



Education (Student Loans) Act 1998

1998 CHAPTER 1

An Act to make further provision with respect to public sector student loans. [27th January 1998]

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:—

Transfer of loans to private sector

1 Transfer of public sector student loans to the private sector

After section 1 of the Education (Student Loans) Act 1990 there shall be inserted—

“1A Transfer of public sector student loans to the private sector

- (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.
- (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—

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- (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.”

Terms of loans

2 Regulations to prescribe certain terms of student loan agreements

- (1) Paragraph 1 of Schedule 2 to the 1990 Act (public sector student loans: principal, interest and payments) shall be amended as follows.
- (2) In paragraph 1(1), for paragraphs (b) and (c) there shall be substituted—
- “(b) require the terms of every agreement for a public sector student loan to include—
 - (i) such terms relating to the time and manner of repayments,
 - (ii) such terms relating to the interest to be borne by the loan, and
 - (iii) such terms under which the borrower’s liability may be deferred or cancelled,
 as are prescribed by the regulations.”
- (3) In paragraph 1(3), for “under sub-paragraph (1)(b) above” there shall be substituted “made in pursuance of sub-paragraph (1)(b)(i) above”.
- (4) For paragraph 1(4) and (5) there shall be substituted—
- “(4) Regulations made in pursuance of sub-paragraph (1)(b)(ii) above shall make such provision with respect to the rate of interest for the time being applicable to a public sector student loan as the Secretary of State considers appropriate to maintain the value in real terms of the outstanding amount of the loan.
 - (5) The provision required by sub-paragraph (4) above shall be framed by reference to such index of prices as may be specified in, or determined in accordance with, the regulations.”

(5) After paragraph 1(5) (as substituted by subsection (4) above) there shall be inserted—

“(6) Nothing in any regulations under sub-paragraph (1)(b) above shall affect the terms of any agreement for a public sector student loan entered into before the date of the coming into force of the regulations.”

(6) Where an agreement for a public sector student loan was entered into before the commencement of this section, then as from that time—

(a) the agreement shall have effect as if its terms included the terms prescribed in relation to such an agreement by regulations in force at that time under paragraph 1(1)(b) of Schedule 2 to the 1990 Act as amended by subsection (2) above; and

(b) the prescribed terms shall have effect in accordance with paragraph (a) above in place of any of the existing terms of the agreement that make provision for any of the matters for which provision is made by the prescribed terms.

(7) Paragraph 1(6) of Schedule 2 to the 1990 Act, as inserted by subsection (5) above, accordingly has effect subject to subsection (6) above.

Administration of loans

3 Administration of public sector student loans

(1) For paragraph 3 of Schedule 2 to the 1990 Act there shall be substituted—

“Public sector student loans: administration

3 (1) Arrangements made with any person under section 1(1) of this Act may in particular provide for—

- (a) the making of public sector student loans by that person;
- (b) the terms to be contained in the agreements for such loans, so far as not provided for by or under paragraph 1 above;
- (c) the making of payments by the Secretary of State to that person for the purpose of enabling him to make such loans or otherwise in connection with such loans;
- (d) the making of repayments by that person to the Secretary of State; and
- (e) the provision by that person to the Secretary of State of reports with respect to the working of the arrangements.

(2) Any 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 disputes between persons borrowing or intending to borrow by way of public sector student loans and the person with whom the arrangements are made.”

(2) In paragraph 3A of that Schedule (circulars to minors), for the words in sub-paragraph (a) from “such person” to “above;” there shall be substituted “person with whom arrangements have been made under section 1(1) of this Act;”.

(3) In paragraph 4 of that Schedule (restriction on disclosure of information), for sub-paragraph (1) there shall be substituted—

“(1) No person with whom arrangements have been made under section 1(1) of this Act shall provide or make available to anyone else (whether for consideration or not) any information held in connection with public sector student loans if the information is to be used for soliciting custom for goods or services.”

- (4) Where any arrangements made with an existing lender under section 1(1) of the 1990 Act were in force immediately before the commencement of this section, then until such time as they are replaced by arrangements made in accordance with paragraph 3 of Schedule 2 to the 1990 Act as amended by subsection (1) above—
- (a) the arrangements shall continue to have effect as if made in accordance with paragraph 3 of that Schedule as so amended;
 - (b) existing paragraph 3(2) and (6) shall continue to have effect in relation to the existing lender and any public sector student loans made by him; and
 - (c) in relation to any time when section 2 above is not in force, existing paragraph 3(4) shall also continue so to have effect.
- (5) For the purposes of subsection (4)—
- (a) “existing lender” means a person or body falling within existing paragraph 3(1); and
 - (b) any reference to an “existing” provision is a reference to that provision of Schedule 2 to the 1990 Act as in force immediately before the commencement of this section.

General

4 Corresponding provision for Northern Ireland

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the 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.

5 Financial provisions

There shall be paid out of money provided by Parliament any increase attributable to this Act—

- (a) in the sums required by the Secretary of State for making payments under the 1990 Act;
- (b) in the expenses of the Secretary of State under that Act.

6 Consequential amendment and repeals

- (1) In section 578 of the Education Act 1996 (meaning of “the Education Acts”), at the appropriate place there shall be inserted—

“the Education (Student Loans) Act 1998”.

- (2) The enactments specified in the Schedule to this Act are repealed to the extent specified.

7 Short title, interpretation, commencement and extent

- (1) This Act may be cited as the Education (Student Loans) Act 1998.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996.
- (3) In this Act “the 1990 Act” means the Education (Student Loans) Act 1990.
- (4) The following provisions of this Act, namely—
sections 2 and 3, and
section 6(2) and the Schedule,
shall not come into force until such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different provisions.
- (5) Apart from section 4 and this section, this Act does not extend to Northern Ireland.

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SCHEDULE

Section 6(2).

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1996 c. 9.	Education (Student Loans) Act 1996.	In the Schedule, in paragraph 3, sub-paragraphs (4) and (6) (a).