

GRADUATE ENDOWMENT ABOLITION (SCOTLAND) ACT 2008

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by the Parliament.
2. The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

BACKGROUND

3. This Act provides for the abolition of the fee known as the Graduate Endowment (“GE”) for students who successfully completed their course on 1 April 2007 or thereafter.
4. The GE was introduced by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (“the 2001 Act”) and applied from 1 August 2001. The GE is imposed by reference to the undertaking of a course of higher education at a publicly-funded institution. The GE currently operates in accordance with the 2001 Act and regulations made under the 2001 Act, the Graduate Endowment (Scotland) Regulations 2007 (S.S.I. 2007/155) (“the principal regulations”).
5. The 2001 Act and the principal regulations operate so that liability to pay the GE arises when the student graduates or ceases to undertake the course having satisfied the academic requirements for the award of the degree (i.e. when the student becomes a “liable graduate”). But the obligation to actually pay the GE (i.e. settle the liability) does not crystallise until 1 April following the last day of the last academic year of the course (that date being the “due date”). Thus, any student who successfully completes his or her course on or after 1 April in a particular year is under obligation to pay the GE on 1 April in the following year. The amount payable is set at the beginning of the degree course and, for entrants in academic year 2006-07, the fee would have been £2,289 at the time of successful completion of the course.

THE ACT

6. The Act provides for abolition of the GE by repealing the relevant sections of the 2001 Act (and revoking the principal regulations), together with the express extinguishing of liabilities by reference to the due date of 1 April 2008 and savings for certain prior liabilities.

THE ACT – SECTION BY SECTION

Section 1: Abolition of the graduate endowment

7. Subsection (1) repeals sections 1 and 2 of the 2001 Act (and revokes the principal regulations). No student will become a liable graduate after the coming into force of this section (as the repeals completely remove the graduate endowment for the future). Sections 2 and 3 of the Act make provision for students who have become liable graduates up to the coming into force of this section.
8. Subsection (2) makes a consequential repeal of paragraph 10 of schedule 3 to the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”), which made an amendment to section 1 of the 2001 Act in consequence of the 2005 Act. That amendment is spent by virtue of the repeal of section 1 of the 2001 Act.

Section 2: Extinguishing of liabilities

9. Section 2 applies to those liable graduates whose due date is 1 April 2008 or after. This means any liable graduate who successfully completed his or her course on or after 1 April 2007. Subsection (2) extinguishes the liability to pay the GE for this category of person.
10. Subsection (3) provides that the GE liability is regarded as never having existed. This addresses the fact (as was foreseen) that the Act commenced (on the day following Royal Assent) after 1 April 2008. On 1 April 2008 the liable graduates in this category will be under a legal obligation to make payment in discharge of their GE liability and any student who successfully completes his or her course between this date and the day the Act comes into force will become a liable graduate (with a due date of 1 April 2009). It also addresses any possibility that such liable graduates might seek to make payment ahead of those due dates. For these circumstances, subsection (3) ensures that the extinguishing of the liability has effect from when the liability first arose.

Section 3: Saving of prior liabilities

11. Section 3 applies to those liable graduates whose due date is before 1 April 2008. This means liable graduates whose due date was 1 April 2005, 2006 and 2007. Subsection (2) means that section 1 of the 2001 Act and the principal regulations are kept in force for the purpose of on-going collection of the GE from this category of person (whose GE liability is not being extinguished by the Act).

Section 4: Reports on impact of Act

12. Section 4 requires Scottish Ministers to report annually to the Parliament on the impact of the Act on widening access to higher education. Subsections (2) and (3) require that the reports include information on the proportion of entrants to higher education from the most deprived areas of Scotland and the proportion of such entrants who complete their course. This obligation will last for five years.

Section 5: Effect on student support

13. Section 5 requires that Scottish Ministers, in making budget proposals to the Parliament, ensure that any provision proposed for student support is not adversely affected because of the abolition of the GE. Subsection (2) defines “budget proposals” and “student support”.

Section 6: Definitions

14. Section 6 defines terms used in the Act. In particular, subsection (1) specifies that GE liabilities include not only the original liability to pay the GE itself but also any superseding loan from the Scottish Ministers made to enable discharge of that liability .

Section 7: Commencement and short title

15. Under section 7, the Act came into force the day after Royal Assent. Royal Assent was granted on 4 April 2008, so the Act came into force on 5 April 2008.

PARLIAMENTARY HISTORY

16. The following table sets out, for each Stage of the proceedings in the Scottish Parliament on the Bill for this act, the dates on which the proceedings at that Stage took place and the references to the official report of those proceedings. It also shows Committee Reports and other papers and provides references to those reports and other papers.

Proceedings and Reports	Reference
Introduction	
22 October 2007	Bill as introduced (SP Bill 3)
Stage 1	
(a) <i>Education, Lifelong Learning and Culture Committee</i>	
8 th Meeting 2007, 7 November 2007	ELLC Committee Official Report cols 235 - 260
9 th Meeting 2007, 14 November 2007	ELLC Committee Official Report cols 292 - 314
11 th Meeting 2007, 28 November 2007	ELLC Committee Official Report cols 348 - 384
3 rd Report, 13 December 2007	ELLC Committee Report
((b) <i>Finance Committee</i>	
7 th Meeting 2007, 6 November 2007	Finance Committee Official Report cols 95 - 105
Finance Committee report , 21 November 2007	Finance Committee Report
((c) <i>Consideration by the Parliament</i>	
Stage 1 Debate, 20 December 2007	Official Report cols 4629 - 4682
Stage 2	
(a) <i>Education, Lifelong Learning and Culture Committee</i>	
2 nd Meeting 2008, 23 January 2008	ELLC Committee Official Report cols 551 - 561
Bill as amended at Stage 2, 27 February 2008	Bill as amended at Stage 2
Stage 3	
(a) <i>Consideration by the Parliament</i>	
Stage 3 Debate, 28 February 2008	Official Report cols 6482 - 6530
Bill as amended at Stage 3, 29 February 2008	Bill as amended at Stage 3
Royal Assent	
4 April 2008	