GRADUATE ENDOWMENT ABOLITION (SCOTLAND) BILL

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 Graduate Endowment Abolition (Scotland) Bill introduced in the Scottish Parliament on 22 October 2007:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer's Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 2–PM
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EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government 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.

BACKGROUND

4. This Bill provides for the abolition of the fee known as the graduate endowment ("GE") for students who successfully completed their course on 1 April 2007 or thereafter.

5. The GE was introduced by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 ("the 2001 Act") and applied from 1 August 2001. The GE is imposed by reference to the undertaking of a course of higher education at a publicly-funded institution. The GE currently operates in accordance with the 2001 Act and regulations made under the 2001 Act, the Graduate Endowment (Scotland) Regulations 2007 (S.S.I. 2007/155) ("the principal regulations").

6. The 2001 Act and the principal regulations operate so that liability to pay the GE arises when the student graduates or ceases to undertake the course having satisfied the academic requirements for the award of the degree (i.e. when the student becomes a "liable graduate"). But the obligation to actually pay the GE (i.e. settle the liability) does not crystallise until 1 April following the last day of the last academic year of the course (that date being the "due date"). Thus, any student who successfully completes his or her course on or after 1 April in a particular year is under obligation to pay the GE on 1 April in the following year. The amount payable is set at the beginning of the degree course and, for entrants in academic year 2006-07, the fee would be £2,289 at the time of successful completion of the course.

THE BILL

7. The Bill provides for abolition of the GE by repealing the relevant sections of the 2001 Act (and revoking the principal regulations), together with the express extinguishing of liabilities by reference to the due date of 1 April 2008 and savings for certain prior liabilities.

COMMENTARY ON SECTIONS

8. The Bill consists of 5 sections.

THE BILL – SECTION BY SECTION

Section 1: Abolition of the graduate endowment

9. Subsection (1) repeals sections 1 and 2 of the 2001 Act (and revokes the principal regulations). No student will become a liable graduate after the coming into force of this section (as the repeals completely remove the graduate endowment for the future). Sections 2 and 3 of the Bill make provision for students who have become liable graduates up to the coming into force of this section.

10. Subsection (2) makes a consequential repeal of paragraph 10 of schedule 3 to the Further and Higher Education (Scotland) Act 2005 ("the 2005 Act"), which made an amendment to section 1 of the 2001 Act in consequence of the 2005 Act. That amendment is spent by virtue of the repeal of section 1 of the 2001 Act.

Section 2: Extinguishing of liabilities

11. Section 2 applies to those liable graduates whose due date is 1 April 2008 or after. This means any liable graduate who successfully completed his or her course on or after 1 April 2007. Subsection (2) extinguishes the liability to pay the GE for this category of person.

12. Subsection (3) provides that the GE liability is regarded as never having existed. This primarily addresses the eventuality of the Bill not commencing (on the day after receiving Royal Assent) until after 1 April 2008. On 1 April 2008 the liable graduates in this category will be under a legal obligation to make payment in discharge of their GE liability and any student who successfully completes his or her course between this date and the day the Bill comes into force will become a liable graduate (with a due date of 1 April 2009). It also addresses any possibility that such liable graduates might seek to make payment ahead of those that due dates. For these circumstances, subsection (3) ensures that the extinguishing of the liability has effect from when the liability first arose.

Section 3: Saving of prior liabilities

13. Section 3 applies to those liable graduates whose due date is before 1 April 2008. This means liable graduates whose due date was 1 April 2005, 2006 and 2007. Subsection (2) means that section 1 of the 2001 Act and the principal regulations are kept in force for the purpose of on-going collection of the GE from this category of person (whose GE liability is not being extinguished by the Bill).

Section 4: Definitions

14. Section 4 defines terms used in the Bill. In particular, subsection (1) specifies that GE liabilities include not only the original liability to pay the GE itself but also any superseding loan from the Scottish Ministers made under the principal regulations.

Section 5: Commencement and short title

15. Under section 5, the resulting Act is to come into force the day after Royal Assent.

FINANCIAL MEMORANDUM

INTRODUCTION

16. This document sets out the financial implications of the abolition of the graduate endowment (“GE”). It should be read in conjunction with the Policy Memorandum and the Bill itself.

COSTS ON THE SCOTTISH ADMINISTRATION

17. The GE fee was set at £2,000 for entrants to higher education in 2001-02. The amount increases by inflation each year, so the amount paid per graduate depends on the year of entry to HE. For those entering in 2006-07 the GE payment would have been £2,289. Since the first cohort of students became liable on 1 April 2005, 20,684 students have paid the GE (based on our latest figures as at 1 September 2007).

Loss of income

18. From 2008-09, the Scottish Government will forego around £17m per annum in net income (net of the cost of providing GE Student Loans) from the GE. A previously quoted figure of £15m net per annum was based on figures on GE liability for 2006-07. The increase to £17m is based on more recent data being available for financial year 2007-08.

19. The figure of £17m is based on an overall expected gross income of £21.7m from the 11,558 graduates who became liable to pay the GE on 1 April 2007. However, because there are costs associated with providing students loans, the Scottish Government will not receive this full amount. Around two thirds of graduates will opt to pay the GE by taking out a loan through the Student Loans Company. Loans will have a value of around £14.6m with the remaining £7.1m being paid in cash. In effect this means that the GE is paid to Scottish Ministers over a period of time.

20. In line with general accounting practice, the income expected to be raised from the GE can be applied against permitted expenditure in full in the year that the payment is due.

21. The associated cost of providing student loans is calculated as 31% of every £1 borrowed. This reflects the cost to Government of providing loans at a real-terms rate of interest and the potential costs of any loans which may be written off.

22. Therefore, for loans with a value of £14.6m, this cost would be around £4.7m. Based on the information we have for 2007/08, the expected net income from the GE in 2008-09 would have been £21.7m minus £4.7m which provides the figure of around £17m.

23. This income is currently directly attributable to the Scottish Government and is applied (within the legislative restrictions) to the costs of providing student loans. This income is applied as mentioned through direct appropriation each year (by authority of the Budget Act) rather than having to go through the Scottish Consolidated Fund (SCF). This in turn releases existing budget to be used elsewhere to meet in-year-pressures within what was previously the Enterprise and Lifelong Learning Department's budget, which are reflected within the Budget Revisions.

24. As such, abolishing the GE will not affect budget baselines such as those for the Young Students Bursary or for institutional funding as they do not rely on GE income. Instead it is the additional flexibility to fund in-year, non-baseline pressures that will be lost immediately.

25. In summary then, we do not have to replace the lost GE income from the Scottish Consolidated Fund (SCF). The effect of abolishing the GE will be to reduce the ability to fund additional, non-budgeted, financial pressures which may arise throughout the financial year.

Outstanding liabilities

26. The Graduate Endowment loan advances form part of the total Student Loan debtor contained within the Government's accounts. All unsettled liabilities including those being pursued are included within the Debtors figure contained within the Government's accounts. As at 1 September 2007 1,116 graduates were in, or facing debt recovery.

Operational costs and savings

27. There will be a cost incurred by the Student Award Agency for Scotland (SAAS), the Agency responsible for arranging the collection of the GE, for writing-off the Graduate Endowment Capital costs for the IT system that is used to record and administer the GE liabilities. As at 31 March 2007, this asset was valued at £225,000. This asset will be written-off in Financial Year 2007-2008. The cost of writing this off is met from the Scottish Consolidated Fund.

28. There will also be cost implications for the Student Loans Company. The Company will require one-off funding of £54,000 in 2007-08 to remove the GE functionality from their systems and processes. A further payment of £9,000 will be required when the scheme is fully decommissioned and all outstanding liabilities have been processed.

29. Abolishing the Graduate Endowment should result in a saving of around £30,000 per annum from the Student Loans Company running costs in future years, from 2008-09. SAAS will also realise savings of around £30-£35,000 per annum as a result of the abolition of the GE. These savings will be redeployed to meet other priorities within the Agency.

30. SAAS are an agency of the Scottish Government and their budget is part of the Government accounts. The Student Loans Company's administration costs are met by the Scottish Government through the SAAS budget.

COSTS ON LOCAL AUTHORITIES

31. There are no cost implications for local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

32. There are no cost implications on other bodies, individuals or businesses.

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

33. On 22 October 2007, the Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop MSP) made the following statement:

> "In my view, the provisions of the Graduate Endowment Abolition (Scotland) Bill would be within the legislative competence of the Scottish Parliament."

PRESIDING OFFICER'S STATEMENT ON LEGISLATIVE COMPETENCE

34. On 18 October 2007, the Presiding Officer (Alex Fergusson MSP) made the following statement:

> "In my view, the provisions of the Graduate Endowment Abolition (Scotland) Bill would be within the legislative competence of the Scottish Parliament."

These documents relate to the Graduate Endowment Abolition (Scotland) Bill (SP Bill 2) as introduced in the Scottish Parliament on 22 October 2007

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Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

ISBN 978-1-4061-3673-9

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