

2008 No. 546

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations 2008**

<i>Made</i> - - - -	<i>28th February 2008</i>
<i>Laid before Parliament</i>	<i>7th March 2008</i>
<i>Coming into force</i> - -	<i>1st April 2008</i>

The Secretary of State for Innovation, Universities 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) and sections 73(f) and 73B of the Education (Scotland) Act 1980(b):

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations 2008 and come into force on 1st April 2008.

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

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

3. In regulation 7—

(a) after paragraph (2) insert the following paragraphs—

“(2A) For years of assessment—

- (a) ending on or before 5 April 2008 sections 100 (determination of penalties by officer of Board), 100A (provisions supplementary to section 100) and 100B (appeals against policy determinations) of the 1970 Act shall apply to the penalties outlined in regulation 26(3) in connection with repayments under Part III as they apply in connection with income tax;
- (b) commencing on or after 6 April 2008, where the date on which the return is due to be filed is on or after 6 April 2009, Schedule 24 of the Finance Act 2007 (penalties for errors) shall apply in relation to the assessment of penalties and appeals against the assessment of penalties in connection with Part III as it applies to penalties in connection with income tax.

(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), sections 42 and 43

(b) 1980 c.44. Section 73(f) was amended by the Teaching and Higher Education Act 1998, section 29(1); section 73B was inserted by the same Act, section 29(2) and was amended by section 722 of, and paragraph 149 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c.1)

(c) S.I. 2000/944, to which there are amendments not relevant to these Regulations

(2B) Sections 100 (determination of penalties by officer of Board), 100A (provisions supplementary to section 100) and 100B (appeals against penalty determinations) of the 1970 Act shall apply to penalties other than those outlined in regulations 26(3) and 26(4) in connection with repayment under Part III and all penalties under Part IV as they apply to penalties in connection with income tax.”

- (b) In paragraph (3) omit “100 and 100A (determination of penalties by officer of Board), 100B (appeals against penalty determinations),”.

4. In regulation 26 for paragraphs (3) and (4) substitute the following—

“(3) For years of assessment ending on or before 5 April 2008—

- (a) section 95 of the 1970 Act (incorrect return or accounts for income tax or capital gains tax) shall apply in relation to anything done for the purposes of or in connection with the ascertainment of liability of a borrower to make a repayment under this Part as it applies for the purposes of or in connection with the ascertainment of liability to income tax, and for that purpose the difference referred to in section 95(2) shall be the difference between—

- (i) the amount calculated under regulation 15(1) and
(ii) the amount which would have been the amount so calculated if the return, statement, declaration or accounts as made or submitted by the borrower had been correct.

- (b) section 97 (incorrect return or accounts: supplemental) of the 1970 Act shall apply in the case of returns, statements, declarations, accounts, information or documents for the purposes of repayments under this Part as it applies for the purposes of income tax.

(4) For years of assessment commencing on or after 6 April 2008, where the date on which the return is due to be filed is on or after 6 April 2009, Schedule 24 of the Finance Act 2007 (penalties for errors) shall apply—

- (a) in relation to anything done for the purposes of or in connection with the ascertainment of liability of a borrower to make a repayment under this Part as it applies for the purposes of or in connection with the ascertainment of liability to income tax;
(b) in the case of returns, statements, declarations, accounts, information or documents for the purposes of repayments under this Part as it applies for the purposes of income tax.”.

28th February 2008

Bill Rammell
Minister of State
Department for Innovation, Universities and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations 2000 (S.I.2000/944) (“the principal Regulations”) and come into force on 1 April 2008. The principal Regulations deal with the repayment of student loans paid to students under section 22 of the Teaching and Higher Education Act 1998. The aim of these Regulations is to implement a new penalty regime for errors made by student loan borrowers in self assessment returns relating to years of assessment beginning on or after 6 April 2008.

Regulation 7 of the principal Regulations applies the penalties regime as set out in various sections of the Taxes Management Act 1970 (“TMA 1970”) to student loan borrowers making repayments under Parts III and IV of the principal Regulations. Regulation 3 amends regulation 7 so that in relation to penalties for incorrect returns, sections 100 (determination of penalties by officer of the Board), 100A (provisions supplementary to section 100) and 100B (appeals against penalty determinations) of the TMA 1970 shall only apply to years of assessment ending on or before 5 April 2008. For years of assessment commencing on or after 6 April 2008 Schedule 24 of the Finance Act 2007 (penalties for errors) will apply. Sections 100, 100A and 100B will continue to apply to all other penalties other than penalties for errors under Part III and to all penalties under Part IV as they apply to penalties in connection with income tax.

Regulation 26 of the principal Regulations applies section 93 (failure to make return for income tax and capital gains tax), a modified version of section 95 (incorrect return or account for income tax or capital gains tax) and section 97 (incorrect return or account: supplemental) of the TMA 1970 to student loan borrowers making repayments under Part III. Regulation 4 amends regulation 26 so that sections 95 and 97 TMA 1970 shall only apply to return periods ending on or before 5 April 2008. For years of assessment commencing on or after 6 April 2008 Schedule 24 of the Finance Act 2007 (penalties for errors) will apply.

STATUTORY INSTRUMENTS

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