
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 154

The Education (Student Loans) (Scotland) Regulations 2007

**PART IV
PAYMENTS**

Payment of loans

12.—(1) Subject to the following paragraphs the Scottish Ministers may pay loans for which an eligible student has applied under these Regulations at such times and in such number of instalments (which need not be of equal amounts) as they consider appropriate; and in the exercise of their functions under this paragraph they may, in particular, make provisional payments pending the final calculation of the amount of loan for which the student is eligible.

(2) No instalment of a loan shall be paid in respect of the period of the academic year during which, in the opinion of the Scottish Ministers, the longest of any vacations is taken.

(3) Payments may be made in such manner as the Scottish Ministers consider appropriate, and they may make it a condition of entitlement to payment that the eligible student shall provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(4) Subject to regulation 6, no instalment shall be paid after an eligible student has withdrawn from, abandoned or been expelled from their course.

(5) No instalment shall be paid in respect of a period during any part of which an eligible student is absent from their course if attendance at the course is a requirement of it, unless in the opinion of the Scottish Ministers in all the circumstances it would be appropriate to pay all or part of the loan.

(6) In deciding whether it would be appropriate to pay all or part of the loan when an eligible student is absent from their course, the circumstances which the Scottish Ministers shall have regard to include the reasons for the student's absence, the length of the absence and the financial hardship which not paying all or part of the instalment of loan would cause.

(7) An eligible student shall not be considered to be absent from their course if that student is unable to attend due to illness and their absence has not exceeded 60 days.

(8) If the payment of instalments has been suspended and before the end of the academic year the eligible student commences undertaking their course again the Scottish Ministers may pay further instalments but so that the amount lent in relation to that year does not exceed such amount as the Scottish Ministers in all the circumstances consider appropriate.

(9) Where the Scottish Ministers have paid any instalment of loan and the eligible student applies for an additional loan in respect of an academic year, the Scottish Ministers shall pay the first instalment as soon as is reasonably practicable after a satisfactory application has been received and any subsequent instalments with instalments already payable.

(10) Where the Scottish Ministers have paid an instalment of loan for which a student is eligible in respect of an academic year and they make a determination that the amount of loan for which the student is eligible is less than the amount previously determined, either by way of revision of a provisional determination or otherwise—

- (a) they shall subtract such amount as is necessary to ensure that the student does not borrow an amount greater than the amount which that student is eligible to borrow from any instalments of loan which remain to be paid;
- (b) if the amount to be subtracted is greater than the amount of loan remaining to be paid that amount shall be reduced to nil;
- (c) any remaining overpayment shall be recovered in accordance with regulation 13.

Overpayments

13.—(1) Any overpayment of a loan in respect of any academic year may be recovered by the Scottish Ministers if, in their opinion—

- (a) the overpayment is a result of a failure of the student to provide promptly information which might affect their eligibility for a loan or the amount of loan for which that student is eligible; or
- (b) any information which that student has provided is inaccurate in a material particular,

but otherwise it shall be treated as a loan properly made under these Regulations which shall be repayable in accordance with the Act and any regulations made under it.

(2) Where an overpayment of loan is treated, by virtue of paragraph (1), as a loan properly made, the Scottish Ministers may subtract the overpayment from the amount of loan for which the student is eligible in respect of any other academic year.

(3) Where an overpayment of loan is recoverable in accordance with paragraph (1) it shall be recovered in such one or more of the following ways as the Scottish Ministers consider appropriate in all the circumstances—

- (a) by subtracting the overpayment from the amount of loan for which the student is eligible in respect of any other academic year;
- (b) where a student upon completion of their course immediately commences another course (disregarding any intervening vacation) by subtracting the overpayment from the amount of any loan for which that person is eligible in respect of any academic year in connection with the second course;
- (c) by taking such other action for the recovery of a payment made without statutory authority as is available to them.