
STATUTORY INSTRUMENTS

2004 No. 2752

**EDUCATION, ENGLAND AND WALES
EDUCATION, SCOTLAND**

**The Education (Student Loans) (Repayment)
(Amendment) (No 2) Regulations 2004**

Made - - - - 25th October 2004

Laid before Parliament 1st November 2004

Coming into force in accordance with regulation 1

The Secretary of State for Education and Skills, in exercise of the powers conferred on the Secretary of State by sections 22 and 42(6) of the Teaching and Higher Education Act 1998(1) and sections 73(f) and 73B of the Education (Scotland) Act 1980(2) hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) (No 2) Regulations 2004 and shall come into force on 22nd November 2004 except for regulation 7 which shall come into force on 6th April 2005.

2. In these Regulations, “the 2000 Regulations” means the Education (Student Loans) (Repayment) Regulations 2000(3).

Amendment of the 2000 Regulations

3. The 2000 Regulations are amended as follows.

4. In regulation 9 insert after paragraph (2) the following—

“(3) In this Part a document is to be treated as served on a person when it is delivered to him or sent to him by post.”.

5. For regulation 10(2), substitute the following—

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- (1) 1998 c. 30; section 22 was amended by section 146 of, and Schedule 11 to, the Learning and Skills Act 2000 (c. 21), by paragraph 236 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), by section 147 of the Finance Act 2003 (c. 14) and by section 42 of the Higher Education Act 2004 (c. 8). Section 42 was amended by Schedule 12 to the Education Act 2002 (c. 32).
- (2) 1980 c. 44; section 73(f) was amended by section 29(1) of the Teaching and Higher Education Act 1998 and section 73B was inserted by section 29(2) of the same Act.
- (3) S.I.2000/944, amended by S.I. 2001/971, 2002/2087, 2002/2859 and 2004/1175.

“(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, costs or expenses under regulation 13C or regulation 13D,
- (b) second, any outstanding penalties or charges under Part V,
- (c) third, any outstanding interest, and
- (d) fourth, any outstanding principal, which shall be reduced or satisfied from the date of receipt.”.

6. After regulation 13 insert the following regulations—

“ **Information requests**

13A. Every borrower must, within six weeks, inform the Secretary of State and provide him with particulars if either of the following occurs—

- (a) his home address changes; or
- (b) his name changes.

13B.—(1) The Secretary of State may serve a notice (“an Information Notice”) on a borrower at his home address.

(2) An Information Notice under paragraph (1) requires the borrower to provide some or all of the following, together with documentary evidence in support where relevant—

- (a) his full name;
- (b) his telephone number;
- (c) his national insurance number or a valid reason for not having one;
- (d) his date of birth;
- (e) a statement of whether he is employed, self-employed or not employed;
- (f) the following particulars of his employment and income during the period specified in the notice—
 - (i) for each part of that period during which he was employed, the dates on which the employment began and (unless it is still continuing) ended, the name and address of his employer, his employee number and his gross earnings,
 - (ii) for each part of that period during which he was self-employed, the dates on which it began and (unless it is still continuing) ended and his gross earnings, and
 - (iii) the amount, source and date of receipt of any other income.

(3) An Information Notice under paragraph (1) must set out the provisions contained in regulation 13C.

(4) Where the Secretary of State has served an Information Notice on a borrower under paragraph (1), the borrower must comply with it within a period of 28 days beginning with the day on which the Information Notice was served.

13C.—(1) Where a borrower has failed to comply with regulation 13A, the Secretary of State may require the borrower to pay a penalty of £50.

(2) Where a borrower has failed to comply with regulation 13B(4), the Secretary of State may require the borrower to pay a penalty of £50.

(3) Where a borrower has been liable to a penalty under paragraph (2) in respect of an Information Notice and has not paid it, upon expiry of the time limit for payment the Secretary of State may require the borrower to pay one additional penalty of £100 in respect of that Information Notice.

(4) The Secretary of State must notify the borrower of a penalty imposed under paragraph (1), (2) or (3) by serving a notice (“a Penalty Notice”) on the borrower at his home address.

(5) Notwithstanding the provisions of regulation 11(3), (4), (4A) and (4B), a penalty imposed under paragraph (1), (2) or (3) is payable within a period of 28 days beginning with the day on which the Penalty Notice was served and may be added to the borrower’s loan account.

13D. Where the Secretary of State incurs reasonable costs or expenses in taking steps to—

- (a) serve an Information Notice on a borrower under regulation 13B(1),
- (b) serve a Penalty Notice on a borrower under regulation 13C(4), or
- (c) obtain the information requested in an Information Notice served under regulation 13B(1),

he may require the reimbursement of those costs or expenses by the borrower and may add them to the borrower’s loan account.

13E. Where the Secretary of State considers that having regard to all the circumstances of a particular case a time limit in regulation 13B(4) or regulation 13C(5) should be relaxed, he may specify another time limit.”.

7. In the following regulations, for “£10,000” substitute “£15,000”—

- (a) regulation 13(4);
- (b) regulation 15(5)(a);
- (c) regulation 15(5)(aa);
- (d) regulation 29(2)(a);
- (e) regulation 29(2)(b);
- (f) regulation 56(4)(a).

8. In regulation 15(4) and (5) for “paragraph (1)” substitute “paragraph (3)”.

25th October 2004

Kim Howells
Minister of State,
Department for Education and Skills

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations 2000 (“the 2000 Regulations”). The amending regulations concern the provision of information to the Secretary of State by borrowers of student loans and the imposition of penalties upon failure to do so. They also increase the earnings threshold for repayment.

Regulation 10 of the 2000 Regulations is amended to provide that where penalties, costs or expenses are charged as a result of a failure to provide information, these will be satisfied first wherever a repayment is received (*regulation 5*).

Regulation 6 inserts a series of new regulations into the 2000 Regulations. The first of these, regulation 13A, creates a requirement that borrowers must inform the Secretary of State each time that their home address or name changes.

Regulation 13B provides that the Secretary of State may serve an Information Notice on a borrower requiring him to provide certain information. The borrower must comply with the Notice within 28 days of service.

Regulation 13C allows the Secretary of State to impose penalties on borrowers where they have failed to comply with a requirement to provide information, whether the loan is due for repayment or not. The Secretary of State must inform the borrower of the penalty by serving a Penalty Notice on him.

Regulation 13D sets out the circumstances where the Secretary of State may require the reimbursement of costs and expenses by a borrower.

Regulation 13E allows the Secretary of State to relax a time limit contained in regulation 13B or regulation 13C where he considers it appropriate to do so.

Regulation 7 raises the earning threshold for repayment from £10,000 to £15,000 from 6th April 2005. This amendment applies to all borrowers regardless of the date that their liability to repay arose.

Regulation 8 amends regulation 15 of the 2000 Regulations to correct a drafting error.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.