

2011 No. 137

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations (Northern Ireland) 2011**

Made - - - - - *22nd March 2011*

Coming into operation:

For the purpose of regulation 7 *31st October 2011*

For all other purposes *6th April 2011*

The Department for Employment and Learning^(a) makes the following Regulations in exercise of the powers conferred by Articles 3(2) to (5) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998^(b) and now vested in it^(c).

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2011 and, subject to paragraph (2), come into operation on 6th April 2011.

(2) Regulation 7 comes into operation on 31st October 2011.

Amendment of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009^(d) shall be amended as provided by regulations 3 to 12.

3. In regulation 3 (Interpretation)—

(a) after the definition of “repayment” insert—

““repayment threshold” means an amount given in regulation 24(6);

“repayment threshold Year” means: the period from 6th April to 5th April of the following year;”;

(b) in the definition of “tax year” —

(i) in sub-paragraph (b) before “for the purpose of Part 3” insert “subject to sub-paragraph (c),”

(ii) After sub-paragraph (b) insert—

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

(b) S.I. 1998/1760 (N.I. 14) Article 3(3) was amended by the Student Loans (Amendment) Act (Northern Ireland) 2011 c. 2 (N.I.)

(c) S.R. 1999 No. 481 *see* Article 5(b) and Schedule 3 Part II

(d) S.R. 2009 No. 128, amended by S.R. 2010 No. 91

“(c) for the purposes of regulations 31 and 35(1) and (2) means the period from 6th April to 5th April of the following year”; and

(c) after the definition of “tax year” insert—

““tax year 2009-10” for the purpose of Part 3 means the tax year beginning on 6th April 2009 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way);”.

4. In regulation 15(4) (Refunds) for “£15,000” substitute “the repayment threshold”.

5. In regulation 24 (Time for and amount of repayments)—

(a) in paragraph (3)(a) for “first £15,000” substitute “repayment threshold” and

(b) after paragraph (5) insert—

“(6) The repayment threshold is—

(a) for any repayment threshold year ending on or before 5th April 2012, an amount of £15,000;

(b) for any repayment threshold year ending on or after 6th April 2012 but before or on 5th April 2016, an amount equal to $X + (X \times Y\%)$ and rounded up to the nearest £5 where—

X is the repayment threshold for the previous repayment threshold year,

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 commencement of the previous tax year; and

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

6. For regulation 31 (Surcharges) substitute—

“Late payment penalties

31. Schedule 56 to the Finance Act 2009(a) (penalty for failure to make payments on time) applies to repayments which have become payable by a borrower under this Part as it applies to an amount of income tax which—

(a) is payable in relation to the tax year 2010-11 or any subsequent tax year, and

(b) falls within—

(i) item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule, or

(ii) insofar as the tax falls within item 1 of that Table, item 17, 23 or 24 of that Table.”.

7. For regulation 34 (Interest) substitute—

“Interest

34.—(1) Subject to paragraph (2), any repayment due and payable under this Part carries interest at the rate applicable under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from whichever of the following days is applicable—

(a) the last day of the period referred to in regulation 30(2); or

(b) the date mentioned in regulation 30(3),

until payment, whether or not the applicable day is a non-business day with the meaning of section 92 of the Bills of Exchange Act 1882(b).

(a) 2009 c. 10

(b) 1882 c.61 Section 92 was amended by the Banking and Financial Dealings Act 1971 (c.80) sections 3(1) and 4(4)

(2) In relation to any repayment amount due under this Part and outstanding immediately prior to 31st October 2011—

- (a) section 178 of the Finance Act 1989^(a) for the purposes of section 86 of the 1970 Act has effect up to and including 30th October 2011, and
- (b) sections 101 and 103 of the Finance Act 2009 have effect on and after 31st October 2011.

(3) Sections 90 and 91 of the 1970 Act apply to interest under this regulation as they apply to interest on income tax.

(4) Subject to paragraph (5), a refund by HMRC to a borrower of an overpayment of amounts payable under this Part carries interest at the rate applicable under section 103 of the Finance Act 2009 from the date on which the overpayment arose to the date on which the order for the refund is issued.

(5) In relation to any refund by HMRC where the date of overpayment arose on or before 30th October 2011—

- (a) section 178 of the Finance Act 1989 has effect for any period up to and including 30th October 2011; and
 - (ii) sections 102 and 103 of the Finance Act 2009 has effect for any period on or after 31st October 2011.”.

8. In regulation 35 (Penalties)—

(a) for paragraph (1) substitute—

“(1) Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc) applies—

- (a) in relation to a return or other document which is required to be made or delivered to Her Majesty’s Revenue and Customs for the tax year 2010-11 or any subsequent tax year,
- (b) which falls within item 1 of the Table in paragraph 1 of that Schedule, and
- (c) which is required to include information under regulation 25,

as it applies to income tax on that same return.”; and

(b) for paragraph (2) substitute—

“(2) The references to liability to tax in Schedule 55 to the Finance Act 2009 are construed as references to the aggregate of the amounts which, if a proper return had been delivered on the filing date, would have been payable—

- (a) by the taxpayer under section 59B of that Act (payment of income tax and capital gains tax); and
- (b) where the taxpayer is a borrower, by way of repayment under regulation 24.”

9. In regulation 39 (Amount of repayments)—

(a) In paragraph (2)(a) for “£15,000” substitute “the repayment threshold”.

(b) In paragraph (2)(b) for “£15,000” substitute “the repayment threshold”.

10. In regulation 71(1) (Calculation of fixed instalment and applicable threshold) insert—

“(1A) On 6th April 2012, and on 6th April of each subsequent year until and including the 6th April 2015 each amount in the column entitled “Applicable Threshold” 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 amount in the column entitled “Applicable Threshold” immediately before the 6th April

(a) 1989 c.26 Section 178 was amended by the Finance Act 1994 (c.9), Schedule 19, Paragraph 44

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 commencement of the previous repayment threshold year.”

11.—(1) Regulation 75 (Effect of borrower insolvency on student loans) shall be amended as provided by paragraphs (2) to (5)

(2) In paragraph 2(a)—

(a) For “Article 280 or 283”, substitute “Article 280, 283 or 283A(a)”;

(b) After “before or after the commencement of the bankruptcy;” omit the word “and”.

(3) After paragraph 2(b) insert—

“(c) any sum payable to an eligible student by way of a student loan which the eligible student receives or is entitled to receive before or after the approval of that person’s individual voluntary arrangement under Part 8 of the Insolvency (Northern Ireland) Order 1989(b) will not be treated as part of the individual voluntary arrangement approved under articles 232 or 237D of that Order, whether the entitlement arises before or after the approval of the arrangement; and

(d) any debt or liability to which that person is or may become subject in respect of any sum payable to an eligible student by way of a student loan will not be included in that person’s individual voluntary arrangement when that person receives or is entitled to receive that sum—

(i) in the case of an individual voluntary arrangement approved before 6th April 2011, after the approval of the arrangement; or

(ii) in the case of an individual voluntary arrangement approved on or after 6th April 2011, before or after the approval of the arrangement.”

Savings

12.—(1) Regulation 6 does not apply to repayments payable by a borrower under Part 3 of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 in relation to the tax year 2009-10 or any previous tax year.

(2) Regulation 8 does not apply to returns which are required to include information or other documents under regulation 25 of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 in relation to tax year 2009-10 or any previous tax year.

(3) In this regulation—

(a) “tax year” means the period from 6th April to 5th April of the following year; and

(b) “tax year 2009-10” means the tax year beginning on 6th April 2009.

Sealed with the Official Seal of the Department for Employment and Learning on 22nd March 2011.



Mr Danny Kennedy MLA
Minister for Employment and Learning

(a) Article 283A was inserted into the Insolvency (Northern Ireland) Order 1989 S.I. 1989/2405 (N.I. 19) by the Insolvency (Northern Ireland) Order 2005 S.I. 2005/1455 (N.I. 10) Article 16.

(b) S.I. 1989/2405 (N.I. 19); Article 232 was amended by the Insolvency (Northern Ireland) Order 2002 (S.I. 2002/3153 (N.I. 6)) Article 5 and Schedule 3. Article 237D was inserted by the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)) Article 21 and Schedule 7.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations amend the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (the principal Regulations). The principal Regulations provide the statutory framework for the collection and repayment system for income-contingent repayment (ICR) student loans.

Regulations 3, 4, 5 and 9 introduce a time limited mechanism to vary the £15,000 repayment threshold in the principal Regulations to maintain its value. Regulation 10 introduces a similar mechanism to vary the Applicable Threshold amounts in the principal Regulations, which apply to overseas borrowers, to maintain their value.

Regulations 6, 8 and 12 substitute new penalties, for failure to make payment of tax on time and failure to file returns on time, for those in the principal Regulations.

Regulation 7 substitutes new harmonised interest provisions for repayments and refunds of overpayments payable under Part 3 of the principal Regulations.

Regulation 11(2) prevents monies received by bankrupt in accordance with a student loan being used to benefit the bankrupt's creditors under an income payments agreement. Regulation 11(3) inserts new provisions into regulation 75 of the principal Regulations so that student loans made to a borrower who enters an individual voluntary arrangement will be treated in a similar way as they are treated under a bankruptcy in Northern Ireland.

A full impact assessment covering the introduction of the penalty regime entitled "working towards a harmonised regime and meeting the obligations to file returns and pay tax on time" was published on 14th April 2009 and is available at <http://www.hmrc.gov.uk/better-regulation/ia.htm>. The Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

© Crown Copyright 2011

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly.

2011 No. 137

EDUCATION

The Education (Student Loans) (Repayment) (Amendment)
Regulations (Northern Ireland) 2011