

2002 No. 2086

EDUCATION, ENGLAND AND WALES

**Education (Teacher Student Loans) (Repayment etc.)
Regulations 2002**

Made - - - - - *6th August 2002*

Laid before Parliament *9th August 2002*

Coming into force - - *1st September 2002*

In exercise of the powers conferred on the Secretary of State by sections 186 and 210 of the Education Act 2002(a), the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002 and shall come into force on 1st September 2002.

(2) These Regulations shall apply to England and Wales.

Interpretation

2.—(1) In these Regulations:

“1990 Act” means the Education (Student Loans) Act 1990(b);

“1998 Act” means the Teaching and Higher Education Act 1998(c);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(d) as adjusted by the Protocol signed at Brussels on 17th March 1993(e);

“eligible employment” has the meaning given by regulation 4;

“eligible teacher” means a person whom the Secretary of State has determined is eligible for repayment or reduction of amounts in respect of loans in accordance with these Regulations;

“employment” means employment under a contract of service and related words shall be construed accordingly;

“employment commencement date” means the date that an eligible teacher commences eligible employment for the first time or 1st September 2002 whichever is the later;

(a) 2002 c. 32.

(b) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3. The entire Act was repealed on 13th August 1998 by the 1998 Act, section 44(2) and Schedule 4, subject to saving and transitional provisions set out in the Teaching and Higher Education Act 1998 (Commencement No. 2 and Transitional Provisions) Order 1998 (S.I. 1998/2004). The saving provisions include provision for making subordinate legislation after the date of the repeal.

(c) 1998 c. 30.

(d) Cmnd 2073.

(e) Cmnd 2183.

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway, the Principality of Liechtenstein and the Swiss Confederation;

“FE teaching qualification” means a qualification a teacher is required to hold under the Further Education Teachers’ Qualifications (England) Regulations 2001^(a) or the Further Education Teachers’ Qualifications (Wales) Regulations 2002^(b);

“FE teaching qualification course” has the same meaning as “relevant course” in regulation 4 of the Further Education Teachers’ Qualifications (England) Regulations 2001 and the Further Education Teachers’ Qualifications (Wales) Regulations 2002;

“full-time” employment is full-time if the contract of employment so provides;

“further education” has the meaning given by section 2 of the Education Act 1996;

“income contingent loan” has the meaning given by regulation 7;

“institution within the further education sector” has the same meaning as in section 91 of the Further and Higher Education Act 1992;

“institution within the higher education sector” has the same meaning as in section 91 of the Further and Higher Education Act 1992;

“management position” means—

(a) in relation to a teacher at a school, the position of head teacher, deputy head teacher or assistant head teacher; and

(b) in relation to a teacher at any other relevant institution, an equivalent position;

“mortgage style loan” has the meaning given by regulation 7;

“non-maintained special school” means a special school which is not maintained by a local education authority;

“outstanding” means outstanding on the employment commencement date;

“parental responsibility” has the same meaning as in section 3 of the Children Act 1989^(c);

“part-time” employment is part-time if the contract of employment requires the employee to work for less than the whole of the working week;

“primary school” has the same meaning as in section 5 of the Education Act 1996;

“primary specialist” means a teacher at a primary school who is employed to teach one or more shortage subjects to classes or groups other than his own;

“relevant institution” means an institution mentioned in regulation 4(1)(a);

“school” means a school maintained by a local education authority, a non-maintained special school or a school established and maintained under an agreement pursuant to section 482 of the Education Act 1996^(d);

“school maintained by a local education authority” means a community school, foundation school, voluntary school, community special school, foundation special school or pupil referral unit;

“shortage subjects” means mathematics, science, design and technology, information and communications technology, any modern language, Welsh, English (including drama), engineering and construction;

“specialist college” means an educational institution which provides further education for persons with learning difficulties and/or disabilities and is in receipt of funding from the Learning and Skills Council for England^(e); or the National Council for Education and Training for Wales^(f);

“special school” has the meaning given by section 337 of the Education Act 1996^(g); and

“student loan” has the meaning given by regulation 7.

(2) For the purposes of these Regulations an area which—

(a) was previously not part of the European Community or the European Economic Area, but

(a) S.I. 2001/1209.

(b) S.I. 2002/1663 (W. 158).

(c) 1989 c. 41.

(d) As substituted by section 65 of the Education Act 2002.

(e) As established by section 1 of the Learning and Skills Act 2000 (c. 21).

(f) As established by section 30 of the Learning and Skills Act 2000.

(g) As substituted by section 140(1) and paragraph 80 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31).

- (b) at any time before or after these Regulations come into force has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(3) For the purposes of these Regulations any reference to an “employer” in relation to a teacher working at a community, community special or voluntary controlled school shall mean a reference to the governing body of that school.

Eligibility

3.—(1) Subject to paragraph (3), a person shall be eligible for the reduction of amounts payable in respect of loans if he—

- (a) is in eligible employment;
- (b) is a person mentioned in regulation 5; and
- (c) has an outstanding loan made pursuant to any regulations made under section 22 of the 1998 Act.

(2) Subject to paragraph (3), a person shall be eligible for the repayment of amounts payable in respect of loans if he—

- (a) is in eligible employment;
- (b) is a person mentioned in regulation 5; and
- (c) has either:
 - (i) an outstanding mortgage style loan;
 - (ii) an outstanding loan made pursuant to any regulations made under section 73 of the Education (Scotland) Act 1980(a); or
 - (iii) an outstanding loan made pursuant to the Education (Student Support) (Northern Ireland) Order 1998(b).

(3) Notwithstanding paragraphs (1) and (2), the Secretary of State may determine that a person is not eligible if he—

- (a) is in breach of any obligation contained in any agreement for a student loan or in any regulations or orders under which a loan mentioned in paragraph (2) is made;
- (b) has outstanding charges or penalties in relation to such a loan pursuant to any such agreement, regulation or order; or
- (c) has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to be so eligible.

Eligible employment

4.—(1) A person is in eligible employment if he—

- (a) is employed to work as a teacher at—
 - (i) a school,
 - (ii) an institution within the further education sector,
 - (iii) an institution within the higher education sector, or
 - (iv) a specialist college,

in England or Wales;

- (b) is employed under a permanent contract or a fixed-term contract of employment for a period of at least 8 continuous weeks with a relevant institution or a local education authority;
- (c) subject to paragraphs (2) and (3), is employed under a contract of employment which commenced on or after 1st July 2002 and before 1st July 2005;
- (d) in relation to employment as a teacher at a primary school, is employed for at least half his teaching time as a primary specialist;
- (e) in relation to employment other than at a primary school, is employed for at least half his teaching time to teach one or more shortage subjects; and

(a) 1980 c. 44; section 73 was amended by section 29 of the 1998 Act.
(b) S.I. 1998/1760 (N.I. 14).

- (f) in relation to employment at an institution other than a school, is employed for at least half his teaching time to teach further education.
- (2) Subject to paragraph (3) and regulation 6, a person shall cease to be in eligible employment where he changes employer.
- (3) A person remains in eligible employment where—
- (a) he changes employer but remains in eligible employment within the meaning of paragraph (1) but disregarding paragraph (1) (c) ;
 - (b) he changes employer but remains in eligible employment within the meaning of paragraph (1) but disregarding paragraphs (1)(c), (d), (e) and (f) and he works in a management position;
 - (c) he ceases to teach a shortage subject for a period of not more than 12 months in any continuous period of 24 months and continues to teach at the same relevant institution, and his employer certifies that this cessation is in the interests of the relevant institution; or
 - (d) a specialist college ceases to be funded by the Learning and Skills Council for England or the National Council for Education and Training for Wales.
- (4) Paragraph (1) (c) shall not apply to any further eligible employment an eligible teacher obtains in addition to his existing eligible employment.
- (5) A person does not remain in eligible employment for the purposes of paragraph (3)(a) and (b) if there is a break of more than 7 days between employments.

Newly qualified teacher

5.—(1) Subject to paragraph (4), a person mentioned in regulation 3(1)(b) and (2)(b) in relation to eligible employment at a school, is a person who has qualified as a teacher on or after 1st February 2002 and not more than 7 months before the employment commencement date.

- (2) For the purposes of paragraph (1) a person qualifies as a teacher—
- (a) subject to subparagraph (c), when he has received written notification from the Secretary of State that he is a qualified teacher pursuant to paragraph 1 of Schedule 3 to the Education (Teachers' Qualifications and Health Standards) (England) Regulations 1999(a);
 - (b) subject to subparagraph (c), when he has received written notification from the National Assembly for Wales that he is a qualified teacher pursuant to paragraph 1 of Schedule 3 to the Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999(b); or
 - (c) in relation to a person mentioned in paragraphs 3 to 6 of either of these Schedules, when he—
 - (i) has successfully completed a course of initial teacher training for teachers in schools at an educational institution in Scotland or Northern Ireland; or
 - (ii) has successfully completed a diploma which shows that he has the professional qualifications required for taking up teaching within the meaning of Council Directive 89/48/EEC(c).
- (3) Subject to paragraph (4), a person mentioned in regulations 3(1)(b) and (2)(b) in relation to eligible employment other than at a school, is a person who—
- (a) has been awarded an FE teaching qualification on or after 1st February 2002 and not more than 7 months before the employment commencement date; or
 - (b) is attending an FE teaching qualification course in order to obtain an FE teaching qualification; and
- has not at any time before the commencement of his eligible employment been employed as a teacher—
- (i) at a relevant institution; or

(a) S.I. 1999/2166.
 (b) S.I. 1999/2817.
 (c) OJ No. L19, 24.1.89, p. 16.

- (ii) at a school or institution in the European Economic Area providing education which is equivalent to primary, secondary or further education and which is part of the public system of education of the state or territory in question.

(4) Where a woman has given birth to a child during the 7 month period after she qualifies as a teacher for the purposes of paragraphs (1) and (3)(a) then references to 7 months in paragraphs (1) and (3) shall be read as references to 19 months.

Allowable breaks from eligible employment

6.—(1) Notwithstanding regulations 4 (1) (c) and 5, a person who has ceased to be an eligible teacher shall become eligible where—

- (a) he recommences eligible employment;
- (b) he ceased to be in eligible employment for any reason other than that mentioned in paragraph (2)(b);
- (c) the period during which he was not an eligible teacher for that reason does not exceed 12 months in relation to any single break from eligible employment; and
- (d) the period during which he was not an eligible teacher for that reason does not exceed 36 months in total.

(2) Notwithstanding regulations 4 (1) (c) and 5, a person who has ceased to be an eligible teacher shall become eligible where—

- (a) he recommences eligible employment;
- (b) he ceased to be in eligible employment for the purpose of caring for any child for whom he has parental responsibility and with whom he has his home; and
- (c) the period during which he was not an eligible teacher for this purpose does not exceed 60 months in total.

(3) For the purposes of this regulation a person may cease eligible employment more than once.

Definition of loans

7.—(1) A student loan is a mortgage style loan or an income contingent loan.

(2) A mortgage style loan is a loan towards a student's maintenance, including the interest accrued on the loan, made pursuant to arrangements made under—

- (a) section 1 of the 1990 Act, or
- (b) the Education (Student Loans) (Northern Ireland) Order 1990(a).

(3) An income-contingent loan is a loan towards a student's maintenance, including the interest accrued on the loan, made pursuant to any regulations made under—

- (a) section 22 of the 1998 Act,
- (b) section 73 of the Education (Scotland) Act 1980, or
- (c) the Education (Student Support) (Northern Ireland) Order 1998.

Application

8.—(1) A person shall apply for repayment or reduction under these Regulations by completing an application in such form as the Secretary of State may require.

(2) Where a person returns to eligible employment following a break under regulation 6 he shall apply for repayment or reduction under these Regulations by completing an application in such form as the Secretary of State may require.

(3) An applicant shall submit an application under this Regulation to the Secretary of State not later than a date specified by the Secretary of State.

(4) The Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether a person is eligible.

(5) If the Secretary of State considers that an applicant is eligible for repayment or reduction under these Regulations she shall notify him of that fact, and thenceforth the applicant shall be an "eligible teacher" for the purposes of these Regulations.

(a) S.I. 1990/1506 (N.I. 11).

(6) Without prejudice to the generality of paragraph (4), for the purpose of demonstrating his eligibility an eligible teacher shall complete and submit to the Secretary of State an application in such form as she may require not later than a date specified by the Secretary of State.

(7) Where the Secretary of State considers that having regard to the circumstances of the particular case a time limit should be relaxed, any application under this regulation must reach her not later than such date as she specifies.

(8) Any application under this regulation shall include a declaration signed by the applicant that:

- (a) the particulars given in the application are correct to the best of his knowledge and belief; and
- (b) he will notify the Secretary of State of any change in his employment or personal details.

Information

9.—(1) Every applicant and every eligible teacher shall forthwith inform the Secretary of State if any of the following occurs, and provide her with particulars—

- (a) he ceases to be in eligible employment;
- (b) he changes eligible employment;
- (c) he enters into a new contract with his existing employer;
- (d) he recommences eligible employment pursuant to regulation 6;
- (e) he changes from part-time to full-time employment or from full-time employment to part-time employment;
- (f) in relation to a part-time eligible teacher, he changes the proportion of the working week he is employed to work; and
- (g) his address changes.

(2) Every applicant and every eligible teacher shall as soon as reasonably practicable after he is requested to do so provide the Secretary of State with such information as the Secretary of State considers necessary for the exercise of her functions under these Regulations.

(3) If the Secretary of State is satisfied that an eligible teacher has failed to comply with any requirement to provide information or has provided information which the eligible teacher knows to be false in a material particular or has recklessly provided information which is false in a material particular she may determine that the eligible teacher shall—

- (a) no longer be eligible under these Regulations, or
- (b) not be eligible for any particular repayment or reduction or particular amount of repayment or reduction as she considers appropriate in the circumstances.

Provision of information by employers and the General Teaching Councils

10.—(1) After receiving any application made under regulation 8, the employer of the applicant shall provide such further information as the Secretary of State may require and return the application to the applicant.

(2) An employer of an applicant or eligible teacher shall as soon as reasonably practicable after he is requested to do so provide the Secretary of State with such information as the Secretary of State considers necessary for the exercise of her functions under these Regulations.

(3) In providing information under this regulation the employer shall sign a declaration that the particulars given in the application by the applicant are correct to the best of the employer's knowledge and belief.

(4) The General Teaching Council for England^(a) and the General Teaching Council for Wales^(b) shall as soon as practicable after they are requested to do so provide the Secretary of State with such information as the Secretary of State considers necessary for the exercise of her functions under these Regulations.

(a) Established under section 1 of the 1998 Act.

(b) Established under section 8 of the 1998 Act.

Repayment and reduction

11.—(1) The Secretary of State shall reduce the relevant amount of an eligible teacher who is eligible under regulation 3(1) in accordance with regulations 12 and 13.

(2) The Secretary of State shall repay the relevant amount of an eligible teacher who is eligible under regulation 3(2) in accordance with regulations 12 and 13.

- (3) Subject to paragraph (4), in relation to any student loans, the relevant amount is—
- (a) the total amount payable in respect of any loans outstanding at the employment commencement date; and
 - (b) any interest accrued on those loans during any period of eligible employment during the relevant term,

and shall not include any arrears, charges or penalties incurred in respect of those loans.

- (4) Where a person—
- (a) recommences eligible employment following a break under regulation 6; and
 - (b) has made repayments in relation to any loan during that break,

the relevant amount is the total amount payable in respect of any loans mentioned in paragraph (3) still outstanding at the date he recommences eligible employment and any interest accrued during any period of eligible employment from that date during the relevant term.

12.—(1) The relevant term in relation to a mortgage style loan is—

- (a) 5 years after the employment commencement date where the eligible teacher has less than 5 loans when his first repayment is due;
- (b) 7 years after the employment commencement date where the eligible teacher has 5 or more loans when his first repayment is due,

less any period when the eligible teacher was not in eligible employment in relation to which repayments have been made pursuant to the arrangements made under section 1 of the 1990 Act or the Education (Student Loans) (Northern Ireland) Order 1990.

(2) The relevant term in relation to an income contingent loan is 10 years after the employment commencement date.

(3) A person shall cease to be eligible for a reduction or repayment after the completion of the relevant term.

13.—(1) Subject to this regulation, the relevant amount shall be reduced or repaid during the relevant term so that it is extinguished or wholly repaid by the completion of the relevant term.

(2) Where an eligible teacher is in part-time employment the relevant amount shall only be reduced or repaid in accordance with the proportion of working week the teacher is employed to work.

(3) No reduction or repayment shall be made in respect of any period during the relevant term when a person ceases to be eligible under these Regulations.

- (4) The total amount reduced or repaid shall not exceed the lesser of the following—
- (a) the total amount payable in respect of any student loans outstanding at the employment commencement date and any interest accrued on those loans during any period of eligible employment during the relevant term; or
 - (b) where any student loans have been repaid, cancelled or reduced other than by these Regulations, the total amount payable in respect of any loans outstanding following such repayment, cancellation or reduction.

(5) Repayments and reductions shall be made in such manner as the Secretary of State considers appropriate, and she may make it a condition of entitlement to repayment that the eligible teacher shall provide her with particulars of a bank or building society account in the United Kingdom into which repayments may be made by electronic transfer.

Reimbursement

14.—(1) Where in the opinion of the Secretary of State any information or assumption on the basis of which a reduction or repayment has been made under these Regulations is incorrect—

- (a) the person to whom a repayment was made shall at the request of the Secretary of State reimburse such sum as the Secretary of State may request; or

(b) the Secretary of State shall increase the amount outstanding in respect of a student loan by such sum as she may specify.

(2) The total sum that the Secretary of State may request or specify shall not exceed the total amount repaid or reduced and any interest accrued on those amounts since the repayment or reduction was made.

6th August 2002

David Miliband
Minister of State,
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the reduction and/or repayment of amounts owing in respect of student loans by the Secretary of State. A person is eligible for these benefits where he is in eligible employment, is a newly qualified teacher and has an outstanding loan (regulation 3).

Regulation 4 defines eligible employment as employment under a contract of service as a teacher at a school or institution providing further education to teach one or more shortage subjects or, in relation to a teacher at a primary school, as a primary specialist. The employment must commence on or after 1st July 2002 and before 1st July 2005.

Regulation 5 provides that a person must have qualified as a teacher within the 7 months before taking up eligible employment, or where teaching further education may also be attending a course to obtain a teaching qualification, in order to be eligible. Where a woman has given birth to a child in the 7 month period following qualification as a teacher then she must have qualified within 19 months before taking up eligible employment in order to be eligible.

Regulation 6 prescribes two circumstances where a person may take breaks from eligible employment but still remain eligible if he recommences such employment. A person may take breaks totalling up to 36 months for any reason (but no single break may exceed 12 months) and may take breaks totalling up to 60 months in order to care for a child.

Regulation 7 describes the loans in respect of which reduction or repayment is applicable: loans made pursuant to section 1 of the Education (Student Loans) Act 1990 (c.6); the Education (Student Loans) (Northern Ireland) Order 1990 (No.1506 (N.I. 11)); section 22 of the Teaching and Higher Education Act 1998 (c. 30); section 73 of the Education (Scotland) Act 1980 (c. 44); and the Education (Student Support) (Northern Ireland) Order 1998 (No.1760 (N.I.14)).

Regulations 8, 9 and 10 provide for the provision of information to the Secretary of State by persons applying for a repayment or reduction, the employers of such persons and the General Teaching Councils for England and Wales.

Regulation 11 defines the relevant amount eligible for repayment or reduction. Regulation 12 defines the relevant term as 10 years except in relation to loans made pursuant to the Education (Student Loans) Act 1990 and the Education (Student Loans) (Northern Ireland) Order 1990 where the relevant term is 5 years for persons with less than 5 such loans or 7 years with 5 or more. Regulation 13 provides that the relevant amount shall be repaid or reduced over the relevant term and that such repayments and reductions must be in accordance with the proportion of the working week a person is employed to work and only in respect of periods during the relevant term that a person is in eligible employment.

Regulation 13(4) provides limits on how much may be repaid or reduced.

Regulation 14 provides that the Secretary of State may request reimbursement of repayments or increase the amounts owing in respect of loans where any information or assumption on which a reduction or repayment has been made is incorrect.

2002 No. 2086

EDUCATION, ENGLAND AND WALES

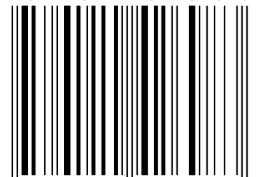
**Education (Teacher Student Loans) (Repayment etc.)
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£2.50

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under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1292 8/2002 121292 19585

ISBN 0-11-042698-3



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