

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT)
REGULATIONS 2006**

2006 No. 2009

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument makes amendments to the Education (Student Loans) (Repayment) Regulations 2000 (“the 2000 Regulations”) which deal with the repayment of student loans. The amending Regulations make changes to the Secretary of State’s general powers in relation to student loans and introduce a new system for the recovery of loans from borrowers who move overseas after leaving their course.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 This instrument is being made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998. Section 22 enables the Secretary of State to make grants and loans to students taking higher education courses, and to make arrangements for the recovery of student loans.

4.2 Section 44 of the Higher Education Act 2004 transferred certain of the Secretary of State’s functions under section 22 to the National Assembly for Wales.

4.3 The 2000 Regulations have previously been amended by:

- the Education (Student Loans) (Repayment) (Amendment) Regulations 2001 (S.I. 2001/971),
- the Education (Student Loans) (Repayment) (Amendment) Regulations 2002 (S.I.2002/2087),
- the Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations 2002 (S.I.2002/2859),
- the Education (Student Loans) (Repayment) (Amendment) Regulations 2004 (S.I. 2004/1175).
- the Education (Student Loans) (Repayment) (Amendment)(No. 2) Regulations 2004 (S.I. 2004/2752).
- the Education (Student Loans) (Repayment) (Amendment) Regulations 2005 (S.I. 2005/2690).

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 From September 2006 anyone who takes out a student loan for the first time will have any outstanding amount of the loan written off after 25 years. This was announced by the Government during the passage of the Higher Education Act 2004 through Parliament and replaces the existing age write off of 65, though this will continue to apply to students who have already taken out loans.

7.2 The instrument makes amendments to those regulations which deal with the provision of information by borrowers. Currently the Secretary of State has the power to impose a financial penalty on a borrower where the borrower has failed to comply with a requirement to provide information. The amendment enables the Secretary of State to apply one further penalty where a borrower pays a penalty for failure to provide information, but continues to fail to provide the information. Finally a provision has been introduced to enable the Secretary of State to take action to recover the full amount of the loan outstanding if a borrower refuses to comply with requirements to provide information or pay penalties.

7.3 The final amendments relate to the recovery of loans from borrowers who move overseas. Fee loans will be made available for the first time in the 06/07 academic year for EU students who are accepted at English universities.

7.4 Loans made to students in September will become due for repayment from 2010 onwards, as students graduate and become employed. Those who leave their courses early will become liable to repay from 2007 onwards.

7.5 The aim of the current repayment system is that repayments are fair and affordable and that on leaving their course, all those who can contribute to the costs of their higher education, should do so. However living costs and earnings vary from country to country and so the instrument provides that an index of price levels will be used to establish fair earnings thresholds based on where borrowers who move overseas after their higher education choose to live.

7.6 In the UK, the repayment amount is 9% of a borrower's annual income over a £15,000 threshold, repaid on a monthly basis. The instrument contains a table of threshold bands to enable each country to be categorised based on the level of prices in that country relative to the UK. This will determine the level of income that is disregarded when calculating the repayment amount.

7.7 Where a borrower fails to notify the Secretary of State that he is residing abroad, or fails to provide information about his income, a fixed repayment will apply, again calculated on the basis of the borrower's country of residence.

7.8 Section 44 of the Higher Education Act 2004 transferred certain of the Secretary of State's student support functions under section 22 of the Teaching and Higher Education Act 1998 to the National Assembly for Wales. Now, only those functions which relate to collection of loans via the tax system can be exercised by the Secretary of State in relation to Wales.

Section 44 of the 2004 Act requires provision to be inserted into the 2000 Regulations to ensure that where the National Assembly for Wales determines that loans by the Assembly are to be collected by the tax system, the relevant regulations in the 2000 Regulations will apply to those loans. Apart from that amendment, the amendments do not apply in relation to Wales.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies and costs to the public sector in the first three years are not expected to exceed £5 million .

9. Contacts

Nick Atkinson at the Department for Education and Skills (tel: 0207 925 7501 or e-mail: Nick.Atkinson@dfes.gsi.gov.uk) can answer any queries regarding these regulations.