

GRADUATE ENDOWMENT ABOLITION (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Section 1: Abolition of the graduate endowment

7. Subsection (1) repeals sections 1 and 2 of the 2001 Act (and revokes the principal regulations). No student will become a liable graduate after the coming into force of this section (as the repeals completely remove the graduate endowment for the future). Sections 2 and 3 of the Act make provision for students who have become liable graduates up to the coming into force of this section.
8. Subsection (2) makes a consequential repeal of paragraph 10 of schedule 3 to the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”), which made an amendment to section 1 of the 2001 Act in consequence of the 2005 Act. That amendment is spent by virtue of the repeal of section 1 of the 2001 Act.

Section 2: Extinguishing of liabilities

9. Section 2 applies to those liable graduates whose due date is 1 April 2008 or after. This means any liable graduate who successfully completed his or her course on or after 1 April 2007. Subsection (2) extinguishes the liability to pay the GE for this category of person.
10. Subsection (3) provides that the GE liability is regarded as never having existed. This addresses the fact (as was foreseen) that the Act commenced (on the day following Royal Assent) after 1 April 2008. On 1 April 2008 the liable graduates in this category will be under a legal obligation to make payment in discharge of their GE liability and any student who successfully completes his or her course between this date and the day the Act comes into force will become a liable graduate (with a due date of 1 April 2009). It also addresses any possibility that such liable graduates might seek to make payment ahead of those due dates. For these circumstances, subsection (3) ensures that the extinguishing of the liability has effect from when the liability first arose.

Section 3: Saving of prior liabilities

11. Section 3 applies to those liable graduates whose due date is before 1 April 2008. This means liable graduates whose due date was 1 April 2005, 2006 and 2007. Subsection (2) means that section 1 of the 2001 Act and the principal regulations are kept in force for the purpose of on-going collection of the GE from this category of person (whose GE liability is not being extinguished by the Act).

Section 4: Reports on impact of Act

12. Section 4 requires Scottish Ministers to report annually to the Parliament on the impact of the Act on widening access to higher education. Subsections (2) and (3) require that the reports include information on the proportion of entrants to higher education from

*These notes relate to the Graduate Endowment Abolition (Scotland) Act 2008 (asp 3)
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the most deprived areas of Scotland and the proportion of such entrants who complete their course. This obligation will last for five years.

Section 5: Effect on student support

13. Section 5 requires that Scottish Ministers, in making budget proposals to the Parliament, ensure that any provision proposed for student support is not adversely affected because of the abolition of the GE. Subsection (2) defines “budget proposals” and “student support”.

Section 6: Definitions

14. Section 6 defines terms used in the Act. In particular, subsection (1) specifies that GE liabilities include not only the original liability to pay the GE itself but also any superseding loan from the Scottish Ministers made to enable discharge of that liability .

Section 7: Commencement and short title

15. Under section 7, the Act came into force the day after Royal Assent. Royal Assent was granted on 4 April 2008, so the Act came into force on 5 April 2008.