



Teaching and Higher Education Act 1998

1998 CHAPTER 30

PART II

FINANCIAL PROVISION FOR HIGHER AND FURTHER EDUCATION

CHAPTER I

ENGLAND AND WALES

Student support

22 New arrangements for giving financial support to students.

- (1) Regulations shall make provision authorising or requiring the Secretary of State to make grants or loans, for any prescribed purposes, to eligible students in connection with their [^{F1}undertaking]—
- (a) higher education courses, or
 - (b) further education courses,
- which are designated for the purposes of this section by or under the regulations.
- (2) Regulations under this section may, in particular, make provision—
- (a) for determining whether a person is an eligible student in relation to any grant or loan available under this section;
 - [^{F2}(aa) for the designation of a higher education course for the purposes of this section to be determined by reference to matters determined or published by the Office for Students or other persons (whether before or after the regulations are made);]
 - (b) prescribing, in relation to any such grant or loan and an academic year, the maximum amount available to any person for any prescribed purpose for that year;

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- (c) where the amount of any such grant or loan may vary to any extent according to a person's circumstances, for determining, or enabling the determination of, the amount required or authorised to be paid to him;
 - (d) prescribing categories of attendance on higher education courses or further education courses which are to qualify for any purposes of the regulations;
 - (e) for any grant under this section to be made available on such terms and conditions as may be prescribed by, or determined by the Secretary of State under, the regulations, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined;
 - (f) requiring the making of payments in respect of any such grant to be suspended or terminated in any such circumstances;
 - [^{F3}(fa) in the case of a grant under this section in connection with a higher education course, where a payment has been so suspended, for the cancellation of any entitlement to the payment in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations;]
 - (g) prescribing requirements or other provisions, whether as to repayment or otherwise, which are for the time being to apply in relation to loans under this section (including requirements or other provisions taking effect during the currency of such loans so as to add to, or otherwise modify, those for the time being applying in relation to the loans);
 - (h) authorising grants in respect of fees payable in connection with [^{F4}attendance on] courses to be paid directly to institutions charging the fees;
 - (i) requiring prescribed amounts payable to eligible students under loans under this section to be paid directly to institutions [^{F5}to whom those persons are liable to make payments];
 - (j) modifying any enactment or instrument (whenever passed or made) so as to provide for the treatment, in connection with any calculation with respect to the income (however defined) of persons to whom grants or loans are made under this section, of amounts due from or payable to such persons under such grants or loans;
 - (k) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals).
- [^{F6}(2A) The provision which may be made by virtue of subsection (2)(b) in respect of higher education courses includes provision prescribing the maximum amount by reference to matters determined or published by the Secretary of State or other persons (whether before or after the regulations are made).]
- (3) The provision which may be made by virtue of subsection (2)(g) in relation to loans under this section includes provision—
- (a) for such loans to bear compound interest at such rates, and calculated in such manner, as may be prescribed from time to time;
 - (b) for such loans to be repaid in such manner, at such times, and to such person or body as may be prescribed from time to time;
 - (c) for the payment, in respect of amounts overpaid by borrowers, of interest at such rate, and calculated in such manner, as may be determined by the Secretary of State from time to time;
 - (d) for a borrower not to be liable to make any repayment in respect of such a loan—
 - (i) during such period as may be prescribed from time to time, or

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- (ii) in such circumstances as may be so prescribed, including provision for the cancellation of any further such liability of the borrower in any such circumstances;
 - [^{F7}(da) in the case of a loan under this section in connection with a higher education course, for the cancellation of the entitlement of a borrower to receive a sum under such a loan in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations where the payment of the sum has been suspended;]
 - (e) with respect to sums which a borrower receives, or is entitled to receive, under such a loan after the commencement of his bankruptcy or the date of the sequestration of his estate.
 - [^{F8}(f) with respect to the effect of bankruptcy upon a borrower's liability to make repayments in respect of such a loan (whether the repayments relate to sums which the borrower receives, or is entitled to receive, before or after the commencement of the bankruptcy);]
 - [^{F9}(g) with respect to sums which a borrower receives, or is entitled to receive, under such a loan before or after a voluntary arrangement under Part 8 of the Insolvency Act 1986 or Part 8 of the Insolvency (Northern Ireland) Order 1989 (individual voluntary arrangements) takes effect in respect of the borrower;
 - (h) excluding or modifying the application of Part 8 of that Act, or Part 8 of that Order, in relation to liability to make repayments in respect of such a loan (whether the repayments relate to sums which the borrower receives, or is entitled to receive, before or after a voluntary arrangement takes effect in respect of the borrower).]
- (4) In relation to loans under this section—
- [^{F10}(a) the rates prescribed by regulations made in pursuance of subsection (3)(a) must be—
 - (i) lower than those prevailing on the market, or
 - (ii) no higher than those prevailing on the market, where the other terms on which such loans are provided are more favourable to borrowers than those prevailing on the market;] and
 - (b) such regulations may make provision, for the purpose of calculating the interest to be borne by such loans, for repayments by borrowers to be treated as having been made or received on such date or dates as may be prescribed by the regulations.
- (5) Regulations under this section may also make such provision as the Secretary of State considers necessary or expedient in connection with the recovery of amounts due from borrowers under loans under this section, including provision for—
- (a) imposing on employers, or (as the case may be) such other persons or bodies as may be prescribed, requirements with respect to—
 - (i) the making of deductions in respect of amounts so due (or, in any prescribed circumstances, amounts assessed in accordance with the regulations to be so due) from emoluments payable to borrowers,
 - (ii) the collection by other means of such amounts,
 - (iii) the transmission of amounts so deducted or collected to the Secretary of State in accordance with directions given by him;
 - (b) imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to the keeping and production of records for such purposes as may be prescribed;

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- (c) imposing on borrowers requirements with respect to—
 - (i) the provision of such information, and
 - (ii) the keeping and production of such documents and records, relating to their income as may be prescribed;
 - (d) requiring the payment, by persons or bodies to whom requirements imposed in pursuance of any of paragraphs (a) to (c) apply, of—
 - (i) penalties in cases of non-compliance with, or otherwise framed by reference to, such requirements, and
 - (ii) interest in respect of periods when such penalties are due but unpaid;
 - (e) requiring the payment by borrowers, in respect of periods when amounts due under their loans are unpaid, of—
 - (i) interest (applied to such amounts at a rate calculated otherwise than in accordance with subsection (4)(a)), or
 - (ii) both such interest and one or more surcharges (together with further interest in respect of periods when such surcharges are due but unpaid);
 - (f) enabling the Secretary of State to require the reimbursement by borrowers of costs or expenses of any prescribed description incurred by him in connection with the recovery of unpaid amounts;
 - (g) applying or extending with or without modification, for purposes connected with the recovery of amounts under regulations made by virtue of this subsection, any of the provisions of the Taxes Acts or of [F11PAYE regulations];
 - (h) determining the priority as between deductions falling to be made by virtue of paragraph (a)(i) and deductions falling to be made, from emoluments payable to borrowers, by virtue of other enactments (whenever passed).
- (6) In subsection (5)—
- (a) “employers” means persons who make payments of, or on account of, [F12PAYE income], and
 - (b) “the Taxes Acts” has the same meaning as in the M1Taxes Management Act 1970.

F13(7)

[F14(8) For the purposes of subsection (4)(a) F15... the Secretary of State shall have regard to such index of prices as may be specified in, or determined in accordance with, regulations under this section.]

[F14(9) In subsection (4)(a) “the specified rate for low interest loans” means the rate for the time being specified [F16by article 60G(3)(d) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001]]

[F17(10) Interest required to be paid, by virtue of subsection (5)(d), by regulations under this section shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.]

Textual Amendments

F1 Word in s. 22(1) substituted (1.10.2000) by 2000 c. 21, s. 146(2)(a); S.I. 2000/2559, art. 2(1), Sch. Pt.

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- F2** S. 22(2)(aa) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 88(2)**, 124(2); S.I. 2018/241, reg. 2(l); S.I. 2018/415, reg. 2(a)
- F3** S. 22(2)(fa) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 88(3)**, 124(2); S.I. 2018/241, reg. 2(l); S.I. 2018/415, reg. 2(a)
- F4** Words in s. 22(2)(h)(7) omitted (1.10.2000) and expressed to be repealed (1.10.2000 for E. and 1.1.2001 for W.) by 2000 c. 21, ss. 146(2)(b), 153, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I** and S.I. 2000/3230, art. 2, **Sch.**
- F5** Words in s. 22(2)(i) substituted (14.1.2006) by Higher Education Act 2004 (c. 8), **ss. 43(2)**, 52(2); S.I. 2006/51, art. 2
- F6** S. 22(2A) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 88(4)**, 124(2); S.I. 2018/241, reg. 2(l); S.I. 2018/415, reg. 2(a)
- F7** S. 22(3)(da) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 88(5)**, 124(2); S.I. 2018/241, reg. 2(l); S.I. 2018/415, reg. 2(a)
- F8** S. 22(3)(f) inserted (1.7.2004) by Higher Education Act 2004 (c. 8), **s. 42(1)(5)**, 52(1)
- F9** S. 22(3)(g)(h) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 257(2)(4)**, 269(4); S.I. 2009/3317, art. 2, **Sch.**
- F10** S. 22(4)(a) substituted (15.11.2011) by Education Act 2011 (c. 21), **ss. 76(1)**, 82(1)(g) (with s. 76(3))
- F11** Words in s. 22(5)(g) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 6 para. 236(a)** (with Sch. 7)
- F12** Words in s. 22(6)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 6 para. 236(b)** (with Sch. 7)
- F13** S. 22(7) repealed (14.1.2006) by Higher Education Act 2004 (c. 8), ss. 43(3), 52(2), **Sch. 7**; S.I. 2006/51, art. 2
- F14** S. 22(8)(9) omitted (15.11.2011 in relation to a student who begins a course on or after 1.9.2012 except in prescribed circumstances) by virtue of Education Act 2011 (c. 21), **ss. 76(2)(a)(3)**, 82(1)(g) (with S.I. 2012/1309, **regs. 1(1)**, 15)
- F15** Words in s. 22(8) repealed (14.1.2006) by Higher Education Act 2004 (c. 8), s. 52(2), **Sch. 7**; S.I. 2006/51, art. 2
- F16** Words in s. 22(9) in so far as it is still in force substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6), **Sch. para. 6**
- F17** S. 22(10) inserted (with effect in accordance with s. 147(5) of the amending Act) by Finance Act 2003 (c. 14), **s. 147(3)**

Modifications etc. (not altering text)

- C1** S. 22: transfer of functions (7.7.2005 for W.) by Higher Education Act 2004 (c. 8), **s. 44(1)(6)**, 52(3); S.I. 2005/1833, art. 4(b) (with art. 6)
- C2** S. 22 functions made exercisable concurrently (7.7.2005 for W.) by Higher Education Act 2004 (c. 8), **s. 44(2)(6)**, 52(3); S.I. 2005/1833, art. 4(b) (with art. 6)
- C3** S. 22 modified (1.9.2006 for W.) by Higher Education Act 2004 (c. 8), **ss. 44(3)**, 52(3); S.I. 2005/1833, art. 5A (as substituted (21.6.2006) by S.I. 2006/1660, art. 2)
- C4** S. 22 modified (12.3.2018) by The Education (Student Support) (Wales) Regulations 2018 (S.I. 2018/191), reg. 1(2), **Sch. 4 para. 2** (with reg. 2(2)(3))

Marginal Citations

- M1** 1970 c. 9.

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Changes and effects yet to be applied to :

- s. 22(1) words substituted by 2017 c. 29 s. 86(2)
- s. 22(2)(a) words substituted by 2017 c. 29 s. 86(3)(a)
- s. 22(2)(b) words substituted by 2017 c. 29 s. 86(3)(a)
- s. 22(2)(c) words substituted by 2017 c. 29 s. 86(3)(a)
- s. 22(2)(g) words inserted by 2017 c. 29 s. 86(3)(b)(i)
- s. 22(2)(g) words inserted by 2017 c. 29 s. 86(3)(b)(ii)
- s. 22(2)(i) words inserted by 2017 c. 29 s. 86(3)(c)
- s. 22(2)(j) words substituted by 2017 c. 29 s. 86(3)(d)
- s. 22(5) words inserted by 2017 c. 29 s. 86(5)(a)
- s. 22(5)(a)(i) words inserted by 2017 c. 29 s. 86(5)(b)
- s. 22(5)(c) words inserted by 2017 c. 29 s. 86(5)(b)
- s. 22(5)(d)(ii) words inserted by 2017 c. 29 s. 86(5)(c)
- s. 22(5)(f) words inserted by 2017 c. 29 s. 86(5)(e)(i)
- s. 22(5)(f) words inserted by 2017 c. 29 s. 86(5)(e)(ii)
- s. 22(5)(h) words inserted by 2017 c. 29 s. 86(5)(f)
- s. 22(10) words inserted by 2017 c. 29 s. 86(6)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 22(4A)(4B) inserted by 2017 c. 29 s. 86(4)
- s. 22(5)(ea) inserted by 2017 c. 29 s. 86(5)(d)
- s. 22(11) inserted by 2017 c. 29 s. 86(7)
- s. 28A inserted by 2022 c. 21 s. 15(1)