

2006 No. 331

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
(No. 2) Regulations (Northern Ireland) 2006**

Made - - - - *8th August 2006*

Coming into operation - *1st September 2006*

The Department for Employment and Learning(a) in exercise of the powers conferred by Articles 3(2) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(b) and now vested in it(c) makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations (Northern Ireland) 2006 and come into operation on 1st September 2006.

Amendment of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000(d) shall be provided by regulations 3 to 8.

3. In regulation 9—

(a) there shall be inserted in the appropriate place the following definitions—

“the 1998 to 2005 Regulations” means the Education (Student Support) Regulations (Northern Ireland) 1998(e), the Education (Student Support) Regulations (Northern Ireland) 1999(f), the Education (Student Support) Regulations (Northern Ireland) 2000(g), the Education (Student Support) Regulations (Northern Ireland) 2001(h), the Education (Student Support) Regulations (Northern Ireland) 2002(i), the Education (Student Support) Regulations (Northern Ireland) 2003(j), the Education (Student

(a) Formerly known as the Department of Higher and Further Education, Training and Employment; see S.I. 1999/283 (N.I. 1) and the Department for Employment and Learning Act (Northern Ireland) 2001 c.15

(b) S.I. 1998/1760 (N.I. 14)

(c) S.R. 1999 No. 481 see Article 5(b) and Schedule 3 Part II transferred functions from the Department of Education to the Department of Higher and Further Education, Training and Employment which is now renamed the Department for Employment and Learning

(d) S.R. 2000 No. 121, as amended by S.R. 2001 No. 162, S.R. 2003 No. 166, S.R. 2004 Nos. 444 and 478 and S.R. 2006 No. 28

(e) S.R. 1998 No. 298

(f) S.R. 1999 No. 192, as amended by S.R. 1999 No. 370

(g) S.R. 2000 No. 213, as amended by S.R. 2000 No. 254 and S.R. 2000 No. 296

(h) S.R. 2001 No. 277

(i) S.R. 2002 No. 224, as amended by S.R. 2003 No. 121

(j) S.R. 2003 No. 298, as amended by S.R. 2003 No. 239

Support) (Amendment) Regulations (Northern Ireland) 2004(a), the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2004(b), the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2005(c), the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2005(d), the Education (Student Support) Regulations (Northern Ireland) 2005(e), the Education (Student Support) (2005) Regulations (Amendment) Regulations (Northern Ireland) 2005(f) and the Education (Student Support) (2005 Regulations) (Amendment) Regulations (Northern Ireland) 2006(g);

“the 2006 Regulations” means the Education (Student Support) Regulations (Northern Ireland) 2006(h);

“end-on course” means —

- (a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time course mentioned in paragraph (3) for which the student received or was entitled to receive an award made under the Students Awards Regulations (Northern Ireland) 1998(i) (other than an award within the meaning of the Students Awards Regulations (Northern Ireland) 2003(j)), or financial support under the 1998 to 2005 Regulations; and
- (b) a full-time honours degree course beginning on or after 1st September 2006 which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time foundation degree course and for which the student received or was entitled to receive any of the financial support mentioned in paragraph (a);”

(b) after paragraph (2) there shall be inserted—

“(3) The courses mentioned in this paragraph are a course for the Diploma of Higher Education; and a course for the Higher National Diploma or Higher National Certificate of—

- (a) the Business & Technician Education Council; or
- (b) the Scottish Qualifications Authority.”

4. For regulation 12 there shall be substituted—

“12.—(1) This regulation shall apply where a borrower is not in breach of any obligation to repay his student loan under Part 5 or any obligation to repay any loan mentioned in paragraph (4).

(2) In this regulation “post-2006 student loan” means any student loan paid under the 2006 Regulations or any subsequent Regulations made under Article 3 of the Order and taken out by the following—

- (a) a borrower who takes out a student loan for the first time in respect of an academic year beginning on or after 1st September 2006; or
- (b) a borrower who takes out a student loan in respect of a course which satisfies the following conditions—
 - (i) it begins on or after 1st September 2006;
 - (ii) it is not an end-on course following on from a course which he began before 1st September 2006; and

(a) S.R. 2004 No. 254
(b) S.R. 2004 No. 517
(c) S.R. 2005 No. 298
(d) S.R. 2005 No. 323
(e) S.R. 2005 No. 340
(f) S.R. 2005 No. 445
(g) S.R. 2006 No. 252
(h) S. R. 2006 No. 312
(i) S.R. 1998 No. 273
(j) S.R. 2003 No.459, as amended by S.R. 2004 No. 395 and S.R. 2005 No. 466

- (iii) it is not one to which he had his status as a student eligible for support under Regulations made under Article 3 of the Order transferred from another course which he began before 1st September 2006.

(3) The Department shall cancel the borrower's liability to repay his student loan when one of the following occurs—

- (a) the borrower dies;
- (b) the borrower receives a disability related benefit and because of his disability is permanently unfit for work;
- (c) in the case of post-2006 student loans, the 25th anniversary of the date on which the borrower became liable to repay the student loan; or
- (d) in the case of student loans which are not post-2006 student loans, the borrower reaches the age of 65.

(4) The loans mentioned in this paragraph are loans made under the Education (Student Loans) (Northern Ireland) Order 1990(a), the Education (Student Loans) Act 1990(b), the Education (Scotland) Act 1980(c) and Regulations made under it and the Teaching and Higher Education Act(d) and Regulations made under it.

(5) The cancellation of the borrower's liability to repay his student loan under paragraph (3) shall not affect his liability to make repayments under Part 3 subject to and in accordance with that Part in respect to any year of assessment—

- (a) in the case of cancellation under paragraph (3)(a) during which the borrower was alive; and
- (b) in any other case preceding the year of assessment during which the student loan was cancelled.

(6) The cancellation of a borrower's liability to repay his student loan under paragraph (3) shall not affect his liability to make repayments by way of deductions made under Part 4 subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.”

5. In regulation 13C(e)—

- (a) after paragraph (3) there shall be inserted—

“(3A) Where a borrower has been liable to a penalty under paragraph (2) in respect of an Information Notice and has paid it, but does not comply with the Information Notice within a period of 28 days from the date of payment, the Department may require the borrower to pay one additional penalty of £100 in respect of that Information Notice;”

- (b) in paragraph (4) for “or (3)” there shall be substituted “(3) or (3A)”; and
- (c) in paragraph (5) for “or (3)” there shall be substituted “(3) or (3A)”.

6. In regulation 13E after “13B(4)” there shall be inserted “, 13C(3A)”.

7. After regulation 13E there shall be inserted—

“**13F.** Where a borrower has failed to comply with a Penalty Notice or an Information Notice or both the Department may require him to repay his loan in full immediately. ”

8. For Part 5 there shall be substituted—

(a) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I.1996/1918 (N.I. 15), Article 3 and Schedule and S.I. 1998/258 (N.I 1), Articles 3 to 6.

(b) 1990 c.6: repealed by the Teaching and Higher Education Act 1998 (c.30), Schedule 4.

(c) 1980 c.44: amended by the Teaching and Higher Education Act 1998 (c.30), section 29; the Education (Graduate Endowment and Student Support)(Scotland) Act 2001 (asp 6), section 3; and the Self Governing Schools etc (Scotland) Act 1989 (c.39), Schedule 10.

(d) 1998. c.30

(e) Regulations 13A to 13E were inserted by S.R. 2004 No. 478, regulation 4

“PART 5

Repayment by Overseas Borrowers

Interpretation

53. In this Part—

“gross income” means income from all sources before deductions for or relief from tax or other statutory charge;

“residence” in or outside the United Kingdom has the same meaning as it has in the Taxes Acts;

“Eurostat” means the Statistical Office for the European Communities.

Notice of overseas residence

54.—(1) A borrower shall notify the Department of any period of residence outside the United Kingdom which exceeds three months.

(2) A borrower shall provide such information about his income during any such period of residence as the Department may require.

Notice of liability to make repayments

55.—(1) Subject to regulation 57, where the Department is satisfied that a borrower is resident outside the United Kingdom he may serve a notice on the borrower requiring the borrower to repay his student loan in accordance with regulation 56.

(2) In a notice served under paragraph (1) the Department may require a borrower who has failed to—

(a) give the notice required by regulation 54(1); or

(b) provide any information required by the Department under regulation 54(2)

to repay immediately such part of his student loan as well reduce the amount outstanding to the amount which the Department considers would have been outstanding if the borrower had given the notice or provided the information required of him.

Repayment by fixed instalments

56. A borrower shall not later than the day specified in a notice served under regulation 55 and not later than the same day of each subsequent month pay the Department a fixed instalment, calculated in accordance with regulation 58.

Repayment by income-related instalments

57.—(1) Where the Department is satisfied that a borrower to whom regulation 55 applies has complied with a requirement to provide information under regulation 54, he may determine that the borrower may repay his loan by income-related instalments, in accordance with this regulation.

(2) The first such instalment must be paid on a date determined by the Department, being a date not more than two months later than the date of the determination, and subsequent instalments shall be paid not later than the same date in each subsequent month for up to twelve months.

(3) Each instalment shall be one twelfth of the relevant amount.

(4) The relevant amount shall be 9% of the gross income which the Department considers the borrower is likely to receive during the twelve month period following the date of the determination referred to in paragraph (2), disregarding—

- (a) income up to the applicable threshold, calculated in accordance with regulation 58; and
 - (b) income in respect of which the Department is satisfied that repayments are likely to be made under Part 3 or 4.
- (5) The amount of the instalment shall be stated in the determination.
- (6) At the end of the period for payment of instalments referred to in paragraph (2), the borrower shall pay fixed instalments under regulation 56, subject to a further determination under paragraph (1).
- (7) At any time during the period for payment of instalments referred to in paragraph (2) the Department may make a re-determination under paragraph (1).

Calculation of fixed instalment and applicable threshold

58.—(1) The fixed instalment in regulation 56 and the applicable threshold in regulation 57 shall be determined by reference to the most recent price level index for the borrower’s country of residence and in accordance with the following tables—

<i>Band</i>	<i>Price Level Index</i>	<i>Fixed Instalment</i>
A	0<30	£49.20
B	30<50	£98.40
C	50<70	£147.60
D	70<90	£196.80
E	90<110	£246
F	110<130	£295.20
G	130+	£344.40

<i>Band</i>	<i>Price Level Index</i>	<i>Applicable Threshold</i>
A	0<30	£3,000
B	30<50	£6,000
C	50<70	£9,000
D	70<90	£12,000
E	90<110	£15,000
F	110<130	£18,000
G	130+	£21,000

- (2) The price level index for the United Kingdom is 100.
- (3) Price level indices shall be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by Eurostat.
- (4) Where a price level index cannot be calculated because Eurostat does not hold the necessary data, it shall be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by the World Bank’s World Development Indicators.
- (5) Where a price level index cannot be calculated under paragraph (3) or (4), the applicable threshold and fixed instalment shall be those for band A.
- (6) The Department may determine that the applicable threshold or fixed instalment for a borrower shall be that for a country other than his country of residence.

Application to cease repayment by instalments

- 59.**—(1) A borrower who—
- (a) is required to make repayments under this Part; and

- (b) who has not been required to repay his student loan in full immediately under regulation 60

may apply to the Department for a determination that he shall no longer be required to make such repayments.

(2) Where the Department is satisfied that —

- (a) the borrower is resident in the United Kingdom; and
- (b) he is likely to be resident in the United Kingdom for the year of assessment during which the date specified in his determination will fall

he may determine that a borrower who has applied under paragraph (1) shall not be required to make repayments under this Part from a date specified in his determination, being a date not more than two months later than the date of the determination.

(3) A determination under paragraph (2) shall have effect until the borrower again becomes liable to repay his loan under regulation 56 or 57.

Penalties

60. If borrower does not pay an instalment or other amount when it is due the Department may require him to repay his loan in full immediately.”

Sealed with the Official Seal of the Department for Employment and Learning on 8th August 2006



June Ingram

A senior officer of the Department of Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into operation on 1st September 2006, amend the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000 (S.R. 2000 No. 121) (“the principal Regulations”).

Regulation 3 inserts some new definitions into regulation 9 of the principal Regulations.

Regulation 4 substitutes regulation 12 of the principal Regulations. The Department writes off a borrower’s liability to repay his student loan in certain circumstances. The loan is written off if the borrower dies, if the borrower reaches the age of 65, or if the borrower receives a disability related benefit and as a result of the disability is permanently unfit to work. From September 2006 certain categories of borrowers will have their student loans written off 25 years after they became liable to repay. The remaining borrowers will have their loans written off when they reach the age of 65.

Regulation 5 inserts a new paragraph (3A) into regulation 13C of the principal Regulations. Regulation 13C provides that the Department may impose penalties on borrowers who fail to comply with requests for information. If the borrower fails to provide information, he may be charged a penalty of £50. Regulation 5 inserts a provision to the effect that the Department may impose a further charge of £100 where a borrower has paid a penalty but continues to refuse to provide the information. Regulation 6 makes a consequential amendment to regulation 13E of the principal Regulations.

Regulation 7 amends the principal Regulations so that where a borrower fails to provide information or to comply with a Penalty Notice, the Department may require him to repay his loan in full immediately.

Regulation 8 substitutes Part 5 to the principal Regulations. This Part has now been amended to include repayment of student loans by borrowers who move overseas following their courses of higher education. Borrowers are under a duty to notify the Department when they move overseas for a period of more than three months. They must also provide information as to their income (regulation 54 of the principal Regulations).

When a borrower moves overseas, the Department may serve a notice upon him requiring him to repay his loan in accordance with the principal Regulations. In such a notice, the Department may require the borrower who has failed to provide him with information required under regulation 54 of the principal Regulations to make a repayment to reduce the amount outstanding on his loan to that which would have been outstanding had the borrower provided the information.

Borrowers will be required to repay their loans by a fixed instalment under regulation 56 of the principal Regulations, unless regulation 57 applies. They will have to repay a fixed instalment each month, which will be calculated in accordance with regulation 58.

Under regulation 57 of the principal Regulations a borrower who has complied with a request for information may repay his loan for a period of 12 months by 12 income-related instalments. The instalment is one twelfth of 9% of the borrower's gross income, disregarding income up to an applicable threshold, and any income in respect of which the borrower will be making loan repayments through the UK tax system. At the end of the 12 month period, the borrower's repayments can be re-assessed, or he can repay in accordance with regulations 56 and 57. The borrower may also seek a re-determination of his income-related instalments during the 12 month period.

Regulation 58 sets out how the applicable threshold and fixed instalments are calculated. These will be calculated by reference to the price level index of a borrower's country of residence. The price level index for that country will be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by the Statistical Office for the European Communities ("Eurostat"). The applicable threshold and fixed instalment for each of a series of bands of price level indices are set out in a table in regulation 58. Where no data is available from Eurostat, data from the World Bank will be used. If there is no data available from the World Bank in relation to a country, the applicable threshold and fixed instalment for band A will apply.

Regulation 59 provides for borrowers returning to the United Kingdom to cease making repayments under this part of the Regulations.

Regulation 60 provides that the Department may require a defaulting borrower to repay the whole of his loan immediately.