

EDUCATION (GRADUATE ENDOWMENT AND STUDENT SUPPORT) (SCOTLAND) ACT 2001

EXPLANATORY NOTES

INTRODUCTION

- 1 These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) which received Royal Assent on 3 May 2001. They do not form part of the Act and have not been endorsed by the Parliament.
- 2 The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE ACT

- 3 The Act provides for payment of a “graduate endowment” by a “graduate” in respect of the “higher education benefits” afforded to him or her. “Graduate” and “higher education benefits” are defined in section 1(5) of the Act.
- 4 The details of the endowment, including the description of graduate liable to pay it and the amount and manner of payment, are to be set out in regulations made by the Scottish Ministers. Such regulations may also exempt certain categories of individual and certain courses.
- 5 The Act imposes a duty on the Scottish Ministers to include, in the budget proposals made for each financial year, provision for the income raised by the payment of the graduate endowment in that year to be used for the purposes of student support provided by Scottish Ministers.
- 6 The Act amends the Education (Scotland) Act 1980, so that regulations governing the payment of student allowances and loans by the Scottish Ministers can be extended to allow payments to be made to distance learning students and to former students. It also amends the Local Government Finance Act 1992 so as to exempt students who share accommodation with people other than students from liability for council tax.

Section 1: The graduate endowment

7 This section establishes the graduate endowment by requiring payment by certain graduates who are as specified in regulations, in respect of the higher education benefits they have been afforded. Liable graduates will also have to meet certain other qualifying criteria which are to be set out in regulations made by the Scottish Ministers. The regulations will specify that the graduate endowment is payable in respect of the first full-time degree undertaken by an individual after 1 August 2001, unless that degree is part of a continuous programme of study (which will also be defined in regulations) commencing before that date. The regulations will also include provisions dealing with the length of time to be spent on the degree before liability arises and residence conditions.

8 This section also empowers the Scottish Ministers to make regulations:

- **setting the amount of the graduate endowment (subsection (2)):** the amount of the graduate endowment will be set at £2,000 for new entrants to higher education in academic year 2001-02 and in subsequent years the amount may be set by reference to this amount as increased by inflation;
- **exempting individuals by reference to age (subsection (3)(a)):** the intention is that mature students will be exempt. It is intended that the regulations will specify that in order to be exempt individuals must be aged 25 or over at the start of their studies for their degree;
- **exempting further classes of individuals as specified (subsection (3)(b)):** the intention is that those who satisfy the criteria for independent status as regards allowances and loans for living costs at the start of the degree; those who are in receipt of Lone Parent Grant; and those who are in receipt of the Disabled Students' Allowance during the course will be exempt. These categories will be defined in the regulations;
- **making provision for payment (subsection (4)(a)):** the regulations will make provision enabling those liable to pay the graduate endowment to make payment directly to the Scottish Ministers or to take out an income contingent loan under the current student support arrangements to meet their liability. They will also specify a date by which payment must be made. It is intended that those who wish to take out an income contingent loan to pay the graduate endowment will do so on the same terms as students who take out an income contingent loan to cover living costs. The intention is that individuals and academic institutions may be required to provide certain information;
- **exempting certain courses that are listed in section 38 of the Further and Higher Education (Scotland) Act 1992 (subsection (6)):** liability will arise in connection with first degree courses or equivalent and the regulations will exempt all the other courses listed in section 38 of the 1992 Act, namely courses at a higher level in preparation for a higher diploma or certificate; courses for the education and training of teachers; courses of post-graduate studies; courses at a higher level in preparation for qualification from a professional body; and all other higher level courses not being first degree courses.

- 9 The statutory instrument containing the first set of regulations made under this section will be required to be approved by a resolution of the Scottish Parliament. Thereafter, instruments will be subject to the negative procedure.

Section 2: Graduate endowment: use of income

- 10 This section provides that, when making budget proposals to the Scottish Parliament for a particular financial year, the Scottish Ministers must include provision that the income arising from the graduate endowment for that year will be used for the purposes of student support. “Budget proposals” and “student support” are defined in section 2(2) of the Act.

Section 3: Financial support for students

Section 73(f) of the Education (Scotland) Act 1980 provided that the Scottish Ministers may make regulations concerning— “the payment of allowances or loans to or in respect of persons attending courses of education”.

- 11 Use of the word “attending” may have been taken to suggest some degree of physical attendance on the course. Section 3 of the Act therefore amends this section to provide that the Scottish Ministers may make payments of allowances or loans to or in respect of persons who are “undertaking” or “who have undertaken” courses of education. It also makes two consequential changes. The purpose of the main amendment is two-fold. First, it enables allowances and loans to be paid to students on distance learning courses who are not “attending” courses of education. This will allow the Scottish Ministers to extend the loans for part-timers scheme and the Disabled Students' Allowance to distance learning students. Second, it enables loans to be made to individuals to enable them to fulfil their liability to pay the graduate endowment.

Section 4: Council tax: students to be exempt from liability

- 12 Where a student lives alone or shares a property with other students, the student is currently exempt from any charge for council tax. However, where a student shares a residence with a non-student, the student is jointly and severally liable for the council tax bill in respect of the property, notwithstanding that the student is disregarded in calculating the bill.

- 13 Section 4 of the Act amends the relevant provisions of the Local Government Finance Act 1992 in such a way that students will no longer be jointly and severally liable for council tax.