



Higher Education Act 2004

2004 CHAPTER 8

PART 4

STUDENT SUPPORT

42 Effect of bankruptcy

- (1) In section 22 of the 1998 Act (arrangements for giving financial support to students), after subsection (3)(e) insert—
 - “(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).”
- (2) In section 46(8) of the 1998 Act (provisions that extend to Northern Ireland), in the entry relating to section 22 for “(3)(e)” substitute “(3)(e) or (f)”.
- (3) Subsection (4) has effect in relation to the Education (Student Loans) Act 1990 (c. 6) to the extent that it continues in force by virtue of any savings made, in connection with its repeal by the 1998 Act, by an order under section 46(4) of the 1998 Act.
- (4) Schedule 2 to the Education (Student Loans) Act 1990 (loans for students) is to have effect as if in paragraph 5(2) (liabilities relating to student loans not to be included in bankruptcy debts) the reference to “any such sum” were a reference to “any sums to which this paragraph applies”.
- (5) Nothing in this section affects any bankruptcy commencing before this section comes into force.

43 Other amendments of section 22 of Teaching and Higher Education Act 1998

- (1) Section 22 of the 1998 Act (arrangements for giving financial support to students) is amended as follows.

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- (2) In subsection (2)(i), for “who have previously made loans of any prescribed description to those persons” substitute “to whom those persons are liable to make payments”.
- (3) Omit subsection (7) (which provides that regulations made by virtue of subsection (2)(b) of that section are to be subject to affirmative resolution procedure in certain circumstances).

Commencement Information

II S. 43 in force at 14.1.2006 by S.I. 2006/51, art. 2

44 Transfer of certain functions to National Assembly for Wales

- (1) In relation to Wales, the functions of the Secretary of State under section 22 of the 1998 Act (arrangements for giving financial support to students) are hereby transferred to the Assembly, except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of that section.
- (2) The functions of the Secretary of State under section 22 of the 1998 Act are to be exercisable concurrently with the Assembly so far as they relate to the making in relation to Wales of any provision authorised by subsection (2)(a), (c) or (k) of that section.
- (3) Regulations made under section 22 of the 1998 Act by the Secretary of State must provide that no provision made by virtue of subsection (5) of that section is to apply in relation to any loan made under that section by the Assembly unless the Assembly—
 - (a) has determined, in relation to any loan or description of loan, that repayments are to be collected by the Commissioners of Inland Revenue, and
 - (b) has given notice of that determination to the Secretary of State and to the person liable to make the repayments.
- (4) The functions of the Secretary of State under section 23 of the 1998 Act (transfer or delegation of functions relating to student support) are hereby transferred to the Assembly so far as they relate to functions which are exercisable by the Assembly under regulations under section 22 of that Act.
- (5) Until the commencement of subsection (4), the functions of the Secretary of State under subsections (7) and (8) of section 23 of the 1998 Act (power to make payments to body or person by whom function is exercisable by virtue of subsection (1) or (4) of that section) are to be exercisable concurrently with the Assembly so far as they relate to payments to any body or person by whom there is exercisable any function that will after the commencement of subsections (1) and (2) be exercisable by the Assembly.
- (6) For the purposes of the Government of Wales Act 1998 (c. 38)—
 - (a) any function that is transferred to the Assembly by subsection (1) or (4) or made exercisable by the Assembly by subsection (2) or (5) is to be taken to have been transferred to, or made exercisable by, the Assembly by an Order in Council under section 22 of that Act, and
 - (b) in relation to any function which is taken by virtue of paragraph (a) to have been transferred to the Assembly by such an Order in Council, any reference to the coming into force of the Order in Council transferring it is to be read

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as a reference to the commencement of the provision of this section by which the function is transferred.

Commencement Information

I2 S. 44(1)(2)(5)(6) in force for W. at 7.7.2005 by S.I. 2005/1833, **art. 4(b)** (with **art. 6**)

I3 S. 44(3) in force at 1.9.2006 for W. by S.I. 2005/1833, **art. 5A**

I4 S. 44(4) in force at 23.6.2006 for W. by S.I. 2005/1833, **art. 5**

45 Supply of information held by student support authority

- (1) Regulations may provide that a student support authority may supply student support information of a prescribed description to a prescribed person for a prescribed purpose.
- (2) A person may not be prescribed under subsection (1) unless the person—
 - (a) is the governing body of an institution with which eligible students (as defined for the purposes of the student support scheme) are undertaking courses, or
 - (b) is a person who appears to the Secretary of State or, as the case may be, the Assembly to be exercising functions of a public nature.
- (3) Regulations under subsection (1) may not allow information to be supplied except with the consent of every individual to whom the information relates, given in such manner as may be prescribed.
- (4) Subsection (3) does not apply to the supply of information for the purposes of any civil or criminal proceedings arising out of the student support scheme.
- (5) Regulations under subsection (1) may provide that information may be supplied under such regulations only if prescribed conditions are met.
- (6) This section does not limit the circumstances in which information may be supplied apart from this section.
- (7) In this section “student support authority” means—
 - (a) the Secretary of State,
 - (b) any authority or governing body by whom any function of the Secretary of State is for the time being exercisable to any extent by virtue of section 23(1) of the 1998 Act,
 - (c) any person acting on behalf of the Secretary of State to any extent by virtue of section 23(4) of the 1998 Act,
 - (d) the Assembly,
 - (e) any authority or governing body by whom any function of the Assembly is for the time being exercisable to any extent by virtue of section 23(1) of the 1998 Act, and
 - (f) any person acting on behalf of the Assembly to any extent by virtue of section 23(4) of the 1998 Act.
- (8) In this section—

“prescribed” means prescribed by regulations;
“regulations” means—

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(a) in relation to a student support authority falling within any of paragraphs (a) to (c) of subsection (7), regulations made by the Secretary of State, and

(b) in relation to a student support authority falling within any of paragraphs (d) to (f) of subsection (7), regulations made by the Assembly;

“student support scheme” means the provisions of regulations under section 22 of the 1998 Act;

“student support information”, in relation to a student support authority, means any information which the student support authority holds in connection with, or in consequence of, the exercise of any function relating to the operation of the student support scheme.

Commencement Information

I5 [S. 45](#) in force at 14.1.2006 by [S.I. 2006/51](#), [art. 2](#)

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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. 11(1) s. 11 renumbered as s. 11(1) by [2022 asc 1 s. 128\(2\)\(a\)](#)
- s. 11(1)(a) words substituted by [2022 asc 1 Sch. 4 para. 16\(2\)](#)
- s. 11(2)-(5) inserted by [2022 asc 1 s. 128\(2\)\(b\)](#)
- s. 12(2A) inserted by [2022 asc 1 s. 128\(3\)\(a\)](#)
- Sch. 2 para. 3(2)(d) inserted by [2023 c. 16 Sch. para. 19](#)