SCOTTISH STATUTORY INSTRUMENTS

2000 No. 200

EDUCATION

The Education (Student Loans) (Scotland) Regulations 2000

Made - - - -	*15th June 2000*
Laid before the Scottish Parliament - - - -	*16th June 2000*
Coming into force - -	*7th July 2000*

The Scottish Ministers, in exercise of the powers conferred upon them by sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) (Scotland) Regulations 2000 and shall come into force on 7th July 2000.

Interpretation

2.—(1) In these Regulations–

"academic year", in relation to a course, means the period of twelve months beginning on the relevant date;

"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;

"the Act" means the Education (Scotland) Act 1980;

"borrower" means a person to whom a loan has been made;

(**1**) 1980 c. 44. Section 73(f) was amended to permit the Secretary of State to pay loans by section 29(1) of the Teaching and Higher Education Act 1998 (c. 30). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

"designated course" means a course designated by regulation 5 or by the Scottish Ministers under regulation 5;

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

"EEA migrant worker" has the meaning given to it in paragraph (5);

"eligible student" means a person whom the Scottish Ministers have determined is eligible for a loan in connection with his attendance at a course in accordance with regulation 6 or 7;

"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;

"the Islands" means the Channel Islands and the Isle of Man;

"loan" means a loan towards a student's maintenance under the Act and any regulations made thereunder, including the interest accrued on the loan and any penalties or charges made in connection with it;

"period", in relation to an academic year, means one of the periods in that year from 1st January to 31st March, 1st April to 30th June, 1st July to 31st July, or 1st August to 31st December;

"period of work experience" has the meaning given to it in regulation 5(3);

"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(**4**) as extended by the Protocol thereto which entered into force on 4th October 1967(**5**) and any reference to the child of a refugee includes a reference to a step-child.

"relevant date", in relation to a course, means–

(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 30 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 appropriate academic year of the course;

"Repayment Regulations" means the Repayment of Student Loans (Scotland) Regulations 2000(**6**);

"sandwich course" has the meaning given to it in regulation 5(2);

"student loan account number" means the account number assigned by the lender to a loan made under the Act, the Education (Student Loans) Act 1990(**7**), the Education (Student

(**2**) Cmnd.2073.
(**3**) Cmnd.2183.
(**4**) Cmnd.9171.
(**5**) 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).
(**6**) S.S.I. 2000/110.
(**7**) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

Loans) (Northern Ireland) Order 1990(**8**), the Teaching and Higher Education Act 1998(**9**), the Education (Student Support) (Northern Ireland) Order 1998(**10**) or any regulations made under any of the foregoing; and

"the 1999 Regulations" means the Education (Student Loans) (Scotland) Regulations 1999(**11**).

(2) For the purposes of these Regulations a person who is resident in Scotland, England, Northern Ireland, Wales, the Channel Islands or the Isle of Man as a result of having moved from another of those areas for the purpose of attending–

(a) his present course; or

(b) a previous designated course which (disregarding any intervening vacation) he was attending immediately before commencing his present course,

shall be considered to be ordinarily resident in the place from which he moved.

(3) For the purposes of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971(**12**), a person shall be treated as ordinarily resident in Scotland, in the United Kingdom, 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 Scotland, the United Kingdom, the United Kingdom and Islands or, as the case may be, outside the European Economic Area and paragraph 7(c) of Schedule 1 shall not apply in the case of such a person.

(4) 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 Community or the European Economic Area, as appropriate.

(5) 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–

(a) under Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community(**13**) as extended by the EEA Agreement; 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.

Revocations and transitional provisions

3.—(1) The Education (Student Loans) (Scotland) Regulations 1999(**14**) and the Education (Student Loans) (Scotland) Amendment Regulations 1999(**15**) shall be revoked on 1st August 2000.

(**8**) S.I. 1990/1506 (N.I. 11).
(**9**) 1998 c. 30.
(**10**) S.I. 1998/1760 (N.I.14).
(**11**) S.I. 1999/1001, amended by the Education (Student Loans) (Scotland) Amendment Regulations S.S.I. 1999/124. Regulation 16 of the 1999 Regulations was revoked by the Repayment of Student Loans (Scotland) Regulations 2000.
(**12**) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule and the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.
(**13**) O.J. No. L257, 19.10.68, p.2 (O.J./S.E. 1968 (II), p.475).
(**14**) S.I. 1999/1001.
(**15**) S.I. 1999/124.

(2) Notwithstanding paragraph (1), the 1999 Regulations shall continue to apply to the making of loans to students in relation to an academic year which begins before 1st August 2000, and these Regulations shall apply in relation to the making of loans to students in relation to an academic year which begins on or after 1st August 2000, whether anything done under either Regulations is done before or after 1st August 2000.

(3) Accordingly the revocations made by paragraph (1) shall not affect the continued operation of the 1999 Regulations after 1st August 2000 for the purpose of making loans and (subject to paragraph (5)) in relation to loans made as aforesaid.

(4) Notwithstanding any other provision of these Regulations where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1999 Regulations he shall, provided he satisfies the conditions for eligibility in these Regulations, be eligible for a loan under these Regulations in connection with his attendance at the course, or any subsequent designated course which (disregarding any intervening vacation) he starts attending immediately after ceasing to attend that course, calculated in accordance with Part III.

(5) Regulation 15 of the 1999 Regulations shall apply to loans made under the 1999 Regulations until 1st August 2000, and regulation 15 of these Regulations shall apply to such loans and to loans made under these Regulations on and after 1st August 2000.

PART II

ELIGIBILITY AND APPLICATIONS

Eligible students

4.—(1) The Scottish Ministers may pay a loan, in accordance with the provisions of section 73(f) of the Act and these Regulations, to or in respect of an eligible student.

(2) Subject to and in accordance with these Regulations a person shall be eligible for a loan in connection with his attendance at a designated course if–

(a) he is a person mentioned in Schedule 1;

(b) he is–

(i) under the age of 50 on the first day of the first academic year of the course; or

(ii) aged 50 or over and under the age of 55 on that day and the Scottish Ministers are satisfied that he intends to enter employment after he has completed the course;

(c) he is not eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Teaching and Higher Education Act 1998 or the Education (Student Support) (Northern Ireland) Order 1998, or any regulations made under any of the foregoing;

(d) he is not eligible to receive in relation to the academic year–

(i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(**16**) the amount of which is not calculated by reference to his income; or

(**16**) 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 etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(**17**);

(e) he is not in breach of any obligation to repay any loan;

(f) where the designated course is a part-time course, he has already received fewer than eight loans in connection with his attendance at one or more part-time courses;

(g) where the designated course is a part-time course, he has–

(i) attained the age of 25 years;

(ii) been married for at least 2 years;

(iii) no parent living; or

(iv) supported himself out of his earnings for periods aggregating not less than 3 years; and

(h) subject to paragraph (5), he has ratified any agreement for a loan made with him when he was under the age of 18.

(3) Notwithstanding that he satisfies the requirements specified in paragraph (2) a person shall not be eligible for a loan if–

(a) he has, in the opinion of the Scottish Ministers, shown himself by his conduct to be unfitted to receive a loan; or

(b) the designated course is a part-time course and the person holds a first degree from an educational institution in the United Kingdom or a comparable qualification from an educational institution outside the United Kingdom.

(4) For the purposes of paragraph (2)(e), (f) and (h) "loan" means a loan made under the Act, the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Teaching and Higher Education Act 1998, the Education (Student Support) (Northern Ireland) Order 1998 or under any regulations made under any of the foregoing.

(5) Paragraph (2)(h) 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

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

(6) A person in respect of whom the first day of the first academic year of the course is on or after 1st August 2000 shall not, at any one time, be eligible for support for more than one designated course.

Designated courses

5.—(1) A course shall be designated for the purposes of regulation 4(2) if it is–

(a) mentioned in Schedule 2;

(b) a full-time course, a part-time course or sandwich course;

(c) of at least one academic year's duration and, in the case of a part-time course, does not have a duration in excess of twice the period normally required to complete a full-time course leading to the same qualification; and

(d) wholly provided by an educational institution or institutions in the United Kingdom maintained or assisted by recurrent grants out of public funds or is provided by such

Reorganisation (Wales) Consequential amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

(**17**) S.I. 1992/580.