



The Scottish Parliament  
Pàrlamaid na h-Alba

## EDUCATION AND CULTURE COMMITTEE

### AGENDA

8th Meeting, 2012 (Session 4)

Tuesday 6 March 2012

The Committee will meet at 10.00 am in Committee Room 1.

1. **Curriculum for Excellence:** The Committee will take evidence from—  
  
Michael Russell, Cabinet Secretary for Education and Lifelong Learning, Scottish Government;  
  
Bill Maxwell, Chief Executive, Education Scotland;  
  
Sarah Smith, Director of Learning, Scottish Government.
2. **Subordinate legislation:** The Committee will take evidence on the Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 [draft] from—  
  
Michael Russell, Cabinet Secretary for Education and Lifelong Learning, Scottish Government;  
  
Ken Muir, HM Chief Inspector of Education, Education Scotland;  
  
John St Clair, Senior Principal Legal Officer, Scottish Government Legal Directorate.
3. **Subordinate legislation:** Michael Russell to move—S4M-02167—That the Education and Culture Committee recommends that the Public Services (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 [draft] be approved.
4. **Subordinate legislation:** The Committee will consider the following negative instrument—

The Repayment of Student Loans (Scotland) Amendment Regulations 2012 (SSI 2012/22).

5. **Subordinate legislation:** The Committee will consider the following instruments which are not subject to any parliamentary procedure—

The Public Records (Scotland) Act 2011 (Commencement No. 1) Order 2012 (SSI 2012/21);  
Children's Hearings (Scotland) Act 2011 (Commencement No. 4) Order 2012 (SSI 2012/23);  
The Public Records (Scotland) Act 2011 (Commencement No. 2) Amendment Order 2012 (SSI 2012/42).

6. **National Library of Scotland Bill (in private):** The Committee will consider a revised draft Stage 1 report.

Terry Shevlin  
Clerk to the Education and Culture Committee  
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Edinburgh  
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The papers for this meeting are as follows—

**Agenda Item 2**

Note by the Clerk

EC/S4/12/8/1

**Agenda Item 4**

Paper by the clerk

EC/S4/12/8/2

**Agenda Item 5**

SSI 2012 21

EC/S4/12/8/3

SSI 2012 23

EC/S4/12/8/4

SSI 2012 42

EC/S4/12/8/5

**Agenda Item 6**

PRIVATE PAPER

EC/S4/12/8/6 (P)

**Education and Culture Committee**

**8th Meeting, 2012 (Session 4), Tuesday, 6 March 2012**

**Subordinate legislation**

**Introduction**

1. This paper seeks to inform members' consideration of The Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 (SSI 2012/draft). The instrument is annexed to this paper, along with the accompanying executive note.

**Background**

2. The instrument was laid on 31 January 2012 and the Education and Culture Committee was designated the lead committee. Previously, as part of the consultation on the instrument, it was laid before the Parliament under the super-affirmative procedure.

3. The Subordinate Legislation Committee considered the instrument at its meeting on 7 February 2012 and determined that it did not need to draw the attention of the Parliament to the instrument. The Education and Culture Committee must report on the instrument by 19 March 2012.

4. On 29 February 2012 the Cabinet Secretary for Education and Lifelong Learning lodged motion S4M-02167 – "That the Education and Culture Committee recommends that the Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 [draft] be approved". The Cabinet Secretary will move the motion at the committee meeting.

**Policy objectives**

5. The draft Order amends section 72 of the Education (Scotland) Act 1980 to allow the Scottish Ministers to recover from certain educational establishments, including independent further education colleges and English language schools, the costs incurred by Education Scotland in carrying out an inspection of them under section 66(1) of that Act following a request from the establishment.

6. According to the Explanatory Document accompanying the instrument the independent further education colleges and English language schools are being encouraged by the UK Border Agency to request such inspections and are prepared to pay the costs of them. However, under existing statutory provision, they are not allowed to pay the costs. Moreover, Education Scotland does not have sufficient resources to pay for such inspections.

7. Education Scotland has helpfully provided the following table, which contains information on the number of private further education colleges and English language schools in Scotland—

<b>Intention to apply received by November 2011 deadline</b>		<b>21</b>	
<b>Private further education colleges</b>		<b>English language schools</b>	
<b>7</b>		<b>14</b>	
Total learners 2010-11	Non EEA learners 2010-11 within total	Total learners 2010-11	Non EEA learners 2010-11 within total
<b>363</b>	<b>354</b>	<b>8547</b>	<b>1915</b>

**Action**

8. The Committee will take evidence from the Minister and then consider whether to approve the instrument.

**Neil Stewart  
Assistant Clerk  
1 March 2012**

**ANNEXE A**

*Draft Order laid before the Scottish Parliament under section 25(2)(b) of the Public Services Reform (Scotland) Act 2010, for approval by resolution of the Scottish Parliament.*

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**DRAFT SCOTTISH STATUTORY INSTRUMENTS**

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**2012 No.****REGULATORY REFORM****EDUCATION****The Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012**

*Made* - - - - *2012*

*Coming into force in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 17(1) and (9) of the Public Services Reform (Scotland) Act 2010<sup>(a)</sup> (“the Act”) and all other powers enabling them to do so.

The Scottish Ministers consider that the relevant conditions in section 18(2) of the Act are satisfied.

The Scottish Ministers have consulted in accordance with section 26 of the Act.

The Scottish Ministers have laid a draft of this Order and an explanatory document before the Scottish Parliament in accordance with section 25(2)(b) of the Act.

**Citation and commencement**

1. This Order may be cited as the Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 and comes into force on the day after the day on which it is made.

**Amendment of the Education (Scotland) Act 1980**

2. In section 72 of the Education (Scotland) Act 1980<sup>(b)</sup> (expenses of Scottish Ministers)—
- (a) in subsection (1), after “1939” insert “or recovered by virtue of subsection (3)”; and

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<sup>(a)</sup> 2010 asp 8.  
<sup>(b)</sup> 1980 c.44.

(b) after subsection (2) insert—

“(3) The Scottish Ministers may recover from an educational establishment mentioned in subsection (4) the expenses incurred in respect of an inspection of the establishment caused by the Scottish Ministers under section 66(1) following a request by the establishment.

(4) An educational establishment referred to in subsection (3) is an establishment which—

- (a) wholly or mainly, provides “fundable further education” within the meaning of section 5 of the Further and Higher Education (Scotland) Act 2005<sup>(a)</sup>, and
- (b) is not specified in schedule 2 to that Act.”.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Executive

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<sup>(a)</sup> 2005 asp 6.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends section 72 of the Education (Scotland) Act 1980 to allow the Scottish Ministers to recover from certain educational establishments, including independent further education colleges and English language schools the costs of Education Scotland (which includes the formerly named Her Majesty's Inspectorate of Education) in carrying out an inspection of them under section 66(1) of that Act following a request from them.

**ANNEXE B**

**Explanatory Document**

**The Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012**

**Introduction**

1. This Explanatory Document has been prepared in respect of the draft Public Services Reform (Recovery of Expenses in respect of Inspection of Independent Further Education Colleges and English Language Schools) (Scotland) Order 2012 (“the draft Order”), which Scottish Ministers propose to make in exercise of powers conferred by section 17 of the Public Services Reform (Scotland) Act 2010 (“the 2010 Act”) in accordance with section 26 (2) (a) (ii) of the 2010 Act.

2. This Explanatory Document is laid before the Scottish Parliament in accordance with section 25(2)(b) of the 2010 Act together with a copy of the draft Order. A consultation was carried out by Scottish Ministers in accordance with section 26(1) of the 2010 Act from 1 November 2011 to 16 January 2012 with a copy of the proposed draft Order and the proposed explanatory document laid before Parliament on 1 November 2011 in accordance with section 26(2)(a) of that Act. No representations were received by Scottish Ministers in response to the consultation; which Scottish Ministers interpreted as a consensus in favour of the proposed Order or at least no known objectors to it. Accordingly no change has been made to the draft Order.

3. The draft Order makes an amendment to section 72 of the Education (Scotland) Act 1980 (“the 1980 Act”).

4. The amendment to section 72 of 1980 Act removes in respect of certain independent further education colleges and English language schools, the restriction in section 72 on Scottish Ministers being able to recover from these establishments the costs of carrying out inspections under section 66(1) of the 1980 Act of independent further education colleges and English language schools following a request from them.

5. Currently section 72 of the 1980 Act in effect precludes Scottish Ministers from charging for any inspections carried out under section 66(1) of the 1980 Act. In future, if the Order is approved, Scottish Ministers will be authorised to recover costs in respect of inspections under section 66(1) of the 1980 Act of certain independent further education colleges and English language schools, following a request from them.

6. Whether Education Scotland, an executive agency of the Scottish Government, (including the former Her Majesty’s Inspectorate of Education) carry out the inspections of the relevant independent further education

colleges and English language schools is wholly at the discretion of Scottish Ministers, with the independent further education colleges and English language schools having no entitlement to be inspected.

7. Although the relevant independent further education colleges and English language schools are willing to be inspected by Education Scotland for commercial reasons and are prepared to pay for the costs of the service, the service is effectively not available to them because Education Scotland is not resourced to offer the service to them free of charge. This restriction on charging is an administrative inconvenience and an obstacle to efficiency, productivity and profitability for the purposes of section 17(2)(b) and (d) of the 2010 Act and hence a “burden” for the purposes of section 17 of that Act.

8. The removal of the burden will remove an administrative inconvenience and allow the economic activity of Education Scotland inspecting the independent further education colleges and English language schools to take place, which would not otherwise take place. For commercial reasons, Education Scotland is the provider of choice of the independent further education colleges and English language schools in respect of the inspection service and it is thought inspection by Education Scotland would generally be cheaper or better value than by any alternative provider.

9. Secondly, if Education Scotland were to carry out the service of inspections, the charges payable in respect of the inspections would be retained within the Scottish economy; which in the case of provision by an alternative non-Scottish provider would not be the case.

10. Thirdly, there is a real risk that if the independent further education colleges and English language schools were not be able to access their preferred route of inspection by Education Scotland, they could cut back on their business with resultant job losses for the specialist staff employed there, and a significant loss to the wider economy through removal of students’ purchasing power. Alternatively they might cease operations in Scotland with the same results to the Scottish economy.

## **Background**

11. Section 66(1) of the 1980 Act, as amended, gives Scottish Ministers the power to inspect schools and other educational establishments including independent further education colleges and English language schools. It reads:

“(1) [The Scottish Ministers] shall have power to cause inspection to be made of every school at such intervals as appear to him to be appropriate, and to cause a special inspection of any school to be made whenever he considers such an inspection to be desirable, and he may from time to time cause inspection to be made of any other educational establishment (other than a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992), and such inspections shall be made by Her Majesty’s Inspectors or any person appointed by the Scottish Ministers for the purposes of this section (or Her Majesty’s Inspectors and any such person).”

12. Section 72(1) provides that the expenses incurred by Scottish Ministers in carrying out their functions under the 1980 Act must be met from public funds. It reads:

“(1) expenses incurred by [the Scottish Ministers] in the exercise of [their] functions under this Act shall ....be defrayed out of money provided by Parliament.”

*Only Publicly Funded Colleges Inspected*

13. Although section 66(1) of the 1980 Act gives Education Scotland a discretionary power to inspect educational establishments including further education colleges, it has only ever inspected those further education colleges, which it is under a duty to fund in terms of section 4(1) of the Further and Higher Education(Scotland) Act 1985. That is those listed in Schedule 2 to the Further and Higher Education(Scotland) Act 1985 .

14. Education Scotland is funded by Scottish Funding Council (SFC) each year to the tune of £1.045m to support the external review only of Scotland's 41 publicly-funded further education colleges listed in Schedule 2 to the Further and Higher Education(Scotland) Act 1985 and carry out in respect of them other additional quality enhancement activities. As part of the £1.045m, Education Scotland also recruit, train and deploy Associate Assessors (AAs) in their various activities. AAs are high quality college practitioners who are trained up to take a role in review (inspection) teams and other enhancement activities in colleges, led by Education Scotland.

*Independent Further Education Colleges and English language schools*

15. There are over 20 non-funded independent further education colleges and English language schools operating in Scotland. The United Kingdom Border Agency (“UKBA”), an executive agency of the Home Office, is pressing these establishments to be inspected by Education Scotland in order to satisfy the UKBA requirements for educational oversight. A successful inspection by Education Scotland would be an important credential in their application to UKBA for “highly trusted status” which entitles them to sponsor and hence bring to Scotland to study non-EEA students who have been given Tier 4 status on the UKBA points based system for immigrants.

16. UKBA controls the number of licences allocated to any independent further education colleges and English language schools. The inspection report will only be one part of the requirements by UKBA. Whilst it may be difficult to say with confidence how many more non-EEA students could come to Scotland, it can be safely predicted that without inspections, and not being able to satisfy UKBA, organisations will not be able to sponsor students, and so there would be a fall in the number coming to Scotland.

17. Of these colleges and schools that are expected to apply to UKBA for highly trusted status, the biggest organisation sponsors approximately 700+

students, whilst others have relatively small numbers. Student fees on individual organisation websites vary but can be as high as £9,000 per year, similar to university fees.

18. It is open to other organisations not currently endeavouring to satisfy UKBA requirements to apply for educational oversight/inspection for other reasons.

*Education Scotland Charging Regime if Order approved/Non-Profit Full Cost Recovery*

19. If the Order is approved, the charging basis of Education Scotland would be non-profit full cost recovery.

20. Education Scotland plans to charge 1.2 days for the consideration of the application submissions that will be required from organisations i.e. £1,200. Currently Education Scotland are predicting that a typical inspection will be for 3 days, carried out by 2 Inspectors, this amounts to 6 inspector days, which will be charged at £1,000 per day. Not all applicants will progress to inspection. Some may not be sufficiently developed with their own internal quality arrangements and so even from a desk exercise may have their application put on hold until certain things are put in place. Organisations will get 3 weeks' notice of the inspection. The report will be published on Education Scotland's website 6 weeks after the inspection.

21. Daily rate within Education Scotland to secure full-cost recovery has been set at £1,000 per day. This rate reflects recovery of both staff costs and overheads associated with the development of the methodology, training and subsequent operational programme. Further details are given in the Appendix. The proposed charging regime of Education Scotland means that charges are likely to be less than those made by comparable inspecting bodies in the UK.

**Provision Against Charging  
in Section 72 of the Education (Scotland) Act 1980 - a Burden**

22. The restriction in section 72 of the 1980 Act on charging is an administrative inconvenience and an obstacle to efficiency, productivity and profitability and hence a "burden" for the purposes of section 17(1) of the 2010 Act for the following reasons.

*Private further education colleges and English language schools are beneficial to Scottish Economy/restriction on charging in section 72 of the 1980 Act jeopardises their success*

23. The service that independent further education colleges and English language schools provide is valuable to the Scottish economy. It allows Scottish education to be promoted by the privately as well as the publicly-funded colleges to students from non-EEA countries, increasing the choice for them and also increasing the number of international learners who may be

consumers in the economy at any point in time. Without educational oversight (inspection), however, international students do not have the requisite “kitemark” to refer to when considering the quality of the student experience in private colleges and guarantee that they are properly regulated; Publicly-funded colleges have the “kitemark” of an external review once every 4 years carried out by HM Inspectors within Education Scotland.

24. Unless the restriction on charging in section 72 is removed, Education Scotland will not be able to offer an inspection service to the independent further education colleges and English language schools. This is an administrative inconvenience. These organisations will not be able to satisfy, through their preferred route of inspection by Education Scotland, a key requirement from UKBA for gaining highly trusted status. The independent further education colleges and English language schools could go out of business with resultant job losses for the specialist staff employed there and loss to the wider economy through removal of students’ purchasing power. Alternatively they might cease operations in Scotland with the same results to the Scottish economy.

*Restriction in section 72 of the 1980 Act - an obstacle to efficiency at independent further education colleges and English language schools.*

25. The restriction in section 72 of the 1980 Act is an obstacle to efficiency at independent further education colleges and English language schools. Generally, independent further education colleges and English language schools are willing to have the quality of the learning and teaching they provide recognised and are keen to satisfy the requirements of UKBA through inspection by Education Scotland. Overall, this inspection programme will provide parity between independent further education colleges and English language schools and publicly-funded colleges. The independent further education colleges and English language schools concerned will be subject to the same measures of quality as publicly funded colleges for the first time and by their most appropriate inspectorate, namely Education Scotland.

26. The inspection process, the resultant published inspection report and any further support activity carried out by Education Scotland in terms of ongoing support and development, particularly in relation to self-evaluation, will drive up the quality of the learning and teaching within independent further education colleges and English language schools, and will assist those who are currently high quality providers to be fully recognised. Whilst the outcome of inspections will be required by UKBA to satisfy the requirement for educational oversight, the organisations involved may develop further benefits from the process through the marketing potential and PR of positive outcomes, and greater competitiveness. These benefits will not be delivered without the restriction in section 72 being removed.

#### **Relevant Preconditions in section 18 of the 2010 Act**

27. Scottish Ministers consider that the relevant conditions in section 18(2) of the Act 2010 are satisfied. The policy objective could not be achieved

satisfactorily by non-legislative means. The only way this could be done would be by Education Scotland being funded to provide the inspection services free.

28. The removal of the restriction in section 72 is proportionate being narrowly targeted and meets the needs of those affected by any change.

29. No private interests are affected because whether to inspect independent further education colleges including English language schools was always at the discretion of Scottish Ministers and in practice was never done. Similarly no right is removed or affected and no protection is removed.

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### Appendix

#### Proposed fees for educational oversight by Education Scotland

Fees for educational oversight by **Education Scotland** will be **non-refundable**.

Please note that this activity is exempt from VAT and therefore no VAT is chargeable.

Inspections will normally be for **three days** and will have a **minimum of two inspectors** visiting the college or school. The size of the team will be determined by the student numbers (headcount) enrolled at the private college or English language school and taking account of the complexity of the organisation.

Stage 1	Application fee – standard Non-refundable	£1,200	Payable on application by BACS or cheque
Stage 2	Inspection – 6 inspector days (minimum) Non-refundable	£6,000	Payable by BACS within 14 days of confirmation of acceptance and scheduling
	Inspection – 9 inspector days Non-refundable	£9,000	Payable by BACS within 14 days of confirmation of acceptance and scheduling
	Inspection – 12 inspector days Non-refundable	£12,000	Payable by BACS within 14 days of confirmation of acceptance and scheduling
Stage 3	Will vary according to the level of ongoing oversight		

**Additional fees will be payable, and inspections may be cancelled, if an organisation is found to have provided inaccurate information on application.**

Should a second visit or a re-inspection be required there will be an additional fee.

**Education and Culture Committee**

**8th Meeting, 2012 (Session 4), Tuesday, 6 March 2012**

**Subordinate legislation**

**Introduction**

1. This paper seeks to inform members' consideration of the Repayment of Student Loans (Scotland) Amendment Regulations 2012 (SSI 2012/22).

*Background*

2. The regulations were laid on 27 January 2012 and the Education and Culture Committee was designated the lead committee. The regulations are subject to negative procedure.

3. The Subordinate Legislation Committee considered the regulations at its meeting on 7 February 2012 and determined that it did not need to draw the attention of the Parliament to them. The Education and Culture Committee must report on the regulations by 12 March.

4. The regulations are made in exercise of powers conferred by sections 73(f), 73B, and 74(1) of the Education (Scotland) Act 1980.

*Policy objectives*

5. The regulations amend the Repayment of Student Loans (Scotland) Regulations 2000 by adding a new definition, "repayment threshold", to regulation 2.

6. The effect of the regulations is that the newly defined "repayment threshold" will increase in line with retail price index. Currently the threshold is a fixed amount (£15,000) and can only be changed by statutory instrument. The new definition of "repayment threshold" removes this requirement.

7. These regulations also provide for consequential amendments to regulations 9 and 13 (which relate to refunds and overseas residents).

**Action**

8. The Committee is invited to consider whether it is content with the regulations.

**Neil Stewart**  
**Assistant Clerk**  
**Education and Culture Committee**

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 SCOTTISH STATUTORY INSTRUMENTS
 

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## 2012 No. 22

## EDUCATION

 The Repayment of Student Loans (Scotland) Amendment  
 Regulations 2012

<i>Made</i>	- - - -	25th January 2012
<i>Laid before the Scottish Parliament</i>		27th January 2012
<i>Coming into force</i>	- -	6th April 2012

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 73(f), 73B, and 74(1) of the Education (Scotland) Act 1980<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Repayment of Student Loans (Scotland) Amendment Regulations 2012 and come into force on 6th April 2012.

**Amendment of the Repayment of Student Loans (Scotland) Regulations 2000**

2. The Repayment of Student Loans (Scotland) Regulations 2000<sup>(2)</sup> are amended in accordance with regulations 3 to 6.

3. In regulation 2<sup>(3)</sup> (interpretation), insert after the definition of “repayment”—

““repayment threshold” means—

- (a) for the year of assessment ending on 5th April 2013, an amount equal to £15,000 + (£15,000 x Y%) and rounded up to the nearest £5 where Y is the percentage increase between the retail prices all items index published by the Office of National Statistics for the two Marches immediately before the commencement of that year of assessment;
- (b) for any year of assessment ending after 6th April 2013 but before or on 5th April 2016, an amount equal to X + (X x Y%) and rounded up to the nearest £5 where—  
X is the repayment threshold for the previous year of assessment, and

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<sup>(1)</sup> 1980 c.44. Section 73(f) was amended by section 29(1) of the Teaching and Higher Education Act 1998 (c.30) (“the 1998 Act”) and by section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6). Section 73B was inserted by section 29(2) of the 1998 Act. 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).

<sup>(2)</sup> S.S.I. 2000/110 (see subsequent footnotes for amendments relevant to these Regulations).

<sup>(3)</sup> There have been amendments to regulation 2 which are not directly relevant to these Regulations.

Y is the percentage increase between the retail prices all items index published by the Office of National Statistics for the two Marches immediately before the commencement of the previous year of assessment; and

- (c) for any year of assessment ending on or after 6th April 2016, the amount of the repayment threshold for the previous year of assessment;”.

4. In regulation 9(4)<sup>(4)</sup> (refunds), for “£15,000” substitute “the repayment threshold”.

5. In regulation 13A(4)(a)<sup>(5)</sup> (repayment by income related instalments), after “13B(2)” insert “as read with regulation 13B(2A)”.

6. In regulation 13B<sup>(6)</sup> (calculation of fixed instalment and applicable threshold)—

(a) in paragraph (2), after “table” insert “as read with paragraph (2A)”;

(b) after paragraph (2) insert—

“(2A) On 6th April 2012, and on 6th April of each subsequent year until and including 6th April 2015, each amount in the column headed “Applicable Threshold” in the table in paragraph (2) shall increase to an amount equal to  $X + (X \times Y\%)$  and rounded up to the nearest £5 where—

X is the amount in the column entitled “Applicable Threshold” immediately before 6th April, and

Y is the percentage increase between the retail prices all items index published by the Office for National Statistics for the two Marches immediately before the previous year of assessment.”.

*MICHAEL W RUSSELL*

A member of the Scottish Executive

St Andrew’s House,  
Edinburgh  
25th January 2012

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<sup>(4)</sup> Regulation 9(4) was amended by S.S.I. 2005/314 and 2009/102.

<sup>(5)</sup> Regulation 13A was added by S.S.I. 2007/159 and amended by S.S.I. 2009/102.

<sup>(6)</sup> Regulation 13B was added by S.S.I. 2007/159.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Repayment of Student Loans (Scotland) Regulations 2000 (“the principal Regulations”). A new definition, “repayment threshold”, is added to regulation 2 of the principal Regulations.

The effect of the definition is that the repayment threshold increases in line with the retail prices index from the effective threshold immediately prior to the coming into force of these Regulations.

The repayment threshold is of relevance to regulation 9(4) of the principal Regulations which requires refunds to be made where a repayment of a student loan is deducted from a borrower’s emoluments where those emoluments did not in fact exceed the repayment threshold. Regulation 9(4) is amended to insert the newly defined term “repayment threshold”.

Part III of the principal Regulations makes provision for the repayment of student loans by overseas residents. Repayments can be made by instalments which link to applicable income thresholds that are set out in a table in regulation 13B(2). These Regulations insert regulation 13B(2A) which has the effect of increasing the applicable thresholds over the period to 6th April 2015 in line with the retail prices index.

## EXECUTIVE NOTE

### THE REPAYMENT OF STUDENT LOANS (SCOTLAND) AMENDMENT REGULATIONS 2012 (S.S.I. 2012/22)

1. The above instrument was made in exercise of the powers conferred by sections 73(f), 73B, and 74(1) of the Education (Scotland) Act 1980. The instrument is subject to negative resolution procedure.

#### Policy Objective

2. The purpose of the instrument is to amend the Repayment of Student Loans (Scotland) Regulations 2000 (“the principal Regulations”). The principal Regulations are of fairly limited application given that there are other regulations (the Education (Student Loans) (Repayments) Regulations 2009 – “the 2009 Regulations”) that deal with the majority of matters to do with collection of repayments through the tax system.

3. In agreement with the UK Government and other devolved administrations the Scottish Government decided in December 2010 that the current student loan repayment threshold of £15,000 should be increased each year by the retail prices index (RPI) with effect from April 2012. The 2009 Regulations have already been changed to that effect.

4. This instrument amends the principal Regulations to bring relevant provisions into line with the decision to increase the repayment threshold by RPI.

5. A new definition of “repayment threshold” is added at regulation 2 which has the effect of increasing the repayment threshold in line with RPI from April 2012 to April 2016. That defined term is then amended into regulation 9(4) which makes provision for refunds where a repayment has been made in circumstances where the borrower’s earnings did not in fact exceed the repayment threshold. Amendments are also made to regulation 13B so that thresholds for repayment by overseas borrowers will increase in line with RPI.

#### Impact Assessment

6. There are no equality impact issues therefore an equality impact assessment has not been necessary.

#### Financial Effects

7. The regulations have a negligible financial effect on the Scottish Government, Local Government or business. It has therefore not been necessary to prepare a Regulatory Impact Assessment.

Employability, Skills and Lifelong Learning Directorate

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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 21 (C. 5)****REGISTERS AND RECORDS****The Public Records (Scotland) Act 2011 (Commencement  
No. 1) Order 2012**

<i>Made</i> - - - -	<i>25th January 2012</i>
<i>Laid before the Scottish Parliament</i>	<i>27th January 2012</i>
<i>Coming into force</i> - -	<i>24th February 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 16(1) of the Public Records (Scotland) Act 2011(a).

**Citation and commencement**

1. This Order may be cited as the Public Records (Scotland) Act 2011 (Commencement No. 1) Order 2012 and comes into force on 24th February 2012.

**Appointed day**

2. 24th February 2012 is the day appointed for sections 1(4) to (6) (record management plans), 2 (authorities to which Part 1 applies), 3 (meaning of “public records”), 8(1) and (2) (model records management plan) and 13 (interpretation) of the Public Records (Scotland) Act 2011 to come into force.

*FIONA HYSLOP*  
A member of the Scottish Executive

St Andrew’s House,  
Edinburgh  
25th January 2012

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force on 24th February 2012 certain provisions of Part 1 of the Public Records (Scotland) Act 2011 (“the Act”). The Act received Royal Assent on 20th April 2011 and Part 3 came into force on that day.

The commencement of the provisions is to enable the Keeper of the Records of Scotland to prepare and consult on draft guidance to authorities to whom Part 1 of the Act will apply and a draft model records management plan, and then issue the guidance and publish the plan in advance of the day when the provisions that oblige authorities to prepare their own records management plans will be brought into force.

This Order also commences section 2 of the Act which enables the Scottish Ministers to amend the schedule to the Act listing the authorities to which Part 1 will apply.

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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 23 (C. 6)****CHILDREN AND YOUNG PERSONS****The Children's Hearings (Scotland) Act 2011 (Commencement  
No. 4) Order 2012**

*Made* - - - - - *26th January 2012*

*Laid before the Scottish Parliament* *30th January 2012*

*Coming into force* - - - *13th February 2012*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 206(2) of the Children's Hearings (Scotland) Act 2011(a).

**Citation and commencement**

1. This Order may be cited as the Children's Hearings (Scotland) Act 2011 (Commencement No. 4) Order 2012 and comes into force on 13th February 2012.

**Appointed day**

2. 13th February 2012 is the day appointed for the coming into force of section 32 (the Safeguarders Panel) of the Children's Hearings (Scotland) Act 2011.

*AILEEN CAMPBELL*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
26th January 2012

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 13th February 2012 section 32 of the Children's Hearings (Scotland) Act 2011 ("the Act"). The commencement of this provision is to allow for the establishment of the Safeguarders Panel by the Scottish Ministers.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The Act received Royal Assent on 6th January 2011 and Part 20 (other than section 203) came into force on that day. The provisions of the Act commenced by earlier commencement orders are detailed in the table below.

<i>Provision</i>	<i>Date of commencement</i>	<i>S.S.I. No.</i>
Section 1 and schedule 1, paragraph 8(7)	19th January 2011	2011/8
Sections 2, 3 (partially), 10, 11, 12, 13 and schedule 1, paragraphs 1 to 7, 8(1) to (6) and (8) to (10), 9, 11, 15(1) to (5), 16, 17(1) and 18 to 25	18th April 2011	2011/111
Section 191 (partially)	31st January 2012 and 26th March 2012	2012/1
Section 203(1) (partially) and schedule 5, paragraph 1(8)(a) and (b)	31st January 2012	2012/1

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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 42 (C. 9)****REGISTERS AND RECORDS****The Public Records (Scotland) Act 2011 (Commencement  
No. 1) Amendment Order 2012**

<i>Made</i> - - - -	<i>13th February 2012</i>
<i>Laid before the Scottish Parliament</i>	<i>15th February 2012</i>
<i>Coming into force</i> - -	<i>23rd February 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 16(1) of the Public Records (Scotland) Act 2011(a).

**Citation and commencement**

1. This Order may be cited as the Public Records (Scotland) Act 2011 (Commencement No. 1) Amendment Order 2012 and comes into force on 23rd February 2012.

**Amendment of Commencement No. 1 Order**

2.—(1) The Public Records (Scotland) Act 2011 (Commencement No. 1) Order 2012(b) is amended as follows.

(2) In article 2, after “(interpretation) of” insert “, and the schedule (authorities to which Part 1 applies) to”.

St Andrew’s House,  
Edinburgh  
13th February 2012

*FIONA HYSLOP*  
A member of the Scottish Executive

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(a) 2011 asp 12.  
(b) S.S.I. 2012/021.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Public Records (Scotland) Act 2011 (Commencement No. 1) Order 2012 so that the schedule to the Act also comes into force on 24th February 2012.