
STATUTORY INSTRUMENTS

1998 No. 2026

The Education (Student Loans) (Scotland) Regulations 1998

PART I
GENERAL

Interpretation

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

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

“accelerated course” means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration;

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

“the 1990 Act” means the Education (Student Loans) Act 1990(1);

“borrower” means a person to whom money has been lent under the 1980 Act;

“certificate of eligibility” means a certificate issued to a student under regulation 5(7);

“designated course” means a course designated by regulation 4(1) or by the Secretary of State under regulation 4(4);

“disability related benefit” means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits Act 1992(2), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations 1987(3);

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

“EEA migrant worker” has the meaning assigned to it in paragraph (5);

“eligible” means eligible for the purposes of these Regulations as provided for in regulation 3;

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

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- (1) 1990 c. 6; amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.
- (2) 1992 c. 4; amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 1 to 3, 5 to 6, 8 to 11 and Schedules 1 and 2.
- (3) S.I.1987/1967 (see Parts III and IV of Schedule 2); the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/516 and 1997/543.
- (4) Cmnd 2073.
- (5) Cmnd 2183.

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

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

“loan” means a loan towards a student’s maintenance under the 1980 Act, including the interest accrued on the loan and any penalties and charges made in connection with it;

“period”, in relation to an academic year, means one of the periods in that year from 1st January to 31st March, 1st April to 30th June, 1st July to 31st July, or 1st August to 31st December;

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

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

“relevant date”, in relation to a course, means—

- (a) as respects a course starting in the period 1st August to 31st December, 1st August;
- (b) as respects a course starting in the period 1st January to 31st March, 1st January;
- (c) as respects a course starting in the period 1st April to 30th June, 1st April;
- (d) as respects a course starting in the period 1st July to 31st July, 1st July,

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

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

“sandwich course” means a course consisting of alternate periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purposes of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period; and

“student loan account number” means the account number assigned by the lender to a loan made under the 1980 Act, the 1990 Act, the Teaching and Higher Education Act 1998⁽⁸⁾, the Education (Student Loans) (Northern Ireland) Order 1990⁽⁹⁾ or the Education (Student Support) (Northern Ireland) Order 1998⁽¹⁰⁾.

(2) For the purposes of these Regulations a person who is ordinarily resident in Scotland as a result of having moved from England, Northern Ireland, Wales, the Channel Islands or the Isle of Man for the purpose of attending his present course or a previous designated course which (disregarding any intervening vacation) he was attending immediately before commencing his present course shall be considered to be ordinarily resident in the place from which he moved.

(3) For the purposes of these Regulations a person shall be treated as ordinarily resident in the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental

⁽⁶⁾ Cmnd 9171.

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

⁽⁸⁾ 1998 c. 30.

⁽⁹⁾ S.I. 1990/1506 (N.I. 11).

⁽¹⁰⁾ S.I. 1998/1760 (N.I. 14).

responsibility for him, or any person having care of him when he is a child is, or was, temporarily employed outside the United Kingdom and Islands, or as the case may be, outside the European Economic Area and, paragraph 7(c) of Schedule 1 shall not apply in the case of such a person.

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

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

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

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

- (a) under Council Regulation [\(EEC\) No 1612/68](#) on freedom of movement of workers within the Community⁽¹¹⁾, as extended by the EEA Agreement; or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another Member State in relation to matters which are the subject of the above mentioned Council Regulation.

⁽¹¹⁾ OJNo. L257, 19.10.68, p.2 (OJ/SE 1968 (II), p.475).