

**2007 No. 159**

**EDUCATION**

**The Repayment of Student Loans (Scotland) Amendment  
Regulations 2007**

<i>Made</i> - - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	<i>6th March 2007</i>
<i>Coming into force</i> - -	<i>1st August 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Repayment of Student Loans (Scotland) Amendment Regulations 2007 and shall come into force on 1st August 2007.

**Amendment of the Repayment of Student Loans (Scotland) Regulations 2000**

2. The Repayment of Student Loans (Scotland) Regulations 2000(b) are amended as follows.

3. In regulation 2 (interpretation) insert in the appropriate places the following definitions—

““the 2007 Regulations” means the Education (Student Loans) (Scotland) Regulations 2007(c); and

““continuous programme of higher education” means a programme of education undertaken by an individual comprising—

(a) either—

(i) a course leading to a Higher National Certificate immediately followed by a course leading to a Higher National Diploma (disregarding any intervening vacation); or

(ii) a course leading to a Higher National Diploma; and

(b) a course of higher education not of a kind referred to in paragraph (a) above which commences in the academic year immediately following the end of the course referred to in paragraph (a) or in the following academic year;”.

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(a) 1980 c.44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (“the 1998 Act”) (c.30), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (“the 2001 Act”) (asp 6), section 3(2). Section 73B was inserted by the 1998 Act, section 29(2) and was amended by the 2001 Act, section 3(3) and by the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, paragraph 149. Section 74(1) was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c.39), Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2000/110; amending instruments are S.S.I. 2000/200, 2001/227, 2005/314 and 2006/326.

(c) S.S.I. 2007/154.

4. For regulation 8 (cancellation) substitute—

**“Cancellation**

8.—(1) This regulation shall apply where a borrower is not in breach of any obligation to repay their student loan under Part III of the Collection Regulations or any obligation to repay any loan mentioned in paragraph (5).

(2) In this regulation “post-2007 student loan” means any student loan taken out by persons mentioned in paragraph (3) paid under—

- (a) the 2007 Regulations; or
- (b) any regulations made after 1st August 2007 under sections 73(f), 73B and 74(1) of the Act.

(3) The persons mentioned in this paragraph are—

- (a) a borrower who takes out a student loan for the first time in respect of an academic year beginning on or after 1st August 2007; or
- (b) a borrower who takes out a student loan in respect of a course which satisfies the following conditions—
  - (i) it begins on or after 1st August 2007;
  - (ii) it is not a continuous programme of higher education which the borrower began before 1st August 2007; and
  - (iii) it is not a course in relation to which the borrower’s status as a student eligible for support under regulations made under section 73(f), 73B and 74(1) of the Act transferred from another course which the borrower began before 1st August 2007.

(4) The Scottish Ministers shall cancel the borrower’s liability to repay that borrower’s student loan when one of the following occurs—

- (a) the borrower dies;
- (b) the borrower receives a disability related benefit and because of that borrower’s disability is permanently unfit for work;
- (c) in the case of a post-2007 student loan, the 35th anniversary of the date on which the borrower became liable to repay the student loan; or
- (d) in the case of a student loan which is not a post-2007 student loan, the borrower reaches the age of 65.

(5) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990(a), the Education (Student Loans) (Northern Ireland) Order 1990(b), the Teaching and Higher Education Act 1998(c) and regulations made under it and the Education (Student Support) (Northern Ireland) Order 1998(d) and regulations made under it.

(6) The cancellation of the borrower’s liability to repay that borrower’s student loan under paragraph (4) shall not affect their liability to make repayments under Part III of the Collection Regulations subject to and in accordance with that Part in respect of any year of assessment—

- (a) in the case of cancellation under paragraph (4)(a) during which the borrower was alive; and
- (b) in any other case preceding the year of assessment during which the student loan was cancelled.

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(a) 1990 c.6: repealed by the Teaching and Higher Education Act 1998 (c.30), Schedule 4.

(b) S.I. 1990/1506 (N.I. 11), repealed by S.I. 1998/1760 (N.I. 14).

(c) 1998 (c.30).

(d) S.I. 1998/1760 (N.I. 14).

(7) The cancellation of a borrower's liability to repay their student loan under paragraph (4) shall not affect that borrower's liability to make repayments by way of deductions made under Part 4 of the Collection Regulations subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation."

5. In regulation 10 (interpretation), insert in the appropriate place—

““Eurostat” means the Statistical Office for the European Communities.”.

6. For regulation 11 (notice of overseas residence), substitute—

**“Notice of overseas residence**

**11.**—(1) A borrower shall notify the Scottish Ministers of any period of residence outside the United Kingdom which exceeds 3 months and such notification shall be made within 6 weeks of the expiry of that period.

(2) A borrower shall provide, within such period as may be specified by the Scottish Ministers, such information about that borrower's income during any such period of residence as they may require.”.

7. In regulation 11C—

(a) after paragraph (3) insert the following—

“(3A) Where a borrower has been liable to a penalty under paragraph (2) in respect of a failure to comply with an Information Notice and has paid it, but does not comply with the Information Notice within a period of 28 days from the date of payment, the Scottish Ministers may require the borrower to pay one additional penalty of £100 in respect of a failure to comply with that Information Notice;”;

(b) in paragraph (4) for “or (3)” substitute “, (3) or (3A)”; and

(c) in paragraph (5) for “or (3)” substitute “, (3) or (3A)”.

8. In regulation 11E after “11B(4)” insert “, 11C(3A)”.

9. After regulation 11F insert the following—

**“11G.** Where a borrower has failed to comply with a Penalty Notice or an Information Notice or both the Scottish Ministers may require the borrower to repay their student loan in full immediately.”.

10. For regulation 12 (notice of liability to make repayments), substitute—

**“Notice of liability to make repayments**

**12.**—(1) Subject to regulation 13A, where the Scottish Ministers are satisfied that a borrower is resident outside the United Kingdom they may serve a notice on the borrower requiring the borrower to repay that borrower's student loan in accordance with regulation 13.

(2) In a notice served under paragraph (1) the Scottish Ministers may require a borrower who has failed to—

(a) give the notice required by regulation 11(1); or

(b) provide any information required by the Scottish Ministers under regulation 11(2),

to repay immediately such part of their student loan as will reduce the amount outstanding to the amount which the Scottish Ministers consider would have been outstanding if the borrower had given the notice timeously or provided the information required of that borrower and if they had made a determination in terms of regulation 13A.”.

11. For regulation 13 (repayment by instalments), substitute—

**“Repayment by fixed instalments**

13. A borrower upon whom notice is served under regulation 12(1) shall not later than the day specified in that notice and not later than the same day of each subsequent month pay the Scottish Ministers a fixed instalment, calculated in accordance with regulation 13B.”.

12. After regulation 13, insert—

**“Repayment by income-related instalments**

13A.—(1) Where the Scottish Ministers are satisfied that a borrower to whom regulation 12 applies has complied with a requirement to provide information under regulation 11, they may determine that the borrower may repay that borrower’s student loan by income-related instalments, in accordance with this regulation.

(2) The first such instalment must be paid on a day determined by the Scottish Ministers, being a day not more than 2 months later than the date of the determination, and subsequent instalments shall be paid not later than the same day of each subsequent month for up to 12 months.

(3) Each instalment shall be  $\frac{1}{12}$  of the relevant amount.

(4) The relevant amount shall be 9% of the gross income which the Scottish Ministers consider the borrower is likely to receive during the 12 month period following the date of the determination referred to in paragraph (2), disregarding—

- (a) income up to the applicable threshold, calculated in accordance with the table in regulation 13B(2); and
- (b) income in respect of which the Scottish Ministers are satisfied that repayments are likely to be made under Part III or IV of the Collection Regulations.

(5) The amount of the instalment shall be stated in the determination.

(6) At the end of the period for payment of instalments referred to in paragraph (2), the borrower shall pay fixed instalments under regulation 13, subject to a further determination under paragraph (1).

(7) At any time during the period for payment of instalments referred to in paragraph (2) the Scottish Ministers may make a re-determination under paragraph (1).

**Calculation of fixed instalment and applicable threshold**

13B.—(1) The fixed instalment mentioned in regulation 13 shall be determined by reference to the most recent price level index for the borrower’s country of residence and in accordance with the following table—

<i>Band</i>	<i>Price Level Index</i>	<i>Fixed Instalment</i>
A	0<30	£49.20
B	30<50	£98.40
C	50<70	£147.60
D	70<90	£196.80
E	90<110	£246
F	110<130	£295.20
G	130+	£344.40

(2) The applicable threshold mentioned in regulation 13A shall be determined by reference to the most recent price level index for the borrower’s country of residence and in accordance with the following table—

<i>Band</i>	<i>Price Level Index</i>	<i>Applicable Threshold</i>
A	0<30	£3,000
B	30<50	£6,000
C	50<70	£9,000
D	70<90	£12,000
E	90<110	£15,000
F	110<130	£18,000
G	130+	£21,000

(3) The price level index for the United Kingdom is 100.

(4) Price level indices shall be calculated using the most recent provisional comparative price level indices for consumer goods and services (measured in terms of Purchasing Power Standard per capita) expressed in gross domestic product published by Eurostat.

(5) Where a price level index cannot be calculated because Eurostat does not publish the necessary data, it shall be calculated using the most recent provisional comparative price level indices equivalent to those referred to in paragraph (4), expressed in gross domestic product published by the World Bank as World Development Indicators.

(6) Where a price level index cannot be calculated under paragraph (4) or (5), the applicable fixed instalment and threshold shall respectively be those for Band A given in the tables in paragraphs (1) and (2).

(7) The Scottish Ministers may determine that the applicable fixed instalment and threshold for a borrower shall be that for a country other than that borrower’s country of residence.”.

13. For regulation 14 (application to cease repayment by instalments), substitute—

**“Application to cease repayment by instalments**

14.—(1) A borrower who—

- (a) is required to make repayments under this Part; and
- (b) has not been required to repay that borrower’s student loan in full immediately under regulation 15,

may apply to the Scottish Ministers for a determination that the borrower shall no longer be required to make such repayments.

(2) Where the Scottish Ministers are satisfied that—

- (a) the borrower is resident in the United Kingdom; and
- (b) the borrower is likely to be resident in the United Kingdom for the year of assessment during which the date specified in their determination will fall,

the Scottish Ministers may determine that a borrower who has applied under paragraph (1) shall not be required to make repayments under this Part from a date specified in their determination, being a date not more than 2 months later than the date of the determination.

(3) A determination under paragraph (2) shall have effect until the borrower again becomes liable to repay that borrower’s student loan under regulation 13 or 13A.”.

14. After regulation 14, insert–

**“Penalties**

15. If a borrower does not pay an instalment or other amount when it is due the Scottish Ministers may require the borrower to repay their student loan in full immediately.”.

St Andrew’s House,  
Edinburgh  
6th March 2007

*NICOL STEPHEN*  
A member of the Scottish Executive

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st August 2007, amend the Repayment of Student Loans (Scotland) Regulations 2000 (S.S.I. 2000/110) (“the principal Regulations”).

Regulation 3 inserts new definitions into regulation 2 of the principal Regulations.

Regulation 4 inserts a new regulation 8 into the principal Regulations. The Scottish Ministers must write off a borrower’s liability to repay that borrower’s student loan in certain circumstances. The student loan must be written off if the borrower dies, if the borrower reaches the age of 65, or if the borrower receives a disability related benefit and as a result of the disability is permanently unfit to work. From 1st August 2007 certain categories of borrowers will have their student loans written off 35 years after they became liable to repay. Students on continuing courses will have their student loans written off when they reach the age of 65.

Regulation 5 inserts a new definition into regulation 10 of the principal Regulations.

Regulation 6 substitutes a new regulation 11 into the principal Regulations. Borrowers are under a duty to notify the Scottish Ministers when they move overseas for a period of over three months. They must also provide information as to their income as required by the Scottish Ministers.

Regulation 7 inserts a new paragraph into regulation 11C of the principal Regulations. Regulation 11C provides that the Scottish Ministers may impose penalties on borrowers who fail to comply with requests for information. If the borrower fails to provide information, they may be charged a penalty of £50. Regulation 7 inserts a provision to the effect that the Scottish Ministers may impose a further charge of £100 where a borrower has paid a penalty but continues to refuse to provide the information. Regulation 8 makes a consequential amendment to regulation 11E of the principal Regulations.

Regulation 9 amends the principal Regulations so that where a borrower fails to provide information or to comply with a Penalty Notice, the Scottish Ministers may require the borrower to repay their student loan in full immediately.

Regulation 10 substitutes a new regulation 12 into the principal Regulations. When a borrower moves overseas, the Scottish Ministers may serve a notice requiring the borrower to repay that borrower’s student loan in accordance with new regulation 13 of the principal Regulations. In such a notice, the Scottish Ministers may require the borrower who has failed to provide them with information required under regulation 11 of the principal Regulations to make a repayment to reduce the amount outstanding on the student loan to that which would have been outstanding had the borrower provided the information.

Regulation 11 substitutes a new regulation 13 into the principal Regulations. Borrowers will be required to repay their student loans by a fixed instalment under regulation 13 of the principal Regulations, unless regulation 13A applies. They will have to repay a fixed instalment each month, which will be calculated in accordance with regulation 13B.

Regulation 12 inserts new regulations 13A and 13B into the principal Regulations. Under regulation 13A of the principal Regulations a borrower who has complied with a request for information may repay their student loan for a period of 12 months by 12 income-related instalments. Each instalment is one twelfth of 9% of the borrower’s gross income, disregarding income up to an applicable threshold, and any income in respect of which the borrower will be making student loan repayments through the UK tax system. At the end of the 12 month period, the borrower’s repayments can be re-assessed, or the borrower can repay in accordance with regulations 13 and 13A. The borrower may also seek a re-determination of that borrower’s income-related instalments during the 12 month period.

Regulation 13B of the principal Regulations sets out how the applicable threshold and fixed instalments are calculated. These will be calculated by reference to the price level index for consumer goods and services (measured in terms of Purchasing Power Standard per capita) of a borrower's country of residence. The price level index for that country will be calculated using the most recent provisional comparative price level indices expressed in gross domestic product published by the Statistical Office for the European Communities ("Eurostat"). The applicable threshold and fixed instalment for each of a series of bands of price level indices are set out in a table in regulation 13B. Where no data is available from Eurostat, data from the World Bank will be used. If there is no data available from the World Bank in relation to a country, the applicable threshold and fixed instalment for Band A will apply.

Regulation 13 substitutes a new regulation 14 into the principal Regulations which provides for borrowers returning to the United Kingdom to cease making repayments under that part of the principal Regulations.

Regulation 14 inserts a new regulation 15 into the principal Regulations which provides that the Scottish Ministers may require a defaulting borrower to repay the whole of that borrower's student loan.

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