

2005 No. 2690

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations 2005**

<i>Made</i> - - - -	<i>28th September 2005</i>
<i>Laid before Parliament</i>	<i>3rd October 2005</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

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

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations 2005 and shall come into force on 6th April 2006.

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

2. The Education (Student Loans) (Repayment) Regulations 2000(c) shall be amended as follows.

3. In regulation 27 insert in the appropriate place the following definitions—

““Form P45” has the same meaning as in the PAYE Regulations(d);

“Form P46” has the same meaning as in the PAYE Regulations”.

4. After regulation 28 insert the following regulation—

“28A Form P46

Where at the commencement of employment a borrower is required to complete a Form P46, he must state in the Form P46 whether he has a student loan which he is required to repay.”

5.—(1) Amend regulation 35 as follows.

(a) 1998 c.30; section 22 was amended by section 146 of, and Schedule 11 to, the Learning and Skills Act 2000 (c. 21), by 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).

(b) 1980 c.44; section 73(f) was amended by section 29(1) of the Teaching and Higher Education Act 1998. Section 73B was inserted by section 29(2) of the same Act and was amended by Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1).

(c) S.I. 2000/944; relevant amending instruments are S.I. 2002/2087, 2004/1175.

(d) S.I.2003/2682; see regulation 215.

(2) For paragraph (1) substitute the following—

“(1) Every employer who has received—

- (a) a notice under regulation 34(1), or
- (b) a Form P45 containing a statement under regulation 50 of these Regulations, or
- (c) a Form P46 stating that the employee has a student loan which he is required to repay,

shall on making to that employee any payment of emoluments on or after the date referred to in paragraph (2) and before the date referred to in paragraph (3) deduct the appropriate repayment in accordance with these Regulations.”

(3) For sub-paragraph (2)(b) substitute the following—

“(b) where the employer has received a Form P45 the date on which he first receives the Form P45.”

(4) At the end of paragraph (2) insert—

“or

- (c) where the employer has received a Form P46 stating that the employee has a student loan which he is required to repay, the date on which he first receives the Form P46.”

6. For regulation 50 substitute the following—

“**50.** Where an employer sends a Form P45, if on the date of the Form P45 he—

- (a) has received notice that the employee is a borrower as described in regulation 34(1); or
- (b) has received a Form P46 stating that the employee has a student loan which he is required to repay; and
- (c) (in either case) he has not received notice from the Board under regulation 34(3) requiring him to cease making deductions on and after a date which is before the date on which he ceased to employ the employee

he shall state in the Form P45 that the employee is a borrower.”

28th September 2005

Bill Rammell
Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 2006, amend the Education (Student Loans)(Repayment) Regulations 2000 (S.I. 2000/944) (“the principal Regulations”).

Regulation 3 provides that the terms Form P45 and Form P46 have the meanings given to them in the Income Tax (Pay as You Earn) Regulations 2003 (S.I. 2003/2682) (“the PAYE Regulations”).

Regulation 4 inserts a new regulation into the principal Regulations. Those borrowers who are required to complete a Form P46 by Her Majesty’s Revenue and Customs must indicate in the form whether they have a student loan which they have to repay. Upon receipt of such a notification from a borrower, the employer is required to start deducting the appropriate student loan repayments from the employee’s earnings (regulation 5). Regulation 5 also amends regulation 35 of the principal Regulations so that it refers to a Form P45.

Regulation 6 amends regulation 50 of the principal Regulations so that where an employee has given notice of their loan to their employer in a Form P46, at the cessation of employment the employer will state in the Form P45 that the employee is a borrower. Regulation 50 now also refers to a Form P45.

A regulatory impact assessment has been prepared in respect of the costs to the Exchequer and employers involved in the changes made by these Regulations (and those made by the Income Tax (Pay as You Earn)(Amendment) Regulations 2005). A copy may be obtained from Her Majesty’s Revenue and Customs.

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