



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Establishment and functions of Education Assets Board*

#### **199 Loan liabilities excepted from transfer under Part II.**

- (1) The amount of any liability of a [<sup>F1</sup>local authority] in respect of the principal of any loan which is an excepted liability in relation to an institution to which this section applies shall be treated on and after the operative date as having been borrowed from that authority by the default on such terms as to repayment and the payment of interest as may be agreed between the Education Assets Board and the authority or determined by the Secretary of State under this section.
- (2) This section applies to any institution conducted by a higher education corporation and any institution designated under section 129 of this Act; and in relation to any such institution—
  - (a) a liability is an excepted liability for the purposes of this section if it would have been transferred under section 126(3) but for subsection (5)(b) of that section or (as the case may be) under section 130(2) of this Act but for subsection (4)(a) of that section; and
  - (b) references, in relation to an excepted liability, to the default transferee and the operative date are references respectively to the body or persons to whom and the date on which that liability would have been so transferred.
- (3) It shall be the duty of the authority and the Board, whether before or after the operative date, so far as practicable to arrive at such written agreements as may be necessary for determining the amount of any excepted liability and the terms to apply in relation to the liability imposed on the default transferee under this section by reference to that liability.

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*Changes to legislation: Education Reform Act 1988, Section 199 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) Notwithstanding any terms agreed or determined as mentioned in subsection (1) above, any liability in respect of any sum treated by virtue of that subsection as having been borrowed from a <sup>F1</sup>local authority] may at any time be discharged by a single payment of a sum equal to the aggregate of—
- (a) the amount of the principal of the loan outstanding at the time of the payment; and
  - (b) the amount of any interest accrued before that time.
- (5) The Board shall notify the Secretary of State if it appears to them that it is unlikely the case of any matter on which agreement is required to be reached under subsection (3) above that such an agreement will be reached.
- (6) Where the Secretary of State has received a notification from the Board under subsection (5) above he may, whether before or after the operative date, give a direction determining the matter, and may include in the direction any provision which might have been included in an agreement under subsection (3) above.
- (7) The Secretary of State shall consult the authority before giving a direction under this section.
- (8) The Board shall give the Secretary of State such assistance and advice as he may require for the purpose of determining any matter under this section.
- (9) The Board shall deliver any agreement made under subsection (3) above to the default transferee.
- (10) Any such agreement shall be treated as made between the authority and the default transferee.

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**Textual Amendments**

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 4(2)**

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**Modifications etc. (not altering text)**

**C1** S. 199(1)(3): functions conferred by [S.I. 1991/1457](#), **arts.2, 3**

**Changes to legislation:**

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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. 120(4A) inserted by [2022 asc 1 Sch. 4 para. 5\(2\)](#)
- s. 124A(9A)(9B) inserted by [2022 asc 1 s. 137\(3\)](#)
- s. 125(8)(9) inserted by [2022 asc 1 s. 138\(2\)](#)
- s. 128(1)(b)(iib) omitted by [2011 c. 21 Sch. 16 para. 8](#)
- s. 128(1)(b)(iia) omitted by [2015 c. 20 Sch. 14 para. 35](#)
- s. 128(1A)-(1C) inserted by [2022 asc 1 s. 139\(3\)](#)
- s. 128(7)-(10) inserted by [2022 asc 1 s. 139\(6\)](#)
- s. 232(4ZA)-(4ZC) inserted by [2022 asc 1 s. 138\(3\)\(b\)](#)