
STATUTORY INSTRUMENTS

1998 No. 211

The Education (Student Loans) Regulations 1998

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) Regulations 1998 and shall come into force on 1st March 1998.

Revocation

2. The Education (Student Loans) Regulations 1997(1) and the Education (Student Loans) (Amendment) Regulations 1997(2) are hereby revoked.

Interpretation

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

“accelerated course” means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration or a course for the degree of BA (Honours) with Qualified Teacher Status awarded by St Martin's College, Lancaster;

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

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

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(3) as adjusted by the Protocol signed at Brussels on 17th March 1993(4);

“EEA migrant worker” has the meaning assigned to it in paragraph (6);

“European Community” means the territory comprised by the member States of the European Community as constituted from time to time;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“eligible” means eligible for the purposes of section 1 of the Act;

“full-time course” has the meaning assigned to it in paragraph (3);

“the Islands” means the Channel Islands and the Isle of Man;

“lender” means any person or body who makes a loan;

“loan” means a loan (whether made before or after the coming into force of these Regulations) 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

(1) S.I.1997/1675.

(2) S.I. 1997/2919.

(3) Cmnd. 2073.

(4) Cmnd. 2183.

of the Act, including the interest accrued on the loan and the amount of the loan from time to time outstanding;

“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⁽⁵⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽⁶⁾;

“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 a reference to a “full-time course” is a reference to 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)—

(i) in the case of a course of one academic year’s duration, for a period of at least 24 weeks; and

(ii) in the case of a course of two or more academic year’s duration, for a period of at least 24 weeks in each academic year except the final year and of at least eight weeks in the final year; 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 respect the periods of attendance mentioned in sub-paragraph (a) above for the year;

(4) For the purposes of these Regulations a person shall be treated as ordinarily resident in the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child is, or was, temporarily employed outside the United Kingdom and Islands, or as the case may be, outside the European Economic Area and paragraph 7(b) of Schedule 1 shall not apply in the case of such a person.

(5) For the purposes of these Regulations an area which—

(a) was previously not part of the European Community or the European Economic Area, but

(b) at any time before or after these Regulations come into force has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(6) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

(5) Cmnd. 9171.

(6) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from the Student Support Division, Department for Education and Employment, Mowden Hall, Staindrop Road, Darlington DL3 9BG or the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement(7); or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the above mentioned Council Regulation.

Conditions of eligibility

4.—(1) Subject to paragraph (2), a student shall be eligible for a loan in relation to an academic year if he—

- (a) is attending a course which is—
 - (i) a full-time course; or
 - (ii) a full-time or a part-time course for the initial training of teachers which is for the time being designated by or under regulations made by virtue of section 1(2)(b) and (3)(c) of the Education Act 1962(8);
- (b) is a person mentioned in Schedule 1; and
- (c) has entered into an agreement for the loan before the 1st August immediately following the beginning of the academic year.

(2) A student shall not be eligible for a loan in relation to an academic year if he—

- (a) has attained the age of 50 years before the first day of the course;
- (b) has received another loan in relation to the same academic year;
- (c) has received another loan in relation to another academic year which began during the same period 1st August to the following 31st July during which the academic year began;
- (d) is eligible in respect of that year to receive—
 - (i) any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968(9) the amount of which is not calculated by reference to his income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(10);
- (e) is in breach of any obligation contained in any agreement for a loan; or
- (f) subject to paragraph (3), he has not ratified any agreement for a loan made with him when he was under the age of 18.

(3) Paragraph (2)(f) shall only apply in a case where the agreement for a loan is subject to the law of Scotland if it was made—

- (a) before 25th September 1991, and

(7) OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II), p. 457).

(8) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20); section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4; section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2; the Regulations currently in force are the Education (Mandatory Awards) Regulations 1997, S.I. 1997/431, amended by the Education (Mandatory Awards) (Amendment) Regulations 1997, S.I. 1997/1693.

(9) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), section 180(1) and Schedule 13, paragraph 74(1) and (2), and the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 95(1) and (2). The functions of the Minister of Health under section 63 have been transferred to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699).

(10) S.I. 1992/580.

(b) with the concurrence of the borrower's curator, or at a time when he had no curator.

(4) For the purposes of paragraph (2)(b), (c), (e) and (f) "loan" includes a loan made under the Education (Student Loans) (Northern Ireland) Order 1990(11).

Designation of courses by Secretary of State

5. 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.

Amounts of loans

6.—(1) Subject to paragraphs (3) to (5), 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, £945 if he resides at his parents' home, and £1,520 if he does not; and
- (b) if the year is any other year of the course, £1,290 if he resides at his parents' home, and £2,085 if he does not.

(2) Subject to paragraphs (3) to (5), 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, £945 if he resides at his parents' home, and £1,230 if he does not; and
- (b) if the year is any other year of the course, £1,290 if he resides at his parents' home, and £1,685 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 £1,230 if the year is the final year of the course and £1,685 if it is not.

(4) Where a student's course is an accelerated course, paragraph (1)(a) shall have effect as if for £945 and £1,520 there were substituted £1,290 and £2,085 respectively and paragraph (2)(a) shall have effect as if for £945 and £1,230 there were substituted £1,290 and £1,685 respectively.

(5) For the purposes of paragraphs (1) to (3), where a postgraduate course of initial training for teachers is of only one academic year's duration that year shall not be treated as a final year, and for the purposes of paragraphs (1) and (2) a student's place of residence is his place of residence on the date a certificate is given in respect of him pursuant to regulation 8.

Terms of loans

7.—(1) Every agreement for a loan made before or after these Regulations come into force shall include the terms set out in Part I of Schedule 2.

(2) Every agreement for a loan made before these Regulations come into force shall in addition include the terms set out in Part II of Schedule 2.

Duties of governing bodies in relation to loans

8.—(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) Where an eligible student attends a course at more than one institution the governing bodies of the institutions may agree in writing that one governing body shall take the steps prescribed by this regulation, in which case that governing body, and not the other governing bodies, shall be required to take those steps.

(3) An agreement under paragraph (2) may be made in respect of a particular student or in respect of any class or description of students.

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

- (a) issue to any student who requests them to certify his eligibility for a loan an eligibility questionnaire provided by the lender;
- (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) to (c) and whom they consider to be eligible an eligibility form provided by the lender for completion by the student and return to them;
- (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) issue to each student in relation to whom they have taken all other steps required by the preceding provisions of this paragraph a loan application form provided by the lender; and
- (g) send each certified eligibility form to the lender.

(5) The lender on receiving an eligibility form completed and certified in accordance with paragraph (4) shall pay £4 to the governing body which sent it.

(6) Where a student is a borrower who has obtained an eligibility form from the lender and completed it the governing body shall as soon as practicable after the commencement of each academic year—

- (a) accept the completed eligibility form from any such student who requests them to certify his eligibility;
- (b) if the lender has requested that any of the particulars inserted in the form should be verified take such steps as are reasonably practicable to verify those particulars;
- (c) certify to the best of their knowledge and belief the accuracy of the particulars which the lender has requested them to verify and the amount of loan to which they consider that student to be entitled; and
- (d) send each certified eligibility form to the lender.

(7) The lender on receiving an eligibility form completed and certified in accordance with paragraph (6) shall pay £2 to the governing body which sent it.

(8) The governing body shall—

- (a) promptly notify the lender in writing if a person in respect of whom they have certified eligibility (whether under these Regulations or otherwise) ceases to be an eligible student during the academic year in which they certified eligibility or subsequently—
 - (i) because he has completed the course on a date earlier than that specified in the certified eligibility form referred to in paragraph (4)(g) or (6)(d) or notified by them to the lender as the expected date on which he will complete the course,

- (ii) 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 lender or the Secretary of State to inspect the records and copies at any reasonable time and provide them with reasonable facilities for that purpose;
 - (d) acknowledge receipt of all eligibility and application forms received by them from the lender and provide to it on request brief particulars of such forms which they have issued; and
 - (e) as soon as practicable notify the lender in writing if they believe that a person has fraudulently obtained or attempted to obtain a loan and provide the lender with the name of the person (if known) and particulars of the circumstances of that person's obtaining or attempting to obtain the loan.
- (9) Without prejudice to the generality of paragraph (4)(b) and (c), the steps to be taken under those 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⁽¹²⁾ and the Registration Service Act⁽¹³⁾ or the Births and Deaths Registration (Northern Ireland) Order 1976⁽¹⁴⁾ 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⁽¹⁵⁾ or in the Adopted Children Register kept in pursuance of Article 50 of the Adoption (Northern Ireland) Order 1987⁽¹⁶⁾ which contains a record of the date of 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⁽¹⁷⁾, 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⁽¹⁸⁾ 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.
- (10) Nothing in this regulation shall require the governing body to take any steps to establish whether a student falls within regulation 4(1)(c) or (2)(e) or (f), and in considering whether a student is eligible the governing body shall disregard those sub-paragraphs.
- (11) In this regulation—
- “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

⁽¹²⁾ 1953 c. 20.

⁽¹³⁾ 1953 c. 37.

⁽¹⁴⁾ S.I. 1976/1041 (N.I. 14).

⁽¹⁵⁾ 1976 c. 36.

⁽¹⁶⁾ S.I. 1987/2203 (N.I. 22).

⁽¹⁷⁾ 1965 c. 49.

⁽¹⁸⁾ 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.

“responsible person” means a consular officer, minister of religion, medical or legal practitioner, established civil servant, teacher or police officer.