
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st August 2007, amend the Repayment of Student Loans (Scotland) Regulations 2000 (S.S.I. 2000/110) (“the principal Regulations”).

Regulation 3 inserts new definitions into regulation 2 of the principal Regulations.

Regulation 4 inserts a new regulation 8 into the principal Regulations. The Scottish Ministers must write off a borrower’s liability to repay that borrower’s student loan in certain circumstances. The student loan must be 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 1st August 2007 certain categories of borrowers will have their student loans written off 35 years after they became liable to repay. Students on continuing courses will have their student loans written off when they reach the age of 65.

Regulation 5 inserts a new definition into regulation 10 of the principal Regulations.

Regulation 6 substitutes a new regulation 11 into the principal Regulations. Borrowers are under a duty to notify the Scottish Ministers when they move overseas for a period of over three months. They must also provide information as to their income as required by the Scottish Ministers.

Regulation 7 inserts a new paragraph into regulation 11C of the principal Regulations. Regulation 11C provides that the Scottish Ministers may impose penalties on borrowers who fail to comply with requests for information. If the borrower fails to provide information, they may be charged a penalty of £50. Regulation 7 inserts a provision to the effect that the Scottish Ministers may impose a further charge of £100 where a borrower has paid a penalty but continues to refuse to provide the information. Regulation 8 makes a consequential amendment to regulation 11E of the principal Regulations.

Regulation 9 amends the principal Regulations so that where a borrower fails to provide information or to comply with a Penalty Notice, the Scottish Ministers may require the borrower to repay their student loan in full immediately.

Regulation 10 substitutes a new regulation 12 into the principal Regulations. When a borrower moves overseas, the Scottish Ministers may serve a notice requiring the borrower to repay that borrower’s student loan in accordance with new regulation 13 of the principal Regulations. In such a notice, the Scottish Ministers may require the borrower who has failed to provide them with information required under regulation 11 of the principal Regulations to make a repayment to reduce the amount outstanding on the student loan to that which would have been outstanding had the borrower provided the information.

Regulation 11 substitutes a new regulation 13 into the principal Regulations. Borrowers will be required to repay their student loans by a fixed instalment under regulation 13 of the principal Regulations, unless regulation 13A applies. They will have to repay a fixed instalment each month, which will be calculated in accordance with regulation 13B.

Regulation 12 inserts new regulations 13A and 13B into the principal Regulations. Under regulation 13A of the principal Regulations a borrower who has complied with a request for information may repay their student loan for a period of 12 months by 12 income related instalments. Each 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 student loan repayments through the UK tax system. At the end of the 12 month period, the borrower’s repayments can be re assessed, or the borrower can repay in accordance with regulations 13 and

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13A. The borrower may also seek a re determination of that borrower's income related instalments during the 12 month period.

Regulation 13B of the principal Regulations sets out how the applicable threshold and fixed instalments are calculated. These will be calculated by reference to the price level index for consumer goods and services (measured in terms of Purchasing Power Standard per capita) 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 expressed in gross domestic product published 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 13B. 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 13 substitutes a new regulation 14 into the principal Regulations which provides for borrowers returning to the United Kingdom to cease making repayments under that part of the principal Regulations.

Regulation 14 inserts a new regulation 15 into the principal Regulations which provides that the Scottish Ministers may require a defaulting borrower to repay the whole of that borrower's student loan.