
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 155

The Graduate Endowment (Scotland) Regulations 2007

PART IV

LOANS TO PAY THE GRADUATE ENDOWMENT

Eligibility for a loan

9.—(1) The Scottish Ministers shall make a loan in accordance with these Regulations in respect of each liable graduate who applies for a loan in accordance with regulation 10 for the purposes of discharging their liability to pay the graduate endowment.

(2) A liable graduate shall be eligible for such a loan subject to paragraph (3).

(3) The Scottish Ministers may make it a condition of entitlement to payment of any loan that the liable graduate must provide them with the liable graduate's United Kingdom national insurance number.

(4) Where the Scottish Ministers have imposed a condition under paragraph (3), they must not make any payment of the loan to the liable graduate before they are satisfied that the liable graduate has complied with that condition.

(5) Notwithstanding paragraph (4), the Scottish Ministers may make a payment of loan to a liable graduate if they are satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the liable graduate having complied with the condition imposed under paragraph (3).

Applications for a loan

10.—(1) A liable graduate shall apply for a loan by completing and submitting to the Scottish Ministers an application in such form as the Scottish Ministers may require.

(2) The completed application shall include such information as the Scottish Ministers require, including the following particulars:—

- (a) the liable graduate's United Kingdom national insurance number;
- (b) the liable graduate's most recent student loan account number, if any; and
- (c) the names, addresses and telephone numbers of two persons who know the liable graduate.

(3) The completed application shall also include a declaration, which shall be signed by the liable graduate that—

- (a) the particulars given in the form are correct to the best of their knowledge and belief; and
- (b) they will notify the Scottish Ministers of any change in those particulars which might affect their eligibility for a loan.

(4) The application form must reach the Scottish Ministers by such date as they may determine from time to time (and different dates may be determined by them in respect of loans for different liable graduates) unless the Scottish Ministers consider that, having regard to the circumstances of

the particular case, the time limit should not apply, in which case the application must reach the Scottish Ministers not later than such date as they specify.

(5) A liable graduate shall demonstrate their eligibility for a loan by providing such evidence as the Scottish Ministers may require.

(6) The Scottish Ministers may take such steps and make such enquiries as they consider necessary to determine whether the liable graduate is eligible for a loan.

Information

11.—(1) Every liable graduate applying for a loan under regulation 10 shall as soon as reasonably practicable after requested to do so provide the Scottish Ministers with such information as they consider necessary for the exercise of their functions under these Regulations.

(2) The Scottish Ministers may at any time require a liable graduate to enter into an agreement to repay a loan by a particular method.

(3) The Scottish Ministers may at any time request from a liable graduate sight of their valid national identity card, their valid passport issued by the state of which they are a national or their birth certificate.

(4) The Scottish Ministers may at any time verify with the Department for Work and Pensions the United Kingdom national insurance number that a liable graduate has provided or may check with the Department for Work and Pensions whether the liable graduate has such a number with a view to obtaining it if the liable graduate does.

(5) Where the Scottish Ministers have requested information or documents under this regulation, they may withhold any payment of a loan until the liable graduate provides what has been requested or provides a satisfactory explanation for not complying with the request.

(6) Where the Scottish Ministers have requested an agreement as to the method of repayment under this regulation, they may withhold any payment of a loan until the liable graduate provides what has been requested.

Amount of Loan

12. The amount of any loan shall be the amount of the graduate endowment for which the liable graduate to whom the loan is made is liable.

Purpose of Loan

13.—(1) The Scottish Ministers shall apply the full amount of any loan made in respect of a liable graduate for the purpose of discharging the liability of that liable graduate to pay the graduate endowment, and shall not pay any part of the loan to the liable graduate or to any other person on their behalf.

(2) Where a liable graduate has made an application for a loan prior to the due date, the Scottish Ministers shall apply the amount of their loan in accordance with paragraph (1) on the due date.

(3) Where a liable graduate has made an application for a loan after the due date, the Scottish Ministers shall apply the amount of their loan in accordance with paragraph (1) as soon as reasonably practicable.

(4) Any loan made in respect of a liable graduate in accordance with these Regulations shall be applied for the purpose referred to in paragraph (1) and for no other purpose.

Interest

14.—(1) Subject to paragraph (2), loans shall bear interest from the date on which they are applied by the Scottish Ministers in accordance with regulation 13 at the rate which will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980(1) equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for the month of March immediately preceding the month in which the loan is applied by the Scottish Ministers in accordance with regulation 13 and that index so published for the previous March.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974(2) loans shall bear interest at the rate so specified.

(3) Interest shall be calculated on the principal outstanding daily, and shall be added to the principal monthly.

Insolvency

15. Where after the date of sequestration of a liable graduate's estate, they receive, or are entitled to receive, a loan in accordance with these Regulations—

- (a) the sheriff shall not, in fixing an amount under subsection (2) of section 32 of the Bankruptcy (Scotland) Act 1985(3) treat the loan as income of the eligible student;
- (b) for the purpose of subsection (6) of that section the loan shall not be treated as estate vesting in, or requiring to be conveyed or delivered to, the eligible student's permanent trustee; and
- (c) any debt or liability to which the eligible student is, or may become, subject in respect of the loan shall not be treated as a debt or liability—
 - (i) for the purposes of the sequestration (or of any offer of composition to the permanent trustee); or
 - (ii) from which the liable graduate is discharged on the expiry of a period after the date of sequestration, under or by virtue of section 54 or 75(4) of that Act (or on an order being made under paragraph 11 of Schedule 4 to that Act as respects the liable graduate and the permanent trustee).

(1) S.I.1980/51, amended by S.I. 1999/3177.

(2) 1974 c. 39.

(3) 1985 c. 66; section 32 was amended by the Child Support Act 1991 (c. 48), Schedule 5, paragraph 6, the Pensions Act 1995 (c. 26), Schedule 3, paragraph 14 and the Welfare Reform and Pensions Act 1999 (c. 30) Schedule 2, paragraph 1; and prospectively by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), sections 17, 18 and 19 and schedule 1.