

2006 No. 2009

EDUCATION, ENGLAND AND WALES

**The Education (Student Loans)(Repayment)(Amendment)
Regulations 2006**

<i>Made</i>	- - - -	<i>22nd July 2006</i>
<i>Laid before Parliament</i>		<i>31st July 2006</i>
<i>Coming into force</i>	- -	<i>1st September 2006</i>

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred by sections 22 and 42 of the Teaching and Higher Education Act 1998(a):

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations 2006 and come into force on 1st September 2006.

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

2. The Education (Student Loans) (Repayment) Regulations 2000(b) are amended as follows.
3. In regulation 2 insert in the appropriate place the following definition—
““the Assembly” means the National Assembly for Wales;”.
4. After regulation 3(3) insert the following—
“(4) No provision of Part 3 or 4 nor any provision of Part 1 or 2 so far as it relates to the application of Parts 3 and 4 applies in relation to student loans made by the Assembly under section 22 of the Act unless the Assembly—
 - (a) has determined, in relation to any student loan or description of student loan, that repayments are to be collected by the Board, and
 - (b) has given notice to the Secretary of State and to the borrower.(5) Where Parts 3 and 4 of these Regulations and any provision of Part 1 or 2 of these Regulations so far as it relates to the application of Parts 3 and 4 apply to student loans made by the Assembly pursuant to paragraph (4), they apply with the following modifications—

(a) 1998 c.30: section 22 was amended by the Learning and Skills Act 2000 (c.21), section 146; the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6; the Finance Act 2003 (c.14), section 147 and the Higher Education Act 2004 (c.8), section 42.
(b) S.I. 2000/944; relevant amending instruments are S.I. 2001/971, 2004/2752.

“borrower” means a person to whom the Assembly has lent money pursuant to Regulations made by it under section 22 of the Act and who has not received a notice from the Assembly that it has been repaid in full or cancelled;

“Secretary of State” means, other than in this regulation and regulation 4, the Assembly, and includes any person exercising functions on behalf of the Assembly pursuant to section 23(4) of the Act; and

“student loan” means the total outstanding principal, interest and charges owed by a borrower to the Assembly pursuant to Regulations made under section 22 of the Act, excluding any interest, penalties or charges payable under Part 3 or 4.”

5. In regulation 9—

(a) insert in the appropriate place the following definitions—

“the 1998 to 2005 Regulations” means the Education (Student Support) Regulations 1998(a), the Education (Student Support) Regulations 1999(b), the Education (Student Support) Regulations 2000(c), the Education (Student Support) Regulations 2001(d), the Education (Student Support) Regulations 2002(e), the Education (Student Support) (No.2) Regulations 2002(f) and the Education (Student Support) Regulations 2005(g);

“the 2006 Regulations” means the Education (Student Support) Regulations 2006(h);

“end-on course” means —

(a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time course mentioned in paragraph (5) for which the student received or was entitled to receive an award made under the Education (Mandatory Awards) Regulations 1998(i) (other than an award within the meaning of the Education (Mandatory Awards) Regulations 2003(j)), or financial support under the 1998 to 2005 Regulations; and

(b) a full-time honours degree course beginning on or after 1st September 2006 which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time foundation degree course and for which the student received or was entitled to receive any of the financial support mentioned in paragraph (a);”

(b) after paragraph (3) insert the following—

“(4) The definitions of “the 1998 to 2005 Regulations”, “the 2006 Regulations” and “end-on course” do not apply to Part 2 in its application to Wales.

(5) The courses mentioned in this paragraph are a course for the Diploma of Higher Education; and a course for the Higher National Diploma or Higher National Certificate of—

(a) the Business & Technician Education Council; or

(b) the Scottish Qualifications Authority.”

6. In regulation 10(2)(b) for “Part 5” substitute “Part 5 in relation to Wales and Part 6 in relation to England”.

7. In regulation 11 for “Part 5” wherever those words appear substitute “Part 5 in relation to Wales and Part 6 in relation to England”.

(a) S.I. 1998/2003.

(b) S.I. 1999/496, amended by S.I. 1999/2266, 2000/1120.

(c) S.I. 2000/1121, amended by S.I. 2000/1490, 2000/2142, 2000/2912.

(d) S.I. 2001/951, amended by S.I.2001/1730, 2001/2355, 2002/174.

(e) S.I. 2002/195, amended by S.I. 2002/1318, 2002/2088, 2002/3059.

(f) S.I. 2002/3200, amended by S.I. 2003/1065, 2003/3280, 2004/161, 2004/1602, 2004/2041, 2004/2598, 2005/5, 2005/1341, 2005/2084.

(g) S.I. 2005/52, amended by S.I. 2005/1341, 2005/2084, 2005/3482.

(h) S.I. 2006/119, amended by S.I. 2006/955, 2006/1745.

(i) S.I. 1998/1166, amended by S.I. 1998/1972.

(j) S.I. 2003/1994, amended by S.I. 2004/1038, 2004/1792, 2005/2083, 2005/3137.

8. In regulation 12 before paragraph (1) insert the following—

“(A1) This regulation applies in relation to Wales only.”

9. After regulation 12 insert the following—

“**12A.**—(1) This regulation applies in relation to England only.

(2) This regulation shall apply where a borrower is not in breach of any obligation to repay his student loan under Part 6 or any obligation to repay any loan mentioned in paragraph (5).

(3) In this regulation “post-2006 student loan” means any student loan paid under the 2006 Regulations or any subsequent Regulations made under section 22 of the Act and taken out by the following—

- (a) a borrower who takes out a student loan for the first time in respect of an academic year beginning on or after 1st September 2006; or
- (b) a borrower who takes out a student loan in respect of a course which satisfies the following conditions—
 - (i) it begins on or after 1st September 2006;
 - (ii) it is not an end-on course following on from a course which he began before 1st September 2006; and
 - (iii) it is not one to which he had his status as a student eligible for support under Regulations made under section 22 of the Act transferred from another course which he began before 1st September 2006.

(4) The Secretary of State shall cancel the borrower’s liability to repay his student loan when one of the following occurs—

- (a) the borrower dies;
- (b) the borrower receives a disability related benefit and because of his disability is permanently unfit for work;
- (c) in the case of post-2006 student loans, the 25th anniversary of the date on which the borrower became liable to repay the student loan; or
- (d) in the case of student loans which are not post-2006 student loans, the borrower reaches the age of 65.

(5) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990(a), the Education (Student Loans) (Northern Ireland) Order 1990(b), the Education (Scotland) Act 1980(c) and Regulations made under it and the Education (Student Support) (Northern Ireland) Order 1998(d) and Regulations made under it.

(6) The cancellation of the borrower’s liability to repay his student loan under paragraph (4) shall not affect his liability to make repayments under Part 3 subject to and in accordance with that Part in respect to any year of assessment—

- (a) in the case of cancellation under paragraph (4)(a) during which the borrower was alive; and
- (b) in any other case preceding the year of assessment during which the student loan was cancelled.

(7) The cancellation of a borrower’s liability to repay his student loan under paragraph (4) shall not affect his liability to make repayments by way of deductions made under Part 4

(a) 1990 c.6: repealed by the Teaching and Higher Education Act 1998 (c.30), Schedule 4.

(b) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I.1996/1918 (N.I. 15), Article 3 and Schedule and S.I. 1998/258 (N.I 1), Articles 3 to 6.

(c) 1980 c.44: amended by the Teaching and Higher Education Act 1998 (c.30), section 29; the Education (Graduate Endowment and Student Support)(Scotland) Act 2001 (asp 6), section 3; and the Self Governing Schools etc (Scotland) Act 1989 (c.39), Schedule 10.

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

subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.”

10. In regulation 13C—

(a) after paragraph (3) insert the following—

“(3A) Where a borrower has been liable to a penalty under paragraph (2) in respect of an Information Notice and has paid it, but does not comply with the Information Notice within a period of 28 days from the date of payment, the Secretary of State may require the borrower to pay one additional penalty of £100 in respect of that Information Notice;”

(b) in paragraph (4) for “or (3)” substitute “(3) or (3A)”; and

(c) in paragraph (5) for “or (3)” substitute “(3) or (3A)”.

11. In regulation 13E after “13B(4)” insert “, 13C(3A)”.

12. After regulation 13E insert the following—

“13F. Where a borrower has failed to comply with a Penalty Notice or an Information Notice or both the Secretary of State may require him to repay his loan in full immediately.”

13. At the beginning of Part 5 insert the following—

“52D. This Part applies in relation to Wales only.”

14. After Part 5 insert the following—

“PART 6

Repayment by Overseas Borrowers

58. This Part applies in relation to England only.

Interpretation

59. In this Part—

“gross income” means income from all sources before deductions for or relief from tax or other statutory charge;

“residence” in or outside the United Kingdom has the same meaning as it has in the Taxes Acts;

“Eurostat” means the Statistical Office for the European Communities.

Notice of overseas residence

60.—(1) A borrower shall notify the Secretary of State of any period of residence outside the United Kingdom which exceeds three months.

(2) A borrower shall provide such information about his income during any such period of residence as the Secretary of State may require.

Notice of liability to make repayments

61.—(1) Subject to regulation 63, where the Secretary of State is satisfied that a borrower is resident outside the United Kingdom he may serve a notice on the borrower requiring the borrower to repay his student loan in accordance with regulation 62.

(2) In a notice served under paragraph (1) the Secretary of State may require a borrower who has failed to—

(a) give the notice required by regulation 60(1), or

(b) provide any information required by the Secretary of State under regulation 60(2) to repay immediately such part of his student loan as well reduce the amount outstanding to the amount which the Secretary of State considers would have been outstanding if the borrower had given the notice or provided the information required of him.

Repayment by fixed instalments

62. A borrower shall not later than the day specified in a notice served under regulation 61 and not later than the same day of each subsequent month pay the Secretary of State a fixed instalment, calculated in accordance with regulation 64.

Repayment by income-related instalments

63.—(1) Where the Secretary of State is satisfied that a borrower to whom regulation 61 applies has complied with a requirement to provide information under regulation 60, he may determine that the borrower may repay his loan by income-related instalments, in accordance with this regulation.

(2) The first such instalment must be paid on a date determined by the Secretary of State, being a date not more than two months later than the date of the determination, and subsequent instalments shall be paid not later than the same date in each subsequent month for up to twelve months.

(3) Each instalment shall be one twelfth of the relevant amount.

(4) The relevant amount shall be 9% of the gross income which the Secretary of State considers the borrower is likely to receive during the twelve month period following the date of the determination referred to in paragraph (2), disregarding—

- (a) income up to the applicable threshold, calculated in accordance with regulation 64; and
- (b) income in respect of which the Secretary of State is satisfied that repayments are likely to be made under Part 3 or 4.

(5) The amount of the instalment shall be stated in the determination.

(6) At the end of the period for payment of instalments referred to in paragraph (2), the borrower shall pay fixed instalments under regulation 62, subject to a further determination under paragraph (1).

(7) At any time during the period for payment of instalments referred to in paragraph (2) the Secretary of State may make a re-determination under paragraph (1).

Calculation of fixed instalment and applicable threshold

64.—(1) The fixed instalment in regulation 62 and the applicable threshold in regulation 63 shall be determined by reference to the most recent price level index for the borrower’s country of residence and in accordance with the following tables—

<i>Band</i>	<i>Price Level Index</i>	<i>Fixed Instalment</i>
A	0<30	£49.20
B	30<50	£98.40
C	50<70	£147.60
D	70<90	£196.80
E	90<110	£246
F	110<130	£295.20
G	130+	£344.40

<i>Band</i>	<i>Price Level Index</i>	<i>Applicable Threshold</i>
A	0<30	£3,000

B	30<50	£6,000
C	50<70	£9,000
D	70<90	£12,000
E	90<110	£15,000
F	110<130	£18,000
G	130+	£21,000

(2) The price level index for the United Kingdom is 100.

(3) Price level indices shall be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by Eurostat.

(4) Where a price level index cannot be calculated because Eurostat does not hold the necessary data, it shall be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by the World Bank's World Development Indicators.

(5) Where a price level index cannot be calculated under paragraph (3) or (4), the applicable threshold and fixed instalment shall be those for band A.

(6) The Secretary of State may determine that the applicable threshold or fixed instalment for a borrower shall be that for a country other than his country of residence.

Application to cease repayment by instalments

65.—(1) A borrower who—

- (a) is required to make repayments under this Part, and
- (b) who has not been required to repay his student loan in full immediately under regulation 66

may apply to the Secretary of State for a determination that he shall no longer be required to make such repayments.

(2) Where the Secretary of State is satisfied that —

- (a) the borrower is resident in the United Kingdom, and
- (b) he is likely to be resident in the United Kingdom for the year of assessment during which the date specified in his determination will fall

he may determine that a borrower who has applied under paragraph (1) shall not be required to make repayments under this Part from a date specified in his determination, being a date not more than two months later than the date of the determination.

(3) A determination under paragraph (2) shall have effect until the borrower again becomes liable to repay his loan under regulation 62 or 63.

Penalties

66. If borrower does not pay an instalment or other amount when it is due the Secretary of State may require him to repay his loan in full immediately.”

22nd July 2006

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 1st September 2006, amend the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944) (“the principal Regulations”).

Under section 44 of the Higher Education Act 2004 certain student support functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales.

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

Regulation 4 amends regulation 3 of the principal Regulations. When the National Assembly for Wales determines that loans made under Regulations made by it under section 22 of the Teaching and Higher Education Act 1998 are to be collected by Her Majesty’s Revenue and Customs (referred to as “the Board” in these and the principal Regulations), then those parts of the principal Regulations which relate to collection by the Board apply to those loans.

Regulation 5 inserts some new definitions into regulation 9 of the principal Regulations and sets out their application in relation to Wales.

Regulations 6 and 7 make consequential amendments to regulations 10 and 11.

Regulation 8 applies regulation 12 to Wales only.

Regulation 9 inserts a new regulation 12A of the principal Regulations in relation to England only. The Secretary of State writes off a borrower’s liability to repay his student loan in certain circumstances. The loan is 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 September 2006 certain categories of borrowers will have their student loans written off 25 years after they became liable to repay. The remaining borrowers will have their loans written off when they reach the age of 65.

Regulation 10 inserts a new paragraph into regulation 13C of the principal Regulations. Regulation 13C provides that the Secretary of State may impose penalties on borrowers who fail to comply with requests for information. If the borrower fails to provide information, he may be charged a penalty of £50. Regulation 10 inserts a provision to the effect that the Secretary of State may impose a further charge of £100 where a borrower has paid a penalty but continues to refuse to provide the information. Regulation 11 makes a consequential amendment to regulation 13E of the principal Regulations.

Regulation 12 amends the principal Regulations so that where a borrower fails to provide information or to comply with a Penalty Notice, the Secretary of State may require him to repay his loan in full.

Regulation 13 limits the application of Part 5 to Wales only.

Regulation 14 substitutes a new Part 6 to the principal Regulations, inserting new regulations 58 to 66 in relation to England only. This Part deals with repayment of student loans by borrowers who move overseas following their courses of higher education. Borrowers are under a duty to notify the Secretary of State when they move overseas for a period of more than three months. They must also provide information as to their income (regulation 60 of the principal Regulations).

When a borrower moves overseas, the Secretary of State may serve a notice upon him requiring him to repay his loan in accordance with the principal Regulations. In such a notice, the Secretary of State may require the borrower who has failed to provide him with information required under regulation 60 of the principal Regulations to make a repayment to reduce the amount outstanding on his loan to that which would have been outstanding had the borrower provided the information.

Borrowers will be required to repay their loans by a fixed instalment under regulation 62 of the principal Regulations, unless regulation 63 applies. They will have to repay a fixed instalment each month, which will be calculated in accordance with regulation 64.

Under regulation 63 of the principal Regulations a borrower who has complied with a request for information may repay his loan for a period of 12 months by 12 income-related instalments. The 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 loan repayments through the UK tax system. At the end of the 12 month period, the borrower's repayments can be re-assessed, or he can repay in accordance with regulations 62 and 63. The borrower may also seek a re-determination of his income-related instalments during the 12 month period.

Regulation 64 sets out how the applicable threshold and fixed instalments are calculated. These will be calculated by reference to the price level index 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 measured in gross domestic product produced 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 64. 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 65 provides for borrowers returning to the United Kingdom to cease making repayments under this part of the Regulations.

Regulation 66 provides that the Secretary of State may require a defaulting borrower to repay the whole of his loan.

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