

POLICY NOTE

THE EDUCATION (FEES AND STUDENT SUPPORT) (MISCELLANEOUS AMENDMENTS) (EU EXIT) (SCOTLAND) REGULATIONS 2019

SSI 2019/70

The above instrument was made in exercise of the powers conferred by sections 49(3), 73(f), 73B and 74(1) of the Education (Scotland) Act 1980 and section 1 of the Education (Fees and Awards) Act 1983. The instrument is subject to negative procedure.

The proposed commencement date for this instrument is the 6 April 2019. This is in order to align the student loan repayment changes with instruments that are being laid in the Parliaments of the other Devolved Administrations. The proposed changes to the student support residency criteria will not take effect until the start of the 2019/2020 academic year (August 2019) and therefore do not need to come into force on EU exit day.

Purpose of the instrument

To enable access to student support for persons who have been granted discretionary leave to remain in the UK as victims of modern slavery/human trafficking. We are also proposing to extend the current postgraduate support package to enable students undertaking Research Masters courses to access tuition fee and living cost loans. A change is proposed to allow more frequent data on employer deductions to be shared between the Student Loans Company and HMRC in order to help reduce the instances of over-repayments of student loans. A final change is proposed which will protect the rights of EU students and other groups who are currently eligible to receive student support in the event of either a ‘deal’ or ‘no deal’ Brexit. This change will ensure that all categories of students who are currently eligible for home fee status and student support will continue to be eligible in the event that the UK exits the EU with or without a formal exit deal in place.

Policy Objectives

These Regulations make a number of miscellaneous amendments to the Repayment of Student Loans (Scotland) Regulations 2000 (“the Repayment Regulations”), the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006 (“the SLTF Regulations”), the Education Authority Bursaries (Scotland) Regulations 2007 (“the Bursaries Regulations”), the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 (“the Nursing Regulations”), the Students’ Allowances (Scotland) Regulations 2007 (“the Allowances Regulations”), the Education (Student Loans) (Scotland) Regulations 2007 (“the Loans Regulations”), the Education Maintenance Allowances (Scotland) Regulations 2007 (“the EMA Regulations”), and the Education (Fees) (Scotland) Regulations 2011 (“the Fees Regulations”). The policy objectives of the main amendments are summarised below.

Providing access to student support for those persons who have been granted discretionary leave to remain in the UK as victims of modern slavery.

Regulations 3(a), 4(a), 5(a), 6(3)(a), 7(5)(a), 8(3)(a) and 9(3)(a) amend the eligibility criteria set out in the SLTF Regulations, the Bursaries Regulations, the Nursing Regulations, the Allowances Regulations, the Loans Regulations, and the EMA Regulations. Regulation 8(1)

amends the list of excepted students set out in the Fees Regulations. The purpose of the amendments is to enable a person who has been granted discretionary leave to remain in the UK as a victim of modern slavery to access student support and to have the status of 'home students' for the purposes of the level of tuition fees charged.

A link to the UK Home Office guidance on Discretionary leave considerations for victims of modern slavery is provided below and includes the UK Government's definition of modern slavery.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739436/dl-for-victims-of-modern-slavery-v2.pdf

Support for postgraduate students

Regulation 7(2), (3), (4), 5(b) and (6) amends the Loans Regulations with the purpose of extending postgraduate tuition fee and living-cost support to students undertaking Research Masters courses on the same basis as those undertaking Taught Postgraduate courses.

Student loan repayments

Regulation 2 amends the Repayment Regulations in order to introduce a change which defines the current PAYE process. This is required to reflect the fact that information on student loan deductions by the employer will be received by the Student Loans Company (SLC) more regularly. This relates to the work currently being carried out between SLC and HMRC to facilitate increased data sharing which will allow for employer deductions to be updated to SLC systems more often and help ensure customers receive a more up to date balance. The overall aim of this work is to help reduce the instances of over-repayments of student loans as the SLC will receive regular up to date information from employers, rather than having to wait until the end of the financial year.

Student support eligibility following EU exit

Regulations 3(b), 4(b), 5(b), 6(3)(b), 7(5)(c) and 8(3)(b) amend the eligibility criteria set out in the SLTF Regulations, the Bursaries Regulations, the Nursing Regulations, the Allowances Regulations, the Loans Regulations, and the EMA Regulations. Regulation 9(3)(b) amends the list of excepted students set out in the Fees Regulations. On the 1 February 2018, the Scottish Government made a commitment to eligible EU nationals commencing their studies in academic year 2019/20 that they will continue to receive support. The purpose of these changes is to include a provision which will protect the rights of those students and other groups currently eligible to access the student support package, in the event that the UK exits the EU with or without a formal exit deal in place. The change will ensure that all categories of students who are currently entitled to home fee status and student support will continue to be eligible in 2019/20 under either outcome.

Consultation

A consultation was not considered necessary due to the nature of the amendments.

Impact Assessments

Equality Impact Assessments have been conducted for the amendments relating to victims of Modern Slavery and postgraduate Research Masters courses and will be published on the Scottish Government website in due course. An EQIA for the More Frequent Data Sharing amendment was not considered necessary as the change relates to information sharing between SLC and HMRC.

Financial Effects

A BRIA is not necessary as the instrument has no impact upon business, charities or voluntary bodies.

We do not consider that extending the support for EU students in the 2019/2020 academic year will present any additional financial pressure to the Scottish Government.

Scottish Government
Directorate for Advanced Learning and Science
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