EDUCATION (GRADUATE ENDOWMENT AND STUDENT SUPPORT) (SCOTLAND) (NO.2) BILL

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EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Education (Graduate Endowment and Student Support) (Scotland) (No.2) Bill introduced in the Scottish Parliament on 7 December 2000:

   • Explanatory Notes;
   • a Financial Memorandum;
   • an Executive Statement on Legislative Competence; and
   • the Presiding Officer’s Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Executive, is printed separately as SP Bill 22–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill provides for payment of a “graduate endowment” by a “graduate” in respect of the “higher education benefits” afforded to him or her. “Graduate” and “higher education benefits” are defined in section 1(5) of the Bill.

5. The details of the endowment, including the description of graduates liable to pay it and the amount and manner of payment are to be set out in regulations made by the Scottish Ministers. Such regulations may also exempt certain categories of individuals and certain courses.

6. The Bill ensures that the Scottish Ministers must include provision in the budget proposals made for each financial year that the income raised by the payment of the graduate endowment in that year will be used for the purposes of student support provided by Scottish Ministers.

7. The Bill amends the Education (Scotland) Act 1980, so that regulations governing the payment of student allowances and loans by the Scottish Ministers can be extended to allow payment to distance learning students and to former students. It also amends the Local Government Finance Act 1992 exempting students who share accommodation with people other than students from liability for council tax.

Section 1: The graduate endowment

8. This section establishes the graduate endowment by requiring payment by certain graduates who are as specified in regulations, in respect of the higher education benefits they have been afforded. Liable graduates will also have to meet certain other qualifying criteria which are to be set out in regulations made by the Scottish Ministers. The regulations will specify that the graduate endowment is payable in respect of the first full-time degree undertaken by an individual after 1 August 2001, unless that degree is part of a continuous programme of study (which will also be defined in regulations) commencing before that date. The regulations
will also include provisions dealing with the length of time to be spent on the degree before liability arises and residence conditions.

9. This section also empowers the Scottish Ministers to make regulations:

- **setting the amount of the graduate endowment (subsection (2))**: the amount of the graduate endowment will be set at £2,000 for new entrants to higher education in academic year 2001-02 and in subsequent years the amount may be set by reference to this amount as increased by inflation;

- **exempting individuals by reference to age (subsection (3)(a))**: the intention is that mature students will be exempt. It is intended that the regulations will specify that in order to be exempt individuals must be aged 25 or over at the start of their studies for their degree;

- **exempting further classes of individuals as specified (subsection (3)(b))**: the intention is that those who satisfy the criteria for independent status as regards allowances and loans for living costs at the start of the degree; those who are in receipt of Lone Parent Grant and those who are in receipt of the Disabled Students’ Allowance during the course will be exempt. These categories will be defined in the regulations;

- **making provision for payment (subsection (4)(a))**: the regulations will make provision so that those liable to pay the graduate endowment may make payment directly to the Scottish Ministers or take out an income contingent loan under the current student support arrangements to meet their liability. They will also specify a date by which payment must be made. Precisely how the payment system will work is under consideration with the Student Awards Agency for Scotland (the “Awards Agency”) and the Student Loans Company Limited and the regulations will reflect the outcome of these discussions. It is intended, however, that those who wish to take out an income contingent loan to pay the graduate endowment will do so on the same terms as students who take out an income contingent loan to cover living costs. The intention is that individuals and academic institutions may be required to provide certain information;

- **exempting certain courses that are listed in section 38 of the Further and Higher Education (Scotland) Act 1992 (c.37) (subsection (6))**: liability will arise in connection with first degree courses or equivalent and the regulations will exempt all the other courses listed in section 38 of the 1992 Act, namely courses at a higher level in preparation for a higher diploma or certificate; courses for the education and training of teachers; courses of post-graduate studies; courses at a higher level in preparation for qualification from a professional body; and all other higher level courses not being a first degree course.
10. The statutory instrument containing the first set of regulations made under this section will be required to be approved by a resolution of the Scottish Parliament. Thereafter, instruments will be subject to the negative procedure.

Section 2: Graduate endowment: use of income

11. This section provides that, when making budget proposals to the Scottish Parliament for a particular financial year, the Scottish Ministers must include provision that the income arising from the graduate endowment for that year will be used for the purposes of student support. “Budget proposals” and “student support” are defined in section 2(2) of the Bill.

Section 3: Financial support for students

12. Section 73(f) of the Education (Scotland) Act 1980 (as modified by the Scotland Act 1998) currently 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”.

13. Use of the word “attending” might be taken to suggest some degree of physical attendance on the course. Section 3 of the Bill therefore 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. It also makes two consequential changes. The purpose of the main amendment is two-fold. First, it enables allowances and loans to be paid to students on distance learning courses who are not “attending” courses of education. This will allow the Scottish Ministers to extend the loans for part-timers scheme and the Disabled Students’ Allowance to distance learning students. Second, it enables loans to be made to individuals to enable them to fulfil their liability to pay the graduate endowment.

Section 4: Council tax: students to be exempt from liability

14. Where a student lives alone or shares a property with other students, the student is currently exempt from any charge for council tax. However, where a student shares a residence with a non-student, the student is jointly and severally liable for the council tax bill in respect of the property, notwithstanding that the student is disregarded in calculating the bill.

15. Section 4 of the Bill amends the relevant provisions of the Local Government Finance Act 1992, the effect being that students will no longer be jointly and severally liable for council tax.
FINANCIAL MEMORANDUM

INTRODUCTION

16. The principal costs of implementing sections 1 (the graduate endowment) and 3 (financial support for students) of the Bill will fall on the Scottish Executive. No costs will fall on the Scottish Executive in implementing section 2 (use of income), which provides that the Scottish Ministers must, in their budget proposals, provide that the income arising from the graduate endowment will be used for the purposes of student support. Procedures for making budget proposals are already established and the income from the endowment will be included in the budget at the disposal of the Scottish Executive. No costs will fall on the Scottish Executive in implementing section 4 (council tax) which will exempt students from liability for council tax when they share a dwelling with non-students. The amount to be recovered will remain the same for the dwelling but students will be excluded from those liable to pay.

COSTS ON THE SCOTTISH ADMINISTRATION

Section 1: The graduate endowment

17. The Bill will permit the Scottish Ministers to make regulations governing a number of aspects relating to the graduate endowment (detailed at paragraph 9 above). It is intended that the Awards Agency, which is an executive agency of the Scottish Ministers, and the Student Loans Company Limited, the costs of which are borne by the Scottish Ministers in relation to Scottish domiciled students, will be involved in the administration of graduate endowments.

18. Consideration is being given to the nature of this involvement and the consequential need for changes to be made to the administrative and systems capabilities of both organisations. However, it is believed that it will be possible to build on existing administrative processes to a considerable extent. An illustrative set of draft regulations which will make provision for aspects of the payment arrangements will be published at Stage 2 of the Bill.

19. It is intended that the Student Loans Company Limited will recover the student loans made to EU students for the purpose of paying their graduate endowment where those students do not enter the UK tax system. There will be costs associated with the design of changes to each organisation’s administrative system. These will be established more clearly during discussions of the detail.

20. Income from the graduate endowment will in time make an important contribution to the costs of the increased support for students which the Scottish Executive plans to provide. Levels of income will clearly be affected by the number of individuals who become liable: the Scottish Executive currently estimates that approximately 50% of the non-postgraduate student body will be exempt, on the basis that they are HNC/HND students, mature or independent students, lone parents or disabled students. The Scottish Executive will also require to take into
account the rate at which loans issued to graduates in respect of the endowment are repaid and the proportion of liable individuals who may choose to repay by means of a lump sum.

Section 3: Financial support for students

21. The Bill will permit the Scottish Ministers to provide income contingent loans to Scottish and EU graduates who are liable for the graduate endowment.

22. The Bill will also permit the Scottish Ministers to extend the Disabled Students’ Allowance (the “DSA”) and the scheme of loans for part-time students from low incomes to students who are studying a higher education course on distance learning basis on the same terms as other part-time students. There will be an additional cost to the Scottish Executive. Information about distance learning students and their income and disabilities is not readily available and it has not been possible to identify the numbers of students who would be eligible for this additional support.

23. The DSA comprises at current rates—

- a basic allowance of up to £1,385 per academic year
- up to £10,505 for non-medical personal help per academic year
- up to £4,155 for major items of specialist equipment for the duration of the course.

24. The loans scheme for part-time students provides a £500 income contingent loan for students whose financial resources do not exceed £13,000. This maximum increases if the student is married and/or has children.

COSTS ON LOCAL AUTHORITIES

25. It is not expected that local authorities will incur additional costs in consequence of the Bill.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Section 1: The graduate endowment

26. The graduate endowment will be set at a flat rate. For new entrants in the academic year 2001/02 the amount will be £2,000. For subsequent entrants, the endowment may be index-linked. However, the endowment will not add to the debt incurred by students through the support system for living costs provided by the Scottish Executive. Because of other changes in the way in which that support will be provided – through the introduction of bursaries for some students and increased parental contributions towards living costs for others – no student will
have accrued more debt by way of the student loan than would have been the case under the system being replaced.

27. It will be necessary to be able to identify those who have graduated or have completed a degree course and satisfy the requirements of the university or college for such an award. To achieve this regulations may make provision for the academic institutions to provide information to the Scottish Executive about such graduates. Provision of information about students in receipt of support from the Awards Agency is not new. Institutions currently provide notice of changes of course, withdrawals and students who are studying abroad for a year. Detailed discussions with institution representatives are due to take place to establish how much additional administrative work will be necessary. It is being assumed, however, that any additional cost will be marginal.

Section 4: Students to be exempt from liability for council tax

28. The Bill will amend the relevant provisions of the Local Government Finance Act 1992. Where a student lives alone or shares a property with other students, the student is currently exempt from any charge for council tax. However, where a student shares a residence with a non-student, the student is jointly and severally liable for the council tax bill in respect of the property, notwithstanding that the student is disregarded in calculating the bill. The effect of the amendments is that the same amount will be recoverable in respect of the dwelling but students will no longer be jointly and severally liable for council tax and so will be excluded from those liable to pay.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

29. On 6 December 2000, the Minister for Enterprise and Lifelong Learning (Wendy Alexander) made the following statement:

“In my view, the provisions of the Education (Graduate Endowment and Student Support) (Scotland) (No.2) Bill would be within the legislative competence of the Scottish Parliament.”
PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

30. On 6 December 2000, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Education (Graduate Endowment and Student Support) (Scotland) (No.2) Bill would be within the legislative competence of the Scottish Parliament.”
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