
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide the making of loans to eligible students for postgraduate master's degree courses which begin on or after 1st August 2016 and set out the repayment terms of such a loan. With the exception of regulation 97(1), which applies to Wales, and regulation 97(2), which extends to Northern Ireland, these Regulations apply in relation to England only; however these Regulations extend to all of the United Kingdom in so far as they impose any obligation, or confer any power, on HMRC, an employer or a borrower in relation to repayments under chapters 3 or 4 of Part 2 or on any other person in relation to the retention or production of information or records.

Part 1 sets out the loan terms. Regulation 3 sets out who can be considered an eligible student for the purposes of a postgraduate master's degree loan. Regulation 4 sets out which courses are deemed designated courses for which an eligible student can receive a loan. Regulation 5 sets out when a student ceases to be considered an eligible student. Regulation 6 recognises that an eligible student may transfer to another course in certain circumstances. Regulations 7 and 8 set out the circumstances in which a student may qualify for a postgraduate master's degree loan after the designated course has started. Regulations 9 to 11 deal with the formalities of how an eligible student applies for a loan, including the application deadlines. Regulations 12 and 13 provide that the maximum loan amount an eligible student can receive is £10,000, other than in the case of an eligible prisoner, where the maximum amount is the value of the fees of the designated course. Regulation 13 gives the Secretary of State the power to pay any loan in instalments and provides that payments are made directly to the student's bank account, other than in the case of an eligible prisoner where the payment is made to the institution to which the prisoner is liable to make payment for the fees or to a third party. Regulation 14 gives the Secretary of State the power to make payment of the loan conditional upon the student providing the Secretary of State with a national insurance number. Regulation 15 places an obligation on the Secretary of State to cease further loan payments if he receives notice of a student's lack of attendance on the course, other than where the Secretary of State believes it appropriate to consider making such payments during the student's absence. However, if the student recommences the full course, the Secretary of State may decide to recommence further payments. Regulation 16 sets out how loan entitlement amounts change when an eligible student becomes an eligible prisoner and vice versa. Regulation 17 sets out how the Secretary of State can recover any overpayments of a postgraduate master's degree loan. Regulation 18 deals with information requirements.

Part 2 sets out the repayment terms of the loan, and how this is managed by an employer and HMRC.

Regulations 22 to 24 set out the functions of HMRC in relation to monies collected by it and how the penalty regime set out in the Taxes Management Act 1970 will be applied to the repayments system. Regulation 25 sets out how repayments made by borrowers will be applied to outstanding penalties, charges, costs, interest and principal. Regulation 26 sets out that a borrower may repay all or any part of the loan at any time, however, a borrower is not required to repay any part of the postgraduate master's degree loan before the start of the following tax year commencing on 6th April after a borrower ceases to be an eligible student, and no borrower is required to repay any part of the loan until on or after 6th April 2019. A borrower's liability to repay a loan will end only if the loan is cancelled, repaid in full, or if other specified events occur. Regulation 27 provides that repayments made directly to the Secretary of State or by direct debit are credited to the borrower's account on the date of receipt. Repayments made through self-assessment are credited to the borrower's account on 31 January in the tax year following the tax year for which those repayments are due. Regulation 28 provides that a borrower may repay through direct debit at the end of life of their loan to prevent over-repayment through the tax system if they request it, and previous attempts at payment by this

method have not failed as a result of the direct debit being refused or cancelled without permission. A borrower can agree to re-enter the PAYE system at any time. Regulation 29 sets out that loans are cancelled when a borrower dies, is permanently disabled, or as of the 30th anniversary of the date on which the borrower became liable to repay the loan. Regulation 30 provides that if a borrower repays more than is owed to the Secretary of State, any over-payment is repaid with interest. Regulation 31 sets out that the interest rate is the retail price index plus 3%. Regulations 32 to 37 provide that the Secretary of State may require the borrower to provide personal details, and may apply penalties to the borrower if the borrower fails to comply with these requirements. In addition to specific penalties for failing to comply, if the Secretary of State incurs any costs in obtaining information which the borrower is required to provide, he can recover such costs by adding them to the balance of the loan (regulation 35). The Secretary of State has the power to require the borrower to repay the loan in full immediately if the borrower fails to comply with the information obligations or to pay penalties.

Chapter 3 deals with repayment of loans through the self-assessment system for borrowers required to submit a self-assessment tax return. Regulation 38 provides that provisions of the Taxes Management Act 1970 dealing with payment of income tax through self-assessment are extended to cover repayment of loans, and loan repayments through self-assessment are treated like income tax. Regulation 39 provides that a borrower repays 6% of the borrower's total income per annum on income over £21,000, although certain exclusions and reliefs are applied to the calculation of the borrower's income for these purposes. Regulations 40 and 41 sets out HMRC has the power to require the borrower to disclose information about the loan in the borrower's annual return. Regulations 42 and 43 contain provisions regarding the storing and treatment of returns. Regulation 44 deals with assessments, claims and appeals. Regulation 45 deals with how a repayment must be made. Regulations 46 to 50 deal with interest and penalty payments.

Chapter 4 deals with how borrowers who are employees repay student loans through their employers. Regulation 54 sets out that an employer must deduct 6% of the borrower's total income per annum on income over £21,000. Regulations 55 and 56 set out how the employer must calculate earnings and earnings periods as set out in the Social Security (Contributions) Regulations 2001. Regulations 57 and 58 sets out provisions relating to the situation where there are multiple employers or intermediate employers. Regulations 59, 60 and 62 set out how an employer must make the deduction of repayments. Regulation 61 gives the employer directions as to how deductions from the employee's earnings rank against other deductions that the employer may be made to make. Regulation 63 provides where an employer is required to give a certificate of earnings to the employee, the employer must note on the certificate the amount of deductions regarding the loan made by the employer. Regulations 64 to 66 set out how the employer must make the repayments. Regulation 67 provides that HMRC may recover any sums owing by employers as though they were income tax and may recover student loan repayments in the same cause of action as outstanding National Insurance contributions or tax. Regulation 68 sets out that where an employer has not made the due payments, HMRC must charge interest at the rate applicable under the Finance Act 2009. Regulations 69, 71 and 73 set out the information that an employer must give HMRC. Regulation 70 sets out an exception to Regulation 69 in circumstances where the employer pays the employee on the date that employee does the work, and Regulation 74 provides exceptions to Regulation 69 for certain types of business. Regulation 72 deals with situations where the employer makes payments to an employee which are deemed notional payments under the Income Tax (Earnings & Pensions) Act 2003. Regulation 75 sets out the procedure an employer must follow if the employer discovers an inaccuracy in the details it has submitted in relation to an employee. Regulation 76 provides that an employer must make a return in the following tax year, where the employer has omitted to make a return in one year. Regulations 77 and 78 provide that the inspection powers of the Finance Act 2008, with modifications, also apply to the inspection of an employer's records under these Regulations. Regulations 79 and 80 provide that where HMRC thinks that employer has underpaid, it may demand the full payment and charge interest. Regulation 81 sets out that where an employer dies, anything which that employer was liable to do must be done by the employer's personal representative, or by the person succeeding that employer. Regulation 82 sets out that no subsequent employer is liable for

the payment of repayments deducted from an employee's earnings before the change of employer, unless those repayments are also deductible from earnings paid to the employee after the change of employer. Regulation 83 provides that payments made by cheque are treated as paid on the date of receipt. Regulation 84 provides that where an employee leaves employment, and the employer has notice that the employee is a borrower, the employer must state on the P45 that the employee is a borrower. Regulation 85 provides that an employer who either fraudulently or negligently makes incorrect deductions or makes or receives incorrect payments in a tax year for an employee is liable to a penalty of £3000 for each incorrect deduction or payment. Regulation 86 applies the provisions regarding recovery of penalties of the Taxes Management Act 1970 to the penalties set out in chapter 4.

Chapter 5 provides for repayment by borrowers who are not resident in the UK for income tax purposes. Regulation 89 provides that a borrower must notify the Secretary of State for any period of residence outside the UK in excess of 3 months. Under regulation 90 the Secretary of State has the power to require any such borrower to repay the loan in fixed instalments calculated in accordance with Regulation 93, and if the borrower does not make such a payment when due, the Secretary of State can demand the full repayment of the loan immediately (Regulation 95).

Regulation 97 provides that in relation to borrowers in England & Wales, and Northern Ireland sums by way of postgraduate master's degree loans which are received by the borrower, or to which the borrower is entitled, after the borrower is declared bankrupt, do not form part of the bankrupt's estate for the purposes of the bankruptcy.

An impact assessment of the effect that these Regulations will have on the costs of business, the voluntary sector and the public sector will be available from the Higher Education Policy Team, Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET before the end of the Parliamentary praying period for this instrument and will be published alongside this instrument and its Explanatory Memorandum on www.legislation.gov.uk.