) of section 32 of the Bankruptcy (Scotland) Act 1985(5), treat the sums as income of the borrower;

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

(3) 1974 c. 39.

(4) 1986 c. 45; section 310 was amended by the Pensions Act 1995 (c. 26), Schedule 3, paragraph 15.

(5) 1985 c. 66; section 32 was amended by the Child Support Act 1991 (c. 48), Schedule 5, paragraph 6, and the Pensions Act 1995 (c. 26), Schedule 3, paragraph 15.

- (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 borrower's permanent trustee; and
- (c) any debt or liability to which the borrower 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 borrower 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).

(3) In Northern Ireland there shall not be treated as part of a bankrupt's estate or claimed for his estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989⁽⁶⁾ any sum payable to a borrower by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy whether the entitlement arises before or after the commencement of his bankruptcy.

Information

14.—(1) Every applicant for a loan and every borrower shall inform the Secretary of State if—

- (a) he withdraws, abandons or is expelled from his course;
- (b) he ceases to attend it and does not intend to, or is not permitted to, return for the remainder of the academic year;
- (c) he transfers to another course, at the same or a different institution, whether or not the new course is a designated course; or
- (d) he is absent from his course for more than 60 days for any reason, including illness.

(2) Every applicant for a loan and every borrower shall as soon as reasonably practicable provide the Secretary of State with details of any change of home or term time address or telephone number and of any new bank or building society account into which any amount lent to him may be paid by electronic transfer.