

2010 No. 91

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations (Northern Ireland) 2010**

Made - - - - - *10th March 2010*

Coming into operation- - - - - *6th April 2010*

The Department for Employment and Learning^(a) makes the following Regulations in exercise of the powers conferred by Articles 3(2) to (5) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998^(b) and now vested in it^(c).

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2010 and come into operation on 6th April 2010.

2. Regulations 6, 7 and 8 apply only in relation to tax years commencing on or after 6 April 2010.

3. In these Regulations “the principal Regulations” mean the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009^(d).

Amendment of the principal Regulations

4. The principal Regulations shall be amended as provided by regulations 5 to 8.

5. In regulation 24 (Time for and amount of repayments) for paragraph (3)(f) there shall be substituted—

“(f) deducting the amount of any loss in respect of which relief is given under any of the following—

- (i) section 64 of the 2007 Act (trade loss relief against general income);
- (ii) section 83 of the 2007 Act (carry-forward trade loss relief);
- (iii) section 118 of the 2007 Act (carry-forward property loss relief);
- (iv) section 120 of the 2007 Act (property loss relief against general income);
- (v) section 128^(e) of the 2007 Act (in respect of losses in an employment); and”.

(a) Formerly known as the Department of Higher and Further Education, Training and Employment; *see* S.I. 1999/283 (N.I. 1) and 2001 c.15 (N.I.)
(b) S.I. 1998/1760 (N.I. 14)
(c) S.R. 1999 No. 481 *see* Article 5(b) and Schedule 3 Part II
(d) S.R. 2009 No. 128
(e) Section 128 of the Income Tax Act 2007 (c.3) was amended by the Finance Act 2009 (c.10) section 68(1)

6. In regulation 57(4) (Formal determination of repayments payable by employer) after “5 (Appeals and Other proceedings)” insert “, 5A (Payment of Tax)”.

7.—(1) In regulation 63 (Penalties) for paragraph (3) there shall be substituted—

“(3) Schedule 56 to the Finance Act 2009(a) (penalty for failure to pay tax) shall apply in relation to the late payment from an employer to HMRC of student loan repayments deducted from an employees’ earnings as if—

- (a) in relation to all regulations in this part other than regulation 57 payments from an employer to HMRC were a payment of tax falling within item 2 of the table in paragraph 1 of that schedule;
- (b) in relation to regulation 57 payments from an employer to HMRC were a payment of tax falling within items 17, 23 or 24 of the table in paragraph 1 of that schedule;
- (c) references to the PAYE Regulations in item 2 of the table in paragraph 1 of that schedule were references to this Part.”

8. For regulation 65 (Application of the PAYE Regulations) there shall be substituted—

“65. To the extent that the provisions of the PAYE Regulations apply by virtue of regulation 37 for the purposes of these Regulations, the PAYE Regulations will apply as if in regulation 210 (penalties and appeals), an employer is not liable to a penalty if the employer has been liable to a penalty for failing to comply with regulation 205 of those Regulations or regulation 90N of the Contribution Regulations in relation to the same tax year.”

Sealed with the Official Seal of the Department for Employment and Learning on 10th March 2010.



Sir Reg Empey MLA
Minister for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under powers conferred by Articles 3(2) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998. The Regulations will be subject to the negative resolution procedure before the Assembly and is scheduled to come into operation on 6th April 2010.

The Regulations amends the principal Regulations – The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009, S.R 2009 No. 128 which provide the statutory framework for the collection and repayment system for income-contingent repayment (ICR) student loans. For most borrowers repayment is through the tax system, involving employers and HM Revenue and Customs (HMRC). Loan accounts are administered by the Student Loans Company (SLC), which receives information from HMRC about repayments made through the tax system.

(a) S2009 c.10

Regulation 5 amends regulation 24(3)(f) of the principal Regulations so that any loss in respect of which relief is given under section 83, 118 and 120 of the Income Tax Act 2007 are included in the list of reliefs to be deducted for the purpose of calculating a borrower's total income under regulation 24(2) of the principal Regulations.

Regulation 6 applies the provisions of Part 5A of the Taxes Management Act 1970 to a determination made under regulation 57 of the principal Regulations.

Regulation 7 amends regulation 63 of the principal Regulations so as to apply certain penalties under Schedule 56 of the Finance Act 2009, which are being introduced from 6th April 2010, to employers who make late payments of student loan repayments to HMRC.

Regulations 7 and 8 remove references in the principal Regulations to regulations 202 and 203 of the Income Tax (Pay As You Earn) Regulations 2003 ("PAYE Regulations"). These changes mirror amendments being made to the PAYE Regulations.

An impact assessment has not been prepared in respect of this instrument as it has no impact on the cost of business, charities or voluntary bodies.

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