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STATUTORY INSTRUMENTS

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**1998 No. 258 (N.I. 1)**

**NORTHERN IRELAND**

**The Education (Student Loans) (Northern Ireland) Order 1998**

*Made - - - - 11th February 1998*  
*Laid before Parliament 16th February 1998*  
*Coming into operation in accordance with Article 1(2)*  
*and (3)*

At the Court at Buckingham Palace, the 11th day of February 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Education (Student Loans) Act 1998:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 4 of the said Act of 1998) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Education (Student Loans) (Northern Ireland) Order 1998.

(2) Subject to paragraph (3), this Order shall come into operation on such day or days as the Department of Education may by order appoint.

(3) This Article and Articles 2 and 3 shall come into operation on the expiration of 7 days from the day on which this Order is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the 1990 Order” means the Education (Student Loans) (Northern Ireland) Order 1990.

### **Transfer of public sector student loans to the private sector**

3. After Article 3 of the 1990 Order there shall be inserted—

#### **“Transfer of public sector student loans to the private sector**

**3A.—**(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 Department may make such arrangements as it thinks fit for the purpose of facilitating, or otherwise in connection with, an assignment under paragraph (1).

(3) Arrangements under this Article may provide for the Department 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 Department 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 paragraph (1).

(5) Such arrangements may also provide for the appointment of an independent person approved by the Department 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) Paragraphs (3) to (5) shall not be read as affecting the generality of paragraph (2).

(7) In this Article—

“the purchaser” means the assignee under an assignment under paragraph (1);

“relevant lender”, in relation to a public sector student loan, means the person who made the loan or the purchaser;

“specified” means specified in arrangements under this Article.”.

### **Regulations to prescribe certain terms of student loan agreements**

**4.—**(1) Paragraph 1 of Schedule 2 to the 1990 Order (public sector student loans: principal, interest and payments) shall be amended as follows.

(2) In paragraph 1(1), for heads (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)” there shall be substituted “made in pursuance of sub-paragraph (1)(b)(i)”.

(4) For paragraph 1(4) and (5) there shall be substituted—

“(4) Regulations made in pursuance of sub-paragraph (1)(b)(ii) shall make such provision with respect to the rate of interest for the time being applicable to a public sector

student loan as the Department considers appropriate to maintain the value in real terms of the outstanding amount of the loan.

(5) The provision required by sub-paragraph (4) 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 paragraph (4) above) there shall be inserted—

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

(6) Where an agreement for a public sector student loan was entered into before the coming into operation of this Article, 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 operation at that time under paragraph 1(1)(b) of Schedule 2 to the 1990 Order as amended by paragraph (2) above; and

(b) the prescribed terms shall have effect in accordance with sub-paragraph (a) 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 Order, as inserted by paragraph (5) above, accordingly has effect subject to paragraph (6) above.

### **Administration of public sector student loans**

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

#### *“Public sector student loans: administration*

3.—(1) Arrangements made with any person under Article 3(1) 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;
- (c) the making of payments by the Department 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 Department; and
- (e) the provision by that person to the Department 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 Department 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 Schedule 2 to the 1990 Order (circulars to minors), for the words in sub-paragraph (a) from “such person” to “paragraph 3(1)” there shall be substituted “person with whom arrangements have been made under Article 3(1)”.

(3) In paragraph 4 of Schedule 2 to the 1990 Order (restriction on disclosure of information), for sub-paragraph (1) there shall be substituted—

“(1) No person with whom arrangements have been made under Article 3(1) 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 Article 3(1) of the 1990 Order were in force immediately before the coming into operation of this Article, then until such time as they are replaced by arrangements made in accordance with paragraph 3 of Schedule 2 to the 1990 Order as amended by paragraph (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 Article 4 is not in operation, existing paragraph 3(4) shall also continue to have effect.

(5) For the purposes of paragraph (4)—

- (a) “existing lender” means a person or body falling within existing paragraph 3(1);
- (b) any reference to an “existing” provision is a reference to that provision of Schedule 2 to the 1990 Order as in operation immediately before the coming into operation of this Article.

### **Repeals**

6. In the Schedule to the Education (Student Loans) (Northern Ireland) Order 1996, in paragraph 3 sub-paragraphs (4) and (6)(a) are hereby repealed.

*N.H. Nicholls*  
Clerk of the Privy Council

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of the Education (Student Loans) Act 1998.

This Order facilitates the sale of a portfolio of public sector student loans to financial institutions by enabling the Department of Education to make subsidy payments to the purchaser. It also prevents certain loan terms from being changed once a loan has been made.