SCOTTISH STATUTORY INSTRUMENTS

2001 No. 280

EDUCATION

The Graduate Endowment (Scotland) Regulations 2001

Made - - - -	*27th July 2001*
Coming into force - -	*1st August 2001*

The Scottish Ministers, in exercise of the powers conferred by section 1 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001(**1**) and by sections 73(f) and 73B of the Education (Scotland) Act 1980(**2**) and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 1(8) of the former Act and section 133(2B) of the latter Act(**3**), been laid before, and approved by resolution of the Scottish Parliament:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Graduate Endowment (Scotland) Regulations 2001 and shall come into force on 1st August 2001.

Interpretation

2. In these Regulations–

"academic year", in relation to a course, means a period beginning on the first day of the first term of an academic year for that course and ending on the last day of the final term of that academic year for that course;

"the Act" means the Education (Graduate Endowment and Student Support) (Scotland) Act 2001;

(**1**) 2001 asp 6.
(**2**) 1980 c. 44. Section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, section 2. Section 73B was inserted by the Teaching and Higher Education Act 1998, section 29(2).
(**3**) Section 133(2B) was inserted by paragraph 4 of Schedule 3 to the Teaching and Higher Education Act 1998 (c. 30).

"continuous programme of higher education" means a programme of education undertaken by an individual comprising–

(a) either–

(i) a course leading to a Higher National Certificate immediately followed by a course leading to a Higher National Diploma (disregarding any intervening vacation); or

(ii) a course leading to a Higher National Diploma; and

(b) a course of higher education not of a kind referred to in paragraph (a) above which commences in the academic year immediately following the end of the course referred to in paragraph (a) or in the following academic year;

"due date" means 1st April immediately following the last day of the last academic year of the course of higher education in respect of which the liability to pay the graduate endowment arises;

"full-time course of higher education" means a course of higher education, other than a course treated as not falling within section 38 of the Further and Higher Education (Scotland) Act 1992(**4**) by virtue of regulation 5, which is 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 a period of at least 24 weeks in each academic year except the final academic year and of at least eight weeks in the final academic 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 respects the periods of attendance mentioned in paragraph (a) above for the year;

"liable graduate" means a graduate who is liable to pay the graduate endowment;

"loan" means a loan for the purposes of discharging the liability of a liable graduate to pay the graduate endowment made under the 1980 Act and these Regulations, including the interest accrued on the loan and any penalties or charges made in connection with it;

"periods of work experience" means–

(a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outwith the institution; and

(b) in the case of a course which includes the study of one or more modern languages for not less than one half of the time spent studying on the course, and which includes periods of residence in a country whose language is a language of the course, such periods of residence during which the student is employed;

"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 for the periods of full-time study for an average of not less than 19 weeks in each year, and for the purposes of calculating their attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period; and

"the 1980 Act" means the Education (Scotland) Act 1980(**5**).

(**4**) 1992 c. 37.
(**5**) 1980 c. 44.

PART II

LIABILITY FOR THE GRADUATE ENDOWMENT

Liable Graduates

3.—(1) Subject to the following paragraphs and regulations 4 and 5, a graduate of the following description shall be liable to pay the graduate endowment under section 1(1) of the Act, namely a graduate who–

(a) has undertaken a full-time course of higher education which commenced on or after 1st August 2001 which is the first full-time course of higher education undertaken by them;

(b) has undertaken that course for a period of at least 3 academic years or, where that course is undertaken as part of a continuous programme of higher education, for a period of at least 2 academic years; and

(c) is a person mentioned in paragraphs 2 to 7 of Schedule 1.

(2) A graduate who has undertaken a full-time course of higher education which commenced on or after 1st August 2001 shall not be liable to pay the graduate endowment if that course is undertaken as part of a continuous programme of higher education which commenced prior to 1 August 2001.

(3) This paragraph applies to graduates who have undertaken a full-time course of higher education who prior to the completion of that course–

(a) transferred from one institution to another to undertake the same or any other full-time course of higher education;

(b) ceased to undertake that course but transferred to another full-time course of higher education at the same institution; or

(c) ceased to undertake that course but transferred to another course of higher education which is not a full-time course of higher education.

(4) In the case of a graduate to whom paragraph (3) applies, for the purposes of paragraph (1)–

(a) all of the full-time courses of higher education undertaken by them which follow on immediately from the preceding course (disregarding any intervening vacation) shall be treated as a single course of full-time higher education; and

(b) the period taken into account for the purposes of paragraph (1)(b) above shall be the entire period during which the graduate undertook the full-time courses of higher education referred to in sub-paragraph (a) above;

Exempt Graduates

4.—(1) A graduate shall be exempt from liability for the graduate endowment if, on the relevant day applicable to the course of higher education in respect of which the graduate would otherwise be liable to pay the graduate endowment, the graduate–

(a) has attained the age of 25 years;

(b) is married; or

(c) has supported himself or herself out of his or her earnings for periods aggregating not less than 3 years.

(2) A graduate shall be exempt from liability for the graduate endowment if, at any time during the course of higher education in respect of which the graduate would otherwise be liable to pay the graduate endowment, the graduate–

(a) is eligible for an allowance under the Students' Allowances (Scotland) Regulations 1999(**6**) in respect of their being a lone parent;

(b) is eligible for an allowance under those Regulations in respect of their being a disabled student; or

(c) is a person mentioned in paragraph 7 of Schedule 1 and would have been eligible for either of the allowances mentioned in sub-paragraphs (a) and (b) above if the graduate had been a person mentioned in paragraph 2 of that Schedule.

(3) For the purposes of paragraph (1)(c) above, a person shall be regarded as having supported themself out of their earnings for any period or periods during which that person satisfies any of the conditions set out in paragraph 3(2) of Schedule 2.

(4) For the purposes of paragraph (1) above, the relevant day applicable to a course of higher education shall be–

(a) as respects a course starting in the period 1st August to 31st December, 1st August;

(b) as respects a course starting in the period 1st January to 31st March, 1st January;

(c) as respects a course starting in the period 1st April to 30th June, 1st April; and

(d) as respects a course starting in the period 1st July to 31st July, 1st July,

in each case the relevant date being in the year of commencement of the first academic year in which the graduate undertook the course of higher education.

Exempt Courses

5.—(1) For the purposes of section 1 of the Act, the following classes of course shall be treated as not falling within section 38 of the Further and Higher Education (Scotland) Act 1992–

(a) a course at a higher level in preparation for a higher diploma or certificate;

(b) a course of post-graduate studies (including a higher degree course); and

(c) a course at a higher level in preparation for a qualification from a professional body.

(2) For the purposes of section 1 of the Act, the following courses shall be treated as not falling within the said section 38:–

(a) a first degree course in nursing or midwifery; or

(b) a first degree course in one of the subjects listed in Schedule 3 to these Regulations.

Provision of Information

6.—(1) Every liable graduate, and any person whom the Scottish Ministers consider may become a liable graduate, shall, as soon as reasonably practicable after requested to do so, provide the Scottish Ministers with such information as they consider necessary arising out of or in connection with their liability for, or the payment by them of, the graduate endowment.

(2) Every institution which provides any course of higher education shall, as soon as reasonably practicable after requested to do so, provide the Scottish Ministers with such information as they consider necessary in respect of liable graduates and persons who may become liable graduates.

(**6**) S.I.1999/1131

PART III

AMOUNT AND PAYMENT OF GRADUATE ENDOWMENT

Amount of Graduate Endowment

7.—(1) Subject to paragraph (2) below, the amount of the graduate endowment which a liable graduate shall be liable to pay to the Scottish Ministers shall be the amount of the graduate endowment prevailing on the first day of the first academic year in which the graduate undertook the course of higher education in respect of which they are liable to pay the graduate endowment.

(2) If a liable graduate undertakes a course of higher education in respect of which they are liable to pay the graduate endowment as part of a continuous programme of higher education, the amount of the graduate endowment which that liable graduate shall be liable to pay to the Scottish Ministers shall be that prevailing on the first day of the first academic year of the course referred to in paragraph (b) of the definition of "continuous course of higher education" in regulation 2 undertaken as part of that continuous course of higher education.

(3) For the period from 1st August 2001 to 31st July 2002, the amount of the graduate endowment shall be £2000.

(4) For any subsequent period of one year commencing on 1 August, the amount of the graduate endowment shall be the amount of the graduate endowment for the previous period increased by the appropriate percentage for that subsequent period and if the resulting amount is not a whole number of pounds, it shall be rounded down to the nearest pound.

(5) The appropriate percentage for any period is the percentage by which the retail prices index for the month of July immediately preceding that period has increased compared with the retail prices index for the previous July.

Payment of Graduate Endowment

8.—(1) Subject to the following paragraph, each liable graduate shall pay the full amount of the graduate endowment for which they are liable to the Scottish Ministers on the due date.

(2) A liable graduate may apply to the Scottish Ministers for a loan in accordance with Part IV of these Regulations for the purposes of discharging their liability to pay the graduate endowment, and paragraph (1) shall not apply to a liable individual who makes such an application before the due date.

PART IV

LOANS TO PAY THE GRADUATE ENDOWMENT

Eligibility for a loan

9.—(1) The Scottish Ministers shall make a loan in accordance with section 73(f) of the 1980 Act(**7**) and these Regulations in respect of each liable graduate who applies for a loan in accordance with regulation 10 for the purposes of discharging their liability to pay the graduate endowment.

(2) All liable graduates shall be eligible for such a loan.

(**7**) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29, and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 2.