
STATUTORY INSTRUMENTS

1990 No. 1401

**EDUCATION, ENGLAND AND WALES
EDUCATION, SCOTLAND**

The Education (Student Loans) Regulations 1990

Made - - - - *11th July 1990*

Coming into force - - *1st August 1990*

In exercise of the powers conferred by section 1(2) and (7) of and paragraphs 1, 2 and 3 of Schedule 2 to the Education (Student Loans) Act 1990⁽¹⁾, the Secretary of State for Education and Science, as respects England and Wales, and the Secretary of State for Scotland, as respects Scotland, hereby make the following Regulations, a draft of which has been laid before Parliament pursuant to section 1(8) of the Act and has been approved by resolution of each House of Parliament:

**PART I
GENERAL**

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Student Loans) Regulations 1990 and shall come into force on 1st August 1990.

(2) These Regulations shall apply in relation to an academic year beginning on or after 1st August 1990.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires—

“the Act” means the Education (Student Loans) Act 1990;

“borrower” means a person to whom a loan has been made;

“eligible” means eligible for the purposes of section 1 of the Act read with regulation 3 and the Schedule to these Regulations;

“full-time course” means a sandwich course or a course—

- (a) which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for periods of at least 24 weeks in each academic year of the course; and
- (b) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each academic year to an average of at least 21 hours a week as respects the periods of attendance mentioned in sub-paragraph (a) above for the year;

“loan” means a loan towards a student’s maintenance out of money made available by the Secretary of State for that purpose pursuant to arrangements made by the Secretary of State by virtue of section 1 of the Act and includes the interest accrued on the loan and the amount of the loan from time to time outstanding;

“loans administrator” means any person or body for the time being exercising functions in relation to loans under arrangements made with the Secretary of State pursuant to paragraph 3 of Schedule 2 to the Act;

“periods of work experience” means periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution;

“refugee” means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽²⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽³⁾ or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s government though not so recognised, and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child; and

“sandwich course” means a course consisting of alternate periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period.

(2) For the purposes of these Regulations an academic year which begins in the month of July in any year shall be deemed to begin in the month of August immediately following that month.

(3) In these Regulations any reference to a regulation is a reference to a regulation of these Regulations, and any reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

PART II

ELIGIBILITY FOR LOANS

Conditions of eligibility

3.—(1) A student attending a course of higher education of at least one academic year’s duration shall be eligible for a loan in relation to an academic year which begins on or after 1st August 1990 if—

- (a) his course of study during that academic year forms part or all of a full-time course or of a part-time course for the initial training of teachers; and

(2) Cmnd. 9171.

(3) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Further and Higher Education Branch 3, Room 9/1, Department of Education and Science, Elizabeth House, York Road, London SE1 7PH or Awards Branch, Scottish Education Department, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

- (b)
 - (i) he satisfies the conditions prescribed in the Schedule to these Regulations;
 - (ii) in respect of the course he satisfies one of the conditions of eligibility for an allowance set down in paragraphs (a), (b) and (f) of regulation 5 of the Students' Allowances (Scotland) Regulations 1987⁽⁴⁾;
 - (iii) on the first day of that academic year he is a refugee and he has been ordinarily resident in the British Islands and has not ceased to be so since he was first recognised as a refugee or was awarded asylum; or
 - (iv) on the first day of that academic year he is the spouse or child of a person referred to in sub-paragraph (iii) above; and
 - (c) he has entered into an agreement for the loan not later than the end of the period of 12 months beginning on 1st August in which that academic year begins; and
 - (d) he is not a person to whom paragraph (2) applies.
- (2) This paragraph applies to a person who—
- (a) before the date on which the course begins has attained the age of fifty years; or
 - (b) is undertaking a course of education leading to registration on Part 12, 13, 14 or 15 of the register maintained by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting under section 10 of the Nurses, Midwives and Health Visitors Act 1979⁽⁵⁾ and is eligible to receive payment of a bursary or salary out of funds paid by the Secretary of State under section 97 of the National Health Service Act 1977⁽⁶⁾ or section 85(1) of the National Health Service (Scotland) Act 1978⁽⁷⁾; or
 - (c) is studying for the Postgraduate Certificate in Education as a participant in arrangements made by a local education authority for the training of teachers known as the “Articled Teachers Scheme”; or
 - (d) is in breach of any obligation contained in any agreement for a loan; or
 - (e) subject to paragraph (3) was a minor when any agreement for a loan was made with him and who has not ratified that agreement after attaining his majority.
- (3) In the case of an agreement for a loan which is subject to the law of Scotland, sub-paragraph (e) of paragraph (2) shall apply only if —
- (a) the agreement was made with the concurrence of the borrower’s curator; or
 - (b) at the time the agreement was made the borrower had no curator.
- (4) A student shall not be eligible for a loan in relation to more than one academic year beginning in any period of twelve months beginning on 1st August in any year.

PART III

DESIGNATION OF COURSES

Designation of courses by Secretary of State

4. —For the purposes of section 1 of the Act the Secretary of State may designate courses of higher education at institutions other than institutions receiving support from public funds.

(4) S.I.1987/864, amended by S.I. 1988/1424.

(5) 1979 c. 36.

(6) 1977 c. 49; substituted by section 6 of the Health Services Act 1980 (c. 53).

(7) 1978 c. 29; substituted by section 6 of the Health Services Act 1980 (c. 53).

PART IV

LOANS: PRINCIPAL, INTEREST AND REPAYMENTS

Amounts of loans

5.—(1) Subject to paragraphs (3) and (4), in the case of a student attending a course at the University of London or at any institution within the area comprising the City of London and the metropolitan police district, the maximum amount of the loan in relation to any academic year shall be—

- (a) if the year is the final year of the course, £240 if he resides at his parents' home, and £340 if he does not; and
- (b) if the year is any other year of the course, £330 if he resides at his parents' home, and £460 if he does not.

(2) Subject to paragraphs (3) and (4), in the case of any other student the maximum amount of the loan in relation to any academic year shall be—

- (a) if the year is the final year of the course, £240 if he resides at his parents' home, and £310 if he does not; and
- (b) if the year is any other year of the course, £330 if he resides at his parents' home, and £420 if he does not.

(3) Where a student's course includes a period of residence in a country other than the United Kingdom throughout an academic year, the maximum amount of the loan in relation to that academic year shall be £310 if the year is the final year of the course and £420 if it is not.

(4) For the purposes of paragraphs (1) and (2) a year of a course for the Postgraduate Certificate in Education shall not be treated as a final year, and a person's place of residence is his place of residence on the date a certificate is given in respect of him pursuant to regulation 11.

Interest

6.—(1) Loans shall bear interest at the percentage per annum specified in paragraph (2) being the rate appearing to the Secretary of State to be requisite for maintaining the value of the amount of the loans in real terms.

(2) That percentage is the percentage increase between the retail prices index published by the Central Statistical Office of the Chancellor of the Exchequer for June 1989 and the retail prices index so published for June 1990.

Time and manner of repayments

7.—(1) Subject to regulations 8, 9 and 10 a borrower shall commence repayment of his loan on 1st April in the year following the final year of the course to which the loan relates or, if he did not complete the course, 1st April next following the date he ceased to attend the course.

(2) Subject to regulations 8, 9 and 10 repayments shall be made in 60 monthly instalments calculated in accordance with paragraph (3) in the case of a borrower who has received a loan in relation to less than five academic years and in 84 such instalments calculated as aforesaid in all other cases.

(3) On the date mentioned in paragraph (6) in each year the amount of the monthly repayment shall be calculated by dividing the aggregate amount of the loan outstanding at that date (including interest added during the preceding twelve months) and of interest which will accrue during the remaining period of repayment (on the assumption that the rate of interest will not change during that period) by the number of repayment instalments still to be paid, and during the period of

twelve months beginning with that date the amount so calculated shall be the amount of the monthly repayment.

(4) Repayments shall be made by direct debit from the borrower's bank or building society account unless the loans administrator agrees otherwise.

(5) Nothing in this regulation shall be taken to prevent a borrower from reducing or discharging his liability in respect of his loan with the agreement of the loans administrator sooner than required by the regulation, and where a borrower wishes so to reduce or discharge his liability the amount and time of repayments shall be determined by the loans administrator and paragraphs (2) and (3) shall no longer apply to the loan.

(6) The date mentioned in paragraph (3) is 1st September except in relation to a person who ceases to attend a course during the period commencing on 1st September in any year and ending on the following 31st March, in which case the date is such date as the loans administrator considers appropriate.

Repayment by disabled borrowers

8.—In the case of a borrower receiving any disability-related benefit (as defined in regulation 9(5)) at the beginning of or at any time during the period of repayment determined in accordance with regulation 7, the loans administrator may do either or both of the following, namely:

- (a) allow the borrower to commence repayment of the loan at such date later than that provided by regulation 7 as the loans administrator considers appropriate;
- (b) allow the borrower such longer period for repayment of the loan than that provided by regulation 7 as the loans administrator considers appropriate.

Deferment and reduced repayments

9.—(1) Subject to the provisions of this regulation, a borrower shall be entitled to defer making repayments in respect of his loan if he satisfies the loans administrator that his gross income for any month does not exceed £965.

(2) If a borrower falls within paragraph (1), he shall not be obliged to make repayments during a period of twelve months beginning with such date as may be determined by the loans administrator, being a date at any time earlier but not more than one month later than the date on which the loans administrator notifies the borrower that it is satisfied that he is entitled to defer making repayments.

(3) Notwithstanding deferment a borrower may after giving notice to the loans administrator resume making repayments at any time before the end of the period of deferment.

(4) In determining whether a borrower's gross income in any month exceeds the amount specified in paragraph (1) no account shall be taken of any disability-related benefits paid to him in that month.

(5) In paragraph (4) "disability-related benefits" means—

- (a) the benefits or allowances payable pursuant to the Social Security Act 1975⁽⁸⁾ known as invalidity allowance⁽⁹⁾, attendance allowance⁽¹⁰⁾, severe disablement allowance⁽¹¹⁾, mobility allowance⁽¹²⁾ and industrial injuries benefit⁽¹³⁾; and

⁽⁸⁾ 1975 c. 14.

⁽⁹⁾ See section 16, as amended by the Social Security Act 1979 (c. 18), Schedule 1, para 10(a) and (b) and by the Social Security Act 1985 (c. 53), section 18(3).

⁽¹⁰⁾ See section 35, as amended by the National Health Service Act 1977 (c. 49), Schedule 15, by the Social Security Act 1979, section 2 and Schedule 8, by the Social Security Act 1980 (c. 30), Schedule 1, Part II, by the Social Security Act 1988 (c. 7), and by the Social Security Act 1989 (c. 24), Schedule 8.

⁽¹¹⁾ See section 36, as substituted by the Health and Social Security Act 1984 (c. 48), section 11, and amended by the Social Security Act 1989, Schedules 8 and 9.

⁽¹²⁾ See section 37A, inserted by the Social Security Pensions Act 1975 (c. 60), section 22(1) and amended by the National Health Service Act 1977, Schedule 15, by the National Health Service (Scotland) Act 1978 (c. 29), Schedule 15, by the Social Security

- (b) disability premium and severe disability premium payable pursuant to the Income Support (General) Regulations 1987(14).
- (6) For the avoidance of doubt interest shall accrue on a loan during any period of deferment.

Cancellation

10.—(1) A borrower’s liability to make repayments in respect of all loans shall be cancelled if he dies or if he is a person to whom paragraph (2) applies.

(2) This paragraph applies to a borrower who is not in breach of any obligation in relation to any loan and—

- (a) if he was aged less than forty when he last entered into an agreement for a loan, if he attains the age of fifty or if the loan for which he last entered into an agreement has been outstanding for not less than twenty five years (whichever event is the sooner); or
- (b) if he was aged not less than forty when he last entered into an agreement for a loan, if he attains the age of sixty.

PART V

HIGHER EDUCATION INSTITUTIONS: DUTIES

Duties of governing bodies in relation to loans

11.—(1) This regulation prescribes the steps to be taken by the governing body of each institution at which eligible students are attending courses for the purposes of, or in connection with, applications for loans.

(2) The governing body shall as soon as practicable after the commencement of each academic year—

- (a) issue to any student on request an eligibility questionnaire provided by the loans administrator;
- (b) in respect of each eligibility questionnaire completed by a student and returned to them, take such steps as are reasonably practicable to verify the particulars inserted in the questionnaire by the student relating to his eligibility for a loan;
- (c) if the student’s eligibility cannot be determined solely by verifying the particulars on the questionnaire, take such other steps as are reasonably practicable for that purpose;
- (d) issue to each student in relation to whom they have taken the steps required by subparagraphs (a)–(c) and whom they consider to be eligible an eligibility form provided by the loans administrator for completion by the student;
- (e) certify to the best of their knowledge and belief the accuracy of the particulars in each completed eligibility form and the amount of loan to which they consider the student to be entitled;
- (f) send each form so certified to the loans administrator; and

Act 1979, section 3, by the Social Security Act 1986 (c. 50), section 71, and by the Social Security Act 1989, section 8 and Schedule 7.

(13) See section 50, as amended by the Social Security and Housing Benefits Act 1982 (c. 24), Schedule 4, and by the Social Security Act 1988.

(14) S.I. 1987/1967; relevant amending regulations are S.I. 1988/663. See Parts III and IV of Schedule 2.

- (g) issue to each student in relation to whom they have taken all other steps required by this paragraph and whom they consider to be eligible a loan application form provided by the loans administrator.
- (3) The governing body shall—
- (a) promptly notify the loans administrator in writing if a person in respect of whom they have certified eligibility in accordance with paragraph (2) ceases to be an eligible student otherwise than because he has completed the course;
 - (b) keep records and copies of all documents except loan application forms which they are required by this regulation to issue or certify and a record of any steps taken by them to establish a student's eligibility;
 - (c) permit the loans administrator or the Secretary of State to inspect the records and copies at any reasonable time and provide them with reasonable facilities for that purpose; and
 - (d) acknowledge receipt of all eligibility and application forms received by them from the loans administrator and provide to it on request brief particulars of such forms which they have issued.
- (4) Without prejudice to the generality of sub-paragraphs (b) and (c) of paragraph (2), the steps to be taken under those sub-paragraphs shall include verifying particulars given in the eligibility questionnaire by reference to—
- (a) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Births and Deaths Registration Act 1953⁽¹⁵⁾ and the Registration Service Act 1953⁽¹⁶⁾, a certified copy of that entry;
 - (b) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of section 50 of the Adoption Act 1976⁽¹⁷⁾ which contains a record of the date of the birth of the person, a certified copy of that entry;
 - (c) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Registration of Births, Deaths and Marriages (Scotland) Act 1965⁽¹⁸⁾, an extract of, or an abbreviated certificate of birth relating to, that entry;
 - (d) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of section 45 of the Adoption (Scotland) Act 1978⁽¹⁹⁾ which contains a record of the date of birth of the person, an extract of that entry; or
 - (e) in the case of any other person except a refugee, his passport (if he holds one), and a letter or other document issued by a responsible person which contains particulars of his date, place and country of birth and his names at birth.
- (5) Nothing in this regulation shall require the governing body to—
- (a) take any steps to establish whether a student falls within sub-paragraph (2)(d) or (e) of regulation 3 (breach of loan agreement and minor's failure to ratify loan agreement), and in considering whether a student is eligible the governing body shall disregard those sub-paragraphs; or
 - (b) take any of the steps required by the regulation for the purposes of, or in connection with, loans in relation to a particular academic year after 30th June in the period of 12 months beginning on 1st August in which that academic year begins.
- (6) In this regulation —

(15) 1953 c. 20.
(16) 1953 c. 37.
(17) 1976 c. 36.
(18) 1965 c. 49.
(19) 1978 c. 28.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“eligibility form” means a form requesting particulars from a student relevant to his eligibility for a loan and of his bank or building society account; and “responsible person” means a consular officer, minister of religion, medical or legal practitioner, established civil servant, teacher or a police officer.

SCHEDULE

Regulation 3(1)(b)(i)

CONDITIONS OF ELIGIBILITY

1. The conditions prescribed for the purposes of regulation 3(1)(b)(i) are that, subject to paragraphs 3 and 4 below, the student—

- (a) is on the relevant date ordinarily resident in England and Wales for the purposes of the Education Act 1962(20), read with the regulations for the time being in force made under section 1 of and Schedule 1 to that Act (but disregarding any provision in such regulations corresponding to paragraph 3 of this Schedule)(21);
- (b) throughout the three years preceding the relevant date has been ordinarily resident in the British Islands or, in the case of such a person as is mentioned in paragraph 2 below, has been so resident in the European Community; and
- (c) has not during any part of the said three year period been resident in the British Islands or (in the case of such a person as is mentioned in paragraph 2 below) the European Community wholly or mainly for the purpose of receiving full-time education.

2. The person mentioned in paragraph 1(b) above is a person who is entitled to the payment of an award in pursuance of section 1 of the Education Act 1962 and the regulations for the time being in force made under that section and Schedule 1 to that Act by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement for workers within the Community(22).

3. A person shall be treated for the purposes of paragraph 1 above as ordinarily resident in England and Wales, in the British Islands, or in the European Community if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having actual custody of him during his minority, is, or was, temporarily employed outside England and Wales, outside the British Islands or, as the case may be, outside the European Community and paragraph (1) (c) above shall not apply in the case of such a person.

4.—(1) A person shall be treated for the purposes of paragraph 1 above as having been ordinarily resident in the British Islands throughout the three years preceding the relevant date if he is a British citizen within the meaning of the British Nationality Act 1981(23) and—

- (a) he was not so resident only because he was ordinarily resident for the purposes of employment in the European Community during every part of that period in which he was not ordinarily resident in the British Islands; or
- (b) (i) he was not so resident throughout that period only because his parent is such a person as is mentioned in sub-paragraph (a), and
(ii) his parent is ordinarily resident in Great Britain on the relevant day.

(2) In sub-paragraph (1) above “parent” includes a guardian and any other person having actual custody of a minor, and “relevant day” means—

- (i) where the person had entered the United Kingdom before the day one month earlier than that of the beginning of the term in which he commences his course, that day;
- (ii) where he had not so entered the United Kingdom, the day of the beginning of that term.

5. In this Schedule—

(20) 1962 c. 12: the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20).

(21) The regulations in force on the date these Regulations are made are the Education (Mandatory Awards) Regulations 1989 (S.I. 1989/1458) and the provision therein corresponding to paragraph 3 of the Schedule to these Regulations is regulation 5(4).

(22) OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II) p. 475).

(23) 1981 c. 61.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“European Community” means the area comprised by the member states of the European Economic Community as constituted from time to time; and

“the relevant date” means the first day of the course.

11th July 1990

John MacGregor
Secretary of State for Education and Science

11th July 1990

Malcolm Rifkind
Secretary of State for Scotland

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st August 1990, are the first to be made under section 1 of and Schedule 2 to the Education (Student Loans) Act 1990 (“the Act”). They apply in relation to an academic year beginning on or after 1st August 1990 (regulation 1).

Conditions of eligibility for a loan are prescribed. A student must be attending a full-time course, or a part-time initial teacher training course (regulation 3(1)(a)). The student must satisfy the ordinary residence conditions in the Schedule to the Regulations or in the Students' Allowances (Scotland) Regulations 1987; or be a refugee (or a spouse or child of a refugee) who has been ordinarily resident in the British Islands since being recognised as a refugee (regulation 3(1)(b)). A loan is available only if the student enters into an agreement for it during the twelve month period beginning on 1st August in which the relevant academic year begins (regulation 3(1)(c)). A student is not eligible if he or she is aged 50 or over before the start of the course; if training to be a nurse and eligible for a bursary from public funds under the Project 2000 scheme; is following a course under the Articled Teachers' Scheme; is in default on a previous loan made under the Act; or if he or she obtained a loan when a minor and refused to ratify the loan agreement on reaching 18 (regulation 3(2)). No student is eligible for more than one loan in any year (regulation 3(4)).

The Secretary of State is empowered to designate courses at private sector institutions for the purposes of section 1 of the Act (regulation 4). (A student at a private sector institution is eligible for a loan only if his course is designated.)

Rates of loan are prescribed, differing according to whether the student is in the final or another year of the course, and according to whether he lives in the parental home, or away from the parental home and studies in London or elsewhere. The Postgraduate Certificate in Education is not treated as a final year (regulation 5).

Loans bear interest at the same percentage as the percentage increase in the Retail Prices Index between June 1989 and June 1990, thus maintaining the value of the outstanding amount of the loan in real terms (regulation 6).

A borrower will start to repay his loan – by direct debit (unless otherwise agreed) – on 1st April after leaving his course, whether completed or not. Repayments will be made in 84 monthly instalments if the student has received a loan in respect of 5 academic years or more, and in 60 monthly instalments in all other cases. Repayments for the forthcoming year will be calculated on 1st September by

dividing the outstanding loan plus the interest which will accrue during the remaining repayment period by the number of instalments remaining (regulation 7).

The loans administrator is empowered, in the case of borrowers receiving specified disability-related benefits, to relax the terms of repayment by allowing a later start date and/or longer period for repayment than provided for in regulation 7 (regulation 8).

A borrower may defer repayments for one year if he satisfies the loans administrator that his gross income for any month does not exceed £965. When assessing gross income no account is taken of specified disability-related benefits. The borrower may resume repayments during the deferment period. Interest accrues on the loans during any deferment period (regulation 9).

A borrower's liability is cancelled if the borrower dies; or if a borrower, without being in breach of any obligation: attains the age of 50 (or the age of 60 if he was aged 40 or over when the loan agreement was made) or has had his most recent loan outstanding for 25 years (regulation 10).

The governing bodies of institutions at which eligible students are attending courses are under a duty to issue, check and certify eligibility questionnaires and forms, and issue application forms. The duty does not apply in relation to an academic year after 30th June in or immediately following that year. They are also required to notify the loans administrator if a certified student ceases to be eligible (other than by completing the course); keep appropriate records and copies of documents for inspection; and acknowledge receipt of eligibility and application forms and provide brief details of those issued (regulation 11).

The Schedule specifies conditions of eligibility. Generally speaking a person is eligible for a loan if he has been ordinarily resident in the British Islands (i.e. the United Kingdom, the Channel Islands and the Isle of Man) for a period of three years ending with the first day of his course.