This document relates to the Education (Graduate Endowment and Student Support) (Scotland) Bill (SP Bill 21) as introduced in the Scottish Parliament on 5 October 2000

EDUCATION (GRADUATE ENDOWMENT AND STUDENT SUPPORT) (SCOTLAND) BILL

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POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Education (Graduate Endowment and Student Support) (Scotland) Bill introduced in the Scottish Parliament on 5 October 2000. It has been prepared by the Scottish Executive to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Executive and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 21–EN.

POLICY OBJECTIVES OF THE BILL: GENERAL

2. The principal purpose of the Bill is to introduce a “graduate endowment” which will be payable by certain individuals who have studied in Scotland, in recognition of the benefits gained from their degree. The Bill amends section 73(f) of the Education (Scotland) Act 1980 to enable the Scottish Ministers to make grants (and consequently bursaries) and loans (a) to individuals who are studying for a higher education qualification by distance learning and (b) to former as well as existing students. The Bill also amends the Local Government Finance Act 1992 to ensure that students will no longer be liable for the council tax simply by virtue of sharing accommodation with a non-student.

3. The Scottish Executive is committed to widening access to higher education and improving Scotland's skills base. This commitment was set out in the Programme for Government which was published soon after the first elections to the Scottish Parliament. The Executive believes that improving student finance to address the issue of student hardship is not the only key to achieving these aims, but that it is an important one.

4. The Bill forms part of a wider programme of reform of student support arrangements in Scotland, the other elements of which do not require legislation. The key elements of the remainder of the programme for reform are:
the abolition of tuition fee contributions for all eligible students studying in Scotland, from 2000-01;

the introduction of a new scheme enabling part-time students on low incomes to borrow up to £500 to assist with study costs, from 2000-01;

the introduction of a new Young Student’s Bursary for new entrants from 2001-02;

the establishment of a new Mature Student Bursaries Fund for new entrants from 2001-02;

moves to modernise the way in which families are assessed for the contribution they will make to a student’s maintenance.

THE GRADUATE ENDOWMENT

Policy objectives

5. The Programme for Government committed the Executive to establishing an Independent Committee of Inquiry into Student Finance (the Cubie Committee). The Committee set out a number of guiding principles.

“Student support should maximise opportunity for all to be able to access high quality lifelong learning.

Such support should promote social inclusion, the knowledge economy and an enhanced civil society, by having a system which is:

• Clear, simple and easily accessible;

• Comprehensive and consistent;

• Flexible and responsive;

• Based on fairness and equal opportunity;

• Easily administered, with a learner focus;
• Adequately resourced.

Thereby such support should ensure that students in all modes of study are enabled to access a sufficient package of funding, whether from families, employers, graduates, government or through paid employment, none of which should be to the detriment of their studies.

To achieve this, government should remove barriers to widening access and participation by:

• Targeting resources effectively on sections of society under-represented in both further and higher education programmes;

• Providing flexible means of support to accommodate the changing nature of the student population;

• Assisting, in particular, those students who may not otherwise obtain sufficient support so that education is available to all those who have the ability to benefit from study.  

6. The Executive was happy to endorse these principles and has sought to follow them in responding to the Committee’s recommendations. In particular, it agrees with the Committee that it is right to seek some contribution from the beneficiaries of higher education, which can be used to provide more support for those who need it most.

7. The Bill therefore seeks to establish the graduate endowment, which will in time make an important contribution to the costs of the increased support for students which the Executive plans to provide. To be liable for the endowment, a student must first of all have undertaken a course of higher education at a publicly-funded institution in Scotland, defined in the Bill as an institution funded by the Scottish Ministers through the Scottish Higher Education Funding Council or the Scottish Further Education Funding Council. This recognises that a number of students choose to study for their degree at further education colleges. It is intended that regulations to be made under the Bill will set out the remaining criteria which will determine liability. It is intended that these further criteria will restrict liability to individuals who are Scottish domiciled or are EU students; whose full-time degree study in Scotland exceeds a specified minimum period; and have either been awarded a degree or have satisfied the requirements for

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1 The Independent Committee of Inquiry into Student Finance: Student Finance Fairness for the Future, page 17.
such an award. This last provision is to prevent the creation of an incentive not to graduate for students successfully completing their course. It is proposed to set out these criteria in regulations to ensure that there is some flexibility in future to respond to changing patterns of degree provision and to reflect that the residence criteria used in the context of student support are based on secondary, rather than primary, legislation.

8. Certain individuals will be exempt from the graduate endowment. The exemptions fulfil the Executive’s desire to remove barriers to lifelong learning and promote social justice. The exempt groups are intended to be mature students, lone parents (i.e. those in receipt of Lone Parent Grant) and students who have a disability (i.e. those in receipt of Disabled Students’ Allowance). For technical reasons, in particular the link with specific forms of grant and allowance, the detailed definitions of the exempt groups will be delivered mainly through regulations, although the Bill does refer directly to an exemption on the basis of age.

9. The amount of graduate endowment for which individuals will be liable will be that prevailing on the first day of the first academic year of their course. For new entrants to higher education in the academic year 2001/02 it will be £2,000. The amount will initially be set in regulations. It is intended that the amount will be index-linked for each successive group of applicants.

10. It is intended that individuals will be able to pay the full amount of the endowment either by means of a direct lump sum payment or by taking out an income contingent loan from the Student Loans Company. Payment by taking out a student loan will immediately discharge the individual’s liability for the graduate endowment. The individual’s remaining obligation would then be to repay the student loan on the terms which apply under the existing UK-wide scheme for all income-contingent loans. The Executive does not intend to offer a discount for direct lump-sum repayment, on the grounds that this would disadvantage those students with least access to resources at the end of their course.

11. The overall programme of change to student support proposed by the Executive, taking into account all the elements described at paragraph 4 above, has been designed so that any individual choosing to meet liability for the graduate endowment through the income-contingent loan arrangements should face no more overall debt at the end of his or her studies than under the system being replaced. Many will in practice face significantly less debt, even after taking into account their liability for the graduate endowment.

12. Liability will arise as at a date to be determined in regulations, which it is intended will fall in the year after an individual completes his or her course. The
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Regulations will make further detailed provision about the precise arrangements for repayment. Regulations are better suited for the level of detail required and also provide the appropriate vehicle for linking the repayment of the graduate endowment to the existing secondary legislation relating to student loans.

13. The Bill also provides that certain classes of course may be designated in regulations as carrying an exemption from the graduate endowment. The Executive intends that the endowment should only be payable in relation to first degrees. This power will therefore be used to exempt HND and HNC courses from the endowment, which would otherwise be caught by the definition of “higher education” (set out in section 38 of the Further and Higher Education (Scotland) Act 1992) which is attracted in the Bill. The power will also be used to exempt other courses which it is not the Executive’s intention should be subject to the graduate endowment, such as post-graduate degrees and Post Graduate Certificates of Education. It will be important to be able to adapt to changes to the nature of degree provision over the long-term and therefore the Executive believes it is preferable for this list to be in secondary rather than primary legislation.

14. Academic institutions will be required by regulations to provide certain information, so that individuals who have fulfilled the course completion requirement, and so become liable, can be identified.

Alternative approaches

15. The Executive agreed with the Committee’s conclusion that enhanced support for disadvantaged students should be supported through the collection of a flat-rate sum from certain graduates on an income-contingent basis. It therefore did not consider any alternative to this basic model.

16. In reaching a decision on how the graduate endowment might work in detail, the Scottish Ministers took into account the view of the Committee that repayments should only commence at an income of £25,000, regardless of any student loan payments for which the graduate was also liable. However, it felt for a number of reasons that adopting this approach could not be justified.

17. The Executive took the view that it was possible to establish an equitable repayment system using the existing income contingent loans scheme, taking into account that the overall package of changes to student support would mean that, even with the endowment, many students would have less debt than at present and no student would have more. The Executive’s proposals also mean that no student will face both a
monthly deduction from income for a student loan plus an additional monthly deduction for the graduate endowment.

18. The income threshold at which borrowers are asked to start repaying their income contingent loans (at present, £10,000) is set by the UK Government. However, the Executive will seek discussions with the UK Government about the scope for increasing the income threshold in the future for the loan scheme as a whole while maintaining the current level of interest subsidy (which limits to interest rate on the loan to increases in the Retail Prices Index).

19. No other machinery exists which seeks to monitor former students’ income and then collects income contingent payments. To introduce such a system the Executive would require to create a new agency or contract with an existing body for a new procedure. The Executive took the view that establishing a new collection machinery would create new administrative costs which could be expected to be disproportionate to the amount of income from the endowment and that this would not represent a good use of public funds.

20. It would be possible to have no exemptions for mature, disabled and lone parent students. The Executive believes, however, that an exemption for these categories of student will work in the interest of widening access to under-represented groups.

Consultation

21. On 25 January 2000 the Scottish Executive published its initial response to the Report produced by the Cubie Committee. The Executive announced that it intended to introduce a new system of Access Bursaries targeted at young students from low income families and mature students studying higher education courses in Scotland. To help to fund these bursaries the Executive would introduce a graduate endowment payable by certain former students who had undertaken a first degree course at a Scottish institution, in recognition of the benefit they gain from the degree.

22. On 24 May 2000 the Scottish Executive published its full response to all 52 of the “Cubie” recommendations in the document entitled “Scotland The Learning Nation – Helping Students”. This document provided further detail about the Executive’s plans for the graduate endowment, the new bursaries and other improvements to the student support scheme for higher and further education students. The document signalled the Executive’s desire to extend certain elements of the Disabled Student’ Allowance and the £500 loans for part-timers to distance learning students and to remove the council tax anomaly, both of which require primary legislation.
23. “Helping Students” was circulated widely to all organisations with an interest in higher and further education students. These organisations included all those who had responded to the Cubie Report, the Convention of Scottish Higher Education Principals, the Association of Scottish Colleges, NUS Scotland and all colleges and universities in Scotland. A series of questions were posed to elicit specific views on issues of key importance to the Executive. The consultation period ended on 31 August. There were 94 replies, with a further 12 on the Graduate Endowment Internet Discussion Forum, as follows:

15 - General public

27 - Universities or colleges

10 - Student associations

8 - Local authorities

15 - Organisations - community based

18 - Organisations - education based

1 – Schools

24. There was clear support for new bursaries for young students and mature students, as well as for the intention to modernise the higher education means-test and to move towards greater alignment of the further education model of student support. The principle of graduates contributing towards the cost of improved financial support for students from less well off families was also widely accepted but concerns were expressed about the level of the threshold of the income contingent loan which graduates will be able to use to pay the graduate endowment. A number of more detailed points were also raised.

AMENDMENT OF THE EDUCATION (SCOTLAND) ACT 1980

Policy objectives

25. The Bill will ensure that students who study by distance learning will no longer be excluded from financial support from the Scottish Executive. Currently such support cannot be given because section 73(f) of the Education (Scotland) Act 1980 (as modified by the Scotland Act 1998) provides that:
“The [Scottish Ministers] may out of money provided by Parliament apply, in accordance with regulations made by [them], such sums as [they] think necessary or expedient for any or all of the following purposes—

…

(f) the payment of allowances or loans to or in respect of persons attending courses of education”.2

26. The Bill amends this section to provide that the Scottish Ministers may make payments of allowances or loans to or in respect of persons who are “undertaking or…who have undertaken” courses of education. The purpose of this amendment is two-fold. First, it enables allowances and loans to be paid to students on distance learning courses. This will allow the extension of the loans for part-timers scheme and the Disabled Students' Allowance (DSA) to distance learning students in accordance with the wishes of the Scottish Ministers. The use of the word “attending” could, at least in some circumstances, preclude such a payment as it suggests some degree of physical attendance on the course. Second, the change enables loans to be made to students who have completed their course to enable them to fulfil their liability to pay the graduate endowment.

Alternative approaches

27. The proposed legislative amendment is the only means of achieving the policy intention to widen the scope of loan and grant making powers, therefore no alternative approach was considered.

Consultation

28. The Scottish Executive has had discussions with the Open University and others with an interest in distance learning students and explained its intention to extend the availability of the DSA and loans for part-timers scheme to this group. The move has been welcomed, although the Open University continues to be concerned that its students are not able to access this support at present.

2 1980 c. 44, as amended by the Teaching and Higher Education Act 1998 (c. 30) s. 29(1).
THE COUNCIL TAX

Policy objectives

29. Currently, full-time students who qualify under the provisions of the Council Tax (Discounts) (Scotland) Order 1992 (S.I. 1992/1408) are disregarded when calculating the council tax bill. Student-only households are exempt. However, in cases where a student shares with a non-student the student is jointly and severally liable for the council tax bill. The Executive considers it anomalous that students are ‘disregarded’ for the purposes of calculating council tax but, depending on the status of any other people within a dwelling, are jointly and severally liable for the payment of the tax.

30. It is necessary to amend section 75 of the Local Government Finance Act 1992 to exclude students from joint and several liability for council tax when they share accommodation with non-students.

Alternative approaches

31. The proposed legislative amendment is the only means of achieving the policy intention, therefore no alternative approach was considered.

Consultation

32. The intention to remove the anomaly was contained in “Helping Students”. There were no adverse comments.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT, ETC.

33. It is not envisaged that the Bill will have any adverse effects on equal opportunities, human rights, island communities, local government or sustainable development. The Bill will promote equal opportunities by enabling the Executive to provide financial support to distance learning students.
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