

2014 No. 87

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations (Northern Ireland) 2014**

Made - - - - - *18th March 2014*

Coming into operation - - - - - *6th April 2014*

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) 2014 and come into operation on 6th April 2014.

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

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009^(d) are amended as provided by regulations 3 to 12.

3. In regulation 18 (Information notices), after paragraph (2)(f) insert—

“(g) such other information about the borrower’s financial position as may be required to determine whether the borrower is in receipt of any income.”

4. In regulation 24(6) (Time for and amount of repayments)—

- (a) in sub-paragraph (b) delete “but before or on 5th April 2016”; and
- (b) delete sub-paragraph (c).

5. In regulation 53 (Interest on unpaid repayments)—

(a) for paragraph (1), substitute—

“(1) Subject to paragraphs (1A) and (2), where an employer has not on or before the 14th day after the end of an income tax period, beginning on or after 6th April 2014, paid an amount which the employer is liable to pay to HMRC under regulation 49 for that period, that amount will carry interest at the rate applicable under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from that date until payment.

(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) Article 3(3) was amended by the Student Loans (Amendment) Act (Northern Ireland) 2011 c. 2 (N.I.)
(c) S.R. 1999 No. 481 *see* Article 5(b) and Schedule 3 Part II
(d) S.R. 2009 No. 128, amended by S.R. 2010 No. 91, S.R. 2011 No. 137 and S.R. 2012 No.136

(1A) Subject to paragraph (2), any amount which an employer is liable to pay to HMRC under regulation 49 and which is outstanding immediately prior to 6th April 2014 will carry interest from the 14th day after the end of the tax year in which it should have been paid to the date of payment at the rate applicable under—

- (a) section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act in respect of the period up to and including 5th April 2014; and
- (b) sections 101 and 103 of the Finance Act 2009 in respect of the period from 6th April 2014.”; and

(b) In paragraph (2) for “year” substitute “period”.

6. In regulation 54B (Real time returns of information about payments of earnings)(a)—

- (a) at the end of paragraph (1) insert “but this is subject to paragraph (1A)”;
- (b) after paragraph (1) insert—

“(1A) But a Real Time Information employer—

- (a) which for the tax year 2014-15 meets Conditions A and B, or
- (b) which for the tax year 2015-16 meets Conditions A and C,

may instead for that tax year deliver to HMRC the information specified in Schedule 2 in respect of all relevant payments made to an employee in a tax month on or before making the last relevant payment in that month.

(1B) Condition A is that at 5th April 2014 the employer is one to whom HMRC has issued an employer’s PAYE reference.

(1C) Condition B is that on 6th April 2014 that Real Time Information employer employs no more than 9 employees.

(1D) Condition C is that at 6th April 2015 that Real Time Information employer employs no more than 9 employees.

(1E) In this regulation “employer’s PAYE reference” means the combination of letters, numbers or both used by HMRC to identify an employer for the purposes of the PAYE Regulations and the number which identifies the employer’s HMRC office.”

7. In regulation 54E (Exceptions to regulation 54B)—

- (a) at the end of paragraph (1) insert—

“,

but this is subject to paragraph (2B).”;

- (b) after paragraph (2A) insert—

“(2B) This regulation does not apply if a Real Time Information employer within paragraph (1) makes a return using an approved method of electronic communications.”;

- (c) in paragraphs (3) and (6) for “month” substitute “quarter”; and
- (d) in paragraph (5) for “period” substitute “quarter”.

8. In regulation 54F (Returns under regulations 54B and 54E: amendments)—

- (a) in paragraph (1) for “an employer discovers an error in a return” substitute “there is an inaccuracy in a return, whether careless or deliberate.”;
- (b) in paragraphs (2), (3) and (7)(a) for “error” substitute “inaccuracy”;
- (c) for paragraph (4) substitute—

“(4) When the employer becomes aware of an inaccuracy in a return submitted under regulation 54B or 54E, the employer must provide the correct information in the next return for the tax year in question.”; and

(a) Regulations 54B, 54E and 54F were inserted by regulation 16 of S.R. 2012 No. 136

(d) in paragraph (6)(b) for “discovery of the error” substitute “employer becomes aware of the inaccuracy”.

9. In regulation 54G(5) (Failure to make a return under regulation 54B or 54E)(a), at the end insert—

“But this paragraph does not apply to a return for tax year 2014-15 or subsequent tax years”

10. In regulation 58 (Interest on unpaid repayments which have been formally determined), for paragraph (1) substitute—

“(1) Subject to paragraph (1A), where—

- (a) an employer has not paid an amount of repayments to HMRC under regulation 49;
- (b) HMRC makes a determination of the amount of such repayments under regulation 57; and
- (c) repayments are payable pursuant to that determination,

those repayments will carry interest at the applicable rate under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from the 14th day after the end of the income tax period in which they are payable, beginning on or after 6th April 2014, until payment.

(1A) Any repayments under paragraph (1) that are outstanding immediately prior to 6th April 2014 will carry interest from the 14th day after the end of the tax year in which it should have been paid to the date of payment at the applicable rate under—

- (a) section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act in respect of the period up to and including 5th April 2014; and
- (b) sections 101 and 103 of the Finance Act 2009 in respect of the period from 6th April 2014.”

11. In regulation 63 (Penalties)—

- (a) in paragraph (1), omit “subject to paragraph (3),”;and
- (b) after paragraph (3), insert—

“(4) For tax years commencing on or after 6th April 2014, where the date on which the return is due to be filed is on or after 6th April 2014, where a Real Time Information employer—

- (a) carelessly or deliberately makes an incorrect return under regulations 54B or 54E; and
- (b) the return contains an inaccuracy which amounts to, or leads to—
 - (i) an understatement of liability under this Part to make payments to HMRC; or
 - (ii) false or inflated claim for the recovery of payments made to HMRC under this Part,

penalties as set out in Schedule 24 to the Finance Act 2007 (penalties for error) will apply as they apply in connection with a return for the purposes of PAYE Regulations.”

12. In regulation 71(1A) (Calculation of fixed instalment and applicable threshold)(b), delete “until and including 6th April 2015”.

Sealed with the Official Seal of the Department for Employment and Learning on 18th March 2014.

(a) Regulation 54G was inserted by regulation 10 of S.R. 2013 No. 68
(b) Regulation 71(1A) was inserted by regulation 10 of S.R. 2011 No. 137



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A senior officer of the Department for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009, No. 128) (“the principal Regulations”). The principal Regulations govern the repayment of income-contingent student loans paid to students under Articles 3(2) to (5) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998.

Regulations 3 to 12 amend the principal Regulations.

Regulation 3 amends the content which may form part of an information notice which may be served on a borrower.

Regulations 4 and 12 remove the limit to the number of annual increases to repayment threshold and the applicable threshold for student loans which are not post-2012 student loans, by the retail price index, where the final increase would have been for the year 6th April 2015 to 5th April 2016.

Regulations 5 and 10 change the legislative provisions under which interest rates are calculated for amount which employers have not paid to Her Majesty’s Revenue and Customs.

Regulation 6 permits the smallest employers to file returns about all the student loan repayments in a month on or before making the last payment to employees in the tax month, providing that they meet certain conditions.

Regulation 7 extends the time for those employers who are permitted to file on paper (i.e. care and support employers) to file information with Her Majesty’s Revenue and Customs from 14 days after the end of the tax month to 14 days after the end of the tax quarter.

Regulation 8 clarifies that regulation 54F (Returns under regulation 54B and 54E: amendments) applies whether the mistake is careless or deliberate.

Regulation 9 ensures there is no penalty awarded under section 88A Taxes Management Act 1970 (c.9) if the final return for 2014-15 is not made by 19th May 2015.

Regulation 11 provides for penalties under Schedule 24 to Finance Act 2007 (c.11) where an employer makes an incorrect return and as a result of that return there is an understatement of a student loan or false claim for repayment from Her Majesty’s Revenue and Customs.

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