
DRAFT STATUTORY INSTRUMENTS

2000 No.

Education (Student Loans) (Repayment) Regulations 2000

PART II

PROVISIONS APPLICABLE TO ALL REPAYMENTS

Interpretation

9.—(1) In this Part—

“date of receipt” in relation to a repayment shall be construed in accordance with paragraphs (2) and (3);

“disability related benefit” means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits Act 1992(1), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations 1987(2).

(2) For the purposes of this Part a repayment shall be considered to have been paid by the borrower and received by the Secretary of State as follows:

- (a) where an amount is paid by the borrower directly to the Secretary of State, a repayment of that amount shall be considered to have been received by him on the date on which the amount is in fact received;
- (b) where the Board has notified the Secretary of State that an amount has become payable to the Board in respect of a year of assessment under Part III, a repayment of that amount shall be considered to have been received by him on 31st January following the year of assessment, whether or not the borrower has in fact paid any or all of that amount to the Board; and
- (c) where an amount is deducted by an employer under Part IV that amount shall be aggregated with all other such amounts deducted in the same year of assessment and repayments of the aggregate amount shall be considered to have been received by the Secretary of State in equal instalments received on the days during the year of assessment which are—
 - (i) the last days of a month,
 - (ii) days after the date on which the Secretary of State has given notice under regulation 11(5)(b) that payment should be deducted, and
 - (iii) days before the date on which he has given notice under regulation 11(5)(e) that payment should cease to be deducted.

(1) 1992 c. 4, amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 1 to 3, 5 to 6, 8 to 11 and Schedules 1 and 2.
(2) S.I.1987/1967 (see Parts III and IV of Schedule 2); the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/515, 1997/543.

Interest and penalties

10.—(1) Interest or penalties charged under Parts III or IV shall not be added to the principal outstanding, and payment of such interest or penalties shall not be credited against the principal outstanding.

(2) Any repayment received by the Secretary of State shall be applied by him in reduction or in satisfaction of:

- (a) first, any outstanding penalties or charges under Part V,
- (b) second, any outstanding interest, and
- (c) third, any outstanding principal, which shall be reduced or satisfied from the date of receipt.

Time for repayments

11.—(1) A borrower may repay all or any part of his student loan to the Secretary of State at any time.

(2) A borrower shall not be required to repay any of his student loan before 6th April 2000.

(3) A borrower shall not be required to repay such part of his student loan as relates to a particular notification of eligibility under the Education (Student Support) Regulations 1999⁽³⁾ until the year of assessment beginning after the date on which that eligibility terminates under regulation 8 of those Regulations.

(4) A borrower—

- (a) whose student loan was made in connection with his attendance at a course for the initial training of teachers, other than a course leading to a first degree; and
- (b) who has notified the Secretary of State in writing that he does not wish to repay that loan during any period in which he is required to repay a loan made under the Education (Student Loans) Act 1990⁽⁴⁾ or the Education (Student Loans) (Northern Ireland) Order 1990⁽⁵⁾;

shall not be required to repay any of his student loan during any such period.

(5) Subject to paragraph (7) the Secretary of State shall notify the borrower and the Board of—

- (a) the first, or as the case may be next, year of assessment in respect of which the borrower may be required to make repayments under Part III;
- (b) the date on and after which a borrower may be required to make repayments by way of deduction from his emoluments under Part IV;
- (c) where the borrower has given the Secretary of State notification in accordance with paragraph (4), the year of assessment in respect of which the borrower shall cease to be required to make repayments under Part III;
- (d) the final year of assessment in respect of which the borrower shall be required to make repayments under Part III because—
 - (i) the loan has been repaid to the Secretary of State in full, or

(3) S.I. 1999/496, amended by S.I. 1999/2266.

(4) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

(5) S.I. 1990/1506 (N.I. 11).

- (ii) an amount sufficient to repay the balance owing to the Secretary of State in full is likely to be received by the Board under Part IV and by the Secretary of State under Part V by the 30th April following the date of issue of the notice, or
 - (iii) the loan has been cancelled; and
- (e) the date after which a borrower shall not be required to make repayments by way of deduction from his emoluments under Part IV because—
- (i) the loan has been repaid to the Secretary of State in full, or
 - (ii) an amount sufficient to repay the balance owing to the Secretary of State in full is likely to be received by the Board under Parts III and IV and by the Secretary of State under Part V by that date, or
 - (iii) the loan has been cancelled; or
 - (iv) the borrower has given the Secretary of State notification in accordance with paragraph (4).

(6) The Secretary of State shall not issue a notice under paragraph (5)(d) after the end of the calendar year during which the final year of assessment specified in the notice ends.

(7) Where the Secretary of State has notified a borrower and the Board that repayments under Parts III and IV shall no longer be made but at a later date it appears to him that the student loan has not been fully repaid he may give further notices in accordance with paragraph (5).

(8) The Secretary of State shall not be required to give notices under paragraph (5)(a) or (b) where the borrower's student loan does not exceed £120.

(9) Where under paragraph (8) the Secretary of State is not requested to give notices under paragraph (5)(a) or (b) he may require the borrower to repay his student loan in such manner and over such period of time as in all the circumstances seems appropriate.

Cancellation

12.—(1) Subject to paragraph (4) where a borrower is not in breach of any obligation to repay his loan in accordance with Part V or in breach of any obligation to repay any other loan mentioned in paragraph (2) and the Secretary of State is satisfied that he—

- (a) has died;
- (b) has attained the age of 65; or
- (c) receives a disability related benefit and because of his disability he is permanently unfit for work

the Secretary of State shall cancel his liability to repay his student loan.

(2) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990(6), the Education (Student Loans) (Northern Ireland) Order 1990(7), the Education (Scotland) Act 1980(8) and regulations made thereunder and the Education (Student Support) (Northern Ireland) Order 1998(9) and regulations made thereunder.

(3) For the purposes of this Part the cancellation of a student loan shall have effect on the date on which it is cancelled, not on the date the event giving rise to the right to cancellation takes place.

(6) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraph 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

(7) S.I. 1990/1506 (N.I. 11).

(8) 1980 c. 44, amended by the Teaching and Higher Education Act 1998 (c. 30), section 29.

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

(4) The cancellation of a borrower's liability to repay his student loan under paragraph (1) shall not affect his liability to make repayments under Part III subject to and in accordance with that Part in respect of any year of assessment—

- (a) in the case of cancellation under paragraph (1)(a) during which the borrower was alive; and
- (b) in any other case preceding the year of assessment during which the loan is cancelled.

(5) The cancellation of a borrower's liability to repay his student loan under paragraph (1) shall not affect his liability to make repayments by way of deductions made under Part IV subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.

Refunds

13.—(1) Where the Secretary of State has received a repayment either directly from the borrower or from the Board under Part IV—

- (a) which results in the student loan being paid in full, or
- (b) when the student loan has already been paid in full

he shall refund to the borrower any amount not required to repay the loan in full together with interest calculated as if it were the principal of a student loan outstanding from the date of receipt of the repayment to the date of the refund.

(2) Where the Secretary of State is considered to have received a payment from the Board under Part III in respect of a year of assessment—

- (a) which results in the student loan being paid in full, or
- (b) when the student loan has already been paid in full

the repayment shall be considered to have been received by the Secretary of State on the 31st January next following the year of assessment in accordance with regulation 9(2)(b), and the Secretary of State shall refund to the Board for the account of the borrower any overpayment which results from the receipt.

(3) A refund under paragraph (2) shall not carry interest, and the Board shall be considered to have received the refund on the date on which the amount refunded was considered to have been received by the Secretary of State in accordance with regulation 9.

(4) Where in accordance with Part IV the Secretary of State has received a repayment by way of deduction from a borrower's emoluments for a year of assessment and those emoluments do not exceed £10,000 the Secretary of State shall on application by the borrower refund the amount deducted.