
STATUTORY INSTRUMENTS

2012 No. 836

**The Education (Student Loans) (Repayment)
(Amendment) Regulations 2012**

Amendment of the Education (Student Loans) (Repayment) Regulations 2009

16. After regulation 59, insert—

“Application of regulations 59B to 59F

59A. Regulations 59B to 59F apply only to Real Time Information employers.

Real time returns of information about payments of earnings

59B.—(1) On or before making a payment of earnings to an employee, an employer must deliver to HMRC the information specified in Schedule 2 (real time returns) in accordance with this regulation.

(2) The information must be included in a return.

(3) Subject to paragraph (4), if payments of earnings are made to more than one employee at the same time, the return under paragraph (2) must include information required by Schedule 2 in respect of each employee to whom a payment of earnings is made at that time.

(4) If payments of earnings are made to more than one employee at the same time but the employer operates more than one payroll, the employer must make a return in respect of each payroll.

(5) The return is to be made using an approved method of electronic communications.

(6) Section 98A of the 1970 Act (special cases in case of certain returns) applies to returns within paragraph (7).

(7) A return is within this paragraph if it is one of the following—

(a) a return under this regulation which relates to payments of earnings made on the final normal pay day in the tax year 2012-13 for any of the employees in respect of whom information is included in the return; or

(b) a return under this regulation which contains information about the final payment of earnings made to any employee in the tax year 2012-13 where—

(i) the payment is made after the employee’s final normal pay day in the tax year; or

(ii) the employee is paid at irregular intervals.

Modification of the requirements of regulation 59B: notional payments

59C.—(1) This regulation applies if an employer makes a payment of earnings to an employee which, for the purposes of tax, is a notional payment within the meaning given by section 710(2) of the 2003 Act.

(2) If the employer is unable to comply with the requirement in regulation 59B(1) to deliver the information required by that regulation on or before making the payment, the employer must instead deliver the information as soon as reasonably practicable after the payment is made and in any event no later than—

- (a) the time at which the employer delivers the information required by regulation 67B of the PAYE Regulations in respect of the payment;
- (b) the time at which the employer makes a deduction from earnings in respect of the payment in accordance with regulation 50 (deductions of repayments); or
- (c) 14 days after the end of the income tax month the payment is made in,

whichever is earliest.

Relationship between regulation 59B and aggregation of earnings

59D.—(1) Where an employee's earnings are aggregated, the employer or, as the case may be, employers must make such arrangements as are necessary to ensure that the information specified in paragraph (2) in respect of all the aggregated earnings is provided in the information given under regulation 59B relating to one of the employee's employments only.

(2) The information specified in this paragraph is the information specified in paragraph 3 of Schedule 2 (real time returns).

Exceptions to regulation 59B

59E.—(1) This regulation applies to an employer who is—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications;
- (b) a partnership, if all partners fall within sub-paragraph (a);
- (c) a company, if all directors and the company secretary fall within sub-paragraph (a); or
- (d) a care and support employer.

(2) An employer to whom this regulation applies may proceed in accordance with this regulation instead of regulation 59B.

(3) An employer must deliver to HMRC the information specified in Schedule 2 in respect of each employee to whom payments of earnings are made in an income tax month.

(4) The information must be included in a return.

(5) The return required under paragraph (4) must be delivered within 14 days after the end of the income tax period the return relates to.

(6) If payments of earnings have been made to more than one employee in the income tax month, the return under paragraph (4) must include the information required by Schedule 2 in respect of each employee to whom the payment of earnings has been made.

(7) Section 98A of the 1970 Act (special penalties in case of certain returns) applies to returns within paragraph (8).

(8) A return is within this paragraph if it is one of the following—

- (a) a return under this regulation which contains information about payments of earnings made on the final normal pay day in the tax year 2012-13 for any of the employees in respect of whom information is included in the return; or

- (b) a return under this regulation which contains information about the final payment of earnings made to any employee in the tax year 2012-13 where—
 - (i) the payment of earnings is made after the employee’s final normal pay day in the tax year; or
 - (ii) the employee is paid at irregular intervals.
- (9) In paragraph (1)(c), “company” means a body corporate or unincorporated association but does not include a partnership.
- (10) In paragraph (1)(d), “a care and support employer” means an individual (“A”) who employs a person to provide domestic or personal services at or from A’s home where—
 - (a) the services are provided to A or a member of the A’s family;
 - (b) the recipient of the services has a physical or mental disability, or is elderly or infirm; and
 - (c) it is A who delivers the return (and not some other person on A’s behalf).

Returns under regulations 59B and 59E: amendments

59F.—(1) This regulation applies where an employer discovers an error in a return made under regulation 59B (real time returns of information about payments of earnings) or 59F (exceptions to regulation 59B) and paragraph (2) or (3) applies.

(2) This paragraph applies where the error relates to the information given in the return in respect of an employee under paragraph 3 of Schedule 2 (real time returns).

(3) This paragraph applies where the error was the omission of details of a payment of earnings to an employee.

(4) The employer must provide the correct information in the first return made after the discovery of the error under regulation 59B or 59E for the tax year in question.

(5) But if the information has not been corrected before 20th April following the end of the tax year in question, the employer must make a return under this paragraph.

(6) A return under paragraph (5)—

- (a) must include the following—
 - (i) the information specified in paragraph 1 of Schedule 2 (real time returns);
 - (ii) the tax year to which the return relates;
 - (iii) the value of the adjustment to the information given under paragraph 3 of Schedule 2 in the final return under regulation 59B or 59E containing information in respect of the employee in the tax year in question; and
 - (iv) if paragraph (7) applies, the information specified in paragraph 5 of Schedule 2;
- (b) must be made as soon as reasonably practicable after the discovery of the error; and
- (c) must be made by an appropriate method of electronic communications.

(7) This paragraph applies if—

- (a) the error is within paragraph (3);
- (b) the payment of earnings was the first payment of earnings to the employee in the employment; and
- (c) the information specified in paragraph 5 of Schedule 2 has not otherwise been provided.

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

(8) In the application of paragraphs (5) and (6) to cases within paragraph (3), if no information was given in any returns under regulation 59B or 59E in respect of the employee in the tax year, the value of the adjustments required must be calculated as if there was a final return containing information for the employee in the year and the figure requiring adjustment was zero.

(9) Paragraph (6)(c) does not apply if the employer is one to whom regulation 59E applies but in those circumstances the return must be in such form as HMRC may approve or prescribe.”.