

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT)**  
**REGULATIONS 2018**

**2018 No. 284**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Education (DfE) and is laid before Parliament by Command of Her Majesty.
- 1.2 These are composite regulations with the Welsh Ministers and these regulations will also be laid before the National Assembly for Wales.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470) (“the 2009 Regulations”), which govern the repayment of income contingent repayment student loans. The purpose of this instrument is to enact provisions for the changes to the student loan repayment threshold (i.e. the earnings threshold above which student loan borrowers are required to make repayments on their student loans) announced by DfE in a Written Ministerial Statement of 9 October 2017 (HCWS145).
- 2.2 The changes to the student loan repayment threshold will apply to those who have already taken out and will take out loans for tuition and living costs for full time and part time undergraduate courses in the post-2012 system (i.e. the student finance system applying to new entrants from the 2012/13 academic year onwards) and those who took out or will take out an advanced learner loan for a further education course. This will apply in England and Wales. The details of the changes are set out in section 7 below.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This instrument amends the 2009 Regulations made under section 22 of the Teaching and Higher Education Act 1998, which govern the repayment of income contingent repayment student loans.

**5. Extent and Territorial Application**

- 5.1 The instrument extends to England and Wales because it sets out the repayment terms in respect of loans made to borrowers ordinarily resident in England and Wales.

However, the administrative work of collecting student loan repayments is managed on a UK-wide basis by the Student Loans Company (SLC), working in partnership with Her Majesty's Revenue and Customs (HMRC). This instrument thus extends to all of the UK insofar as the 2009 Regulations impose any obligation or confer any power on HMRC, an employer or a borrower in relation to repayment under Parts 3 or 4 of those Regulations, or on any other person in relation to the retention or production of information or records. In addition to this, Regulation 80(3) of the 2009 Regulations ("Effect of borrower insolvency on student loans") extends to Northern Ireland.

5.2 The territorial application of this instrument is primarily England and Wales only.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

7.1 There are two main types of student loan: mortgage-style loans and income-contingent repayment loans. Mortgage-style student loans were made available from the academic year 1990/91, and repayment of these loans is by way of fixed monthly instalments. Borrowers are able to defer repayment of these fixed monthly instalments if their income is below a certain threshold.

7.2 In 1998, mortgage-style loans were replaced by income contingent repayment loans. For these loans, the Government sets an income threshold for repayment below which borrowers are not required to make any repayments on their loans. Borrowers earning above this repayment threshold are required to make repayments of a set percentage of the portion of their income that falls above the threshold.

7.3 This instrument makes changes to the repayment threshold that applies to all repayments due from the 2018-19 financial year onwards in respect of income contingent repayment student loans for tuition and living costs for full time and part time undergraduate courses in the post-2012 student loan system and advanced learner loans in respect of a further education course. The repayment thresholds applicable to pre-2012 student loans, master's loans, and the older mortgage style loans are not affected by these changes.

7.4 The repayment threshold for student loan borrowers in scope of this change will increase from its current level of £21,000 to £25,000 for the 2018-19 financial year, and will be adjusted annually in line with average earnings thereafter.

7.5 The loans in scope of this change have variable interest rates. Interest is charged at a rate of RPI+3% until the earlier of the end of the tax year in which either the borrower completes the course, the borrower leaves the course, or (in the case of loans in relation to part-time courses) the fourth anniversary of the course start date occurs. After this period, the interest rate charged varies depending on the borrower's income. Borrowers earning at the lower interest threshold (currently £21,000) or less are charged an interest rate of RPI, increasing on a sliding scale to RPI+3% for borrowers earning over the higher interest threshold (currently £41,000). For the 2018-19 financial year, the lower interest threshold will increase from £21,000 to £25,000 and

the higher interest threshold will increase from £41,000 to £45,000. Both thresholds will be adjusted annually in line with average earnings thereafter.

- 7.6 The measure of average earnings that we will use to set the repayment threshold, applicable thresholds, and lower and higher interest thresholds from the 2019-20 financial year onwards is taken from the Office for National Statistics Average Weekly Earnings EARN01 dataset. Specifically, it is the figure indicating the percentage change year on year comparing the three-month period of January to March in a given year with the same period a year earlier, taken from the Average Weekly Earnings, Regular Pay, Great Britain, Seasonally Adjusted data series. The dataset is available from the ONS website ([www.ons.gov.uk](http://www.ons.gov.uk)) or by contacting the relevant ONS team at [labour.market@ons.gsi.gov.uk](mailto:labour.market@ons.gsi.gov.uk) or on 01633 455 400. An informally printed copy of the dataset (taken from the ONS website) can be obtained upon request from the Student Loans Repayments Policy Team at the Department for Education on 0370 000 2288.
- 7.7 Student loan borrowers who are resident overseas are unable to repay their student loans through HMRC and so instead repay directly to the SLC through a repayment plan based on their income. The applicable repayment threshold for these borrowers varies according to where in the world the borrower resides. There are seven applicable threshold “bands” into which borrowers are assigned based on their country of residence (countries are assigned to bands annually using World Bank data which takes into account the cost of living in different countries). There are also seven bands for the lower interest thresholds and higher interest thresholds for borrowers who are resident overseas. This instrument includes provisions to update the applicable repayment threshold bands and lower and higher interest threshold bands for borrowers who are resident overseas in line with the changes made to the repayment threshold and lower and higher interest threshold for borrowers who are resident in the UK. SLC provides on its website a list of all countries and their corresponding thresholds<sup>1</sup>. This means that student loan borrowers who are resident overseas do not need to consider the band into which their country falls in order to work out the thresholds that apply to them; they simply need to look up their country of residence on the SLC website (or contact SLC through other means if they wish<sup>2</sup>) to find out the current thresholds applicable to them.

### *Consolidation*

- 7.8 DfE does not consider that consolidation of the 2009 Regulations is necessary at this time, but will keep the position under review.

## **8. Consultation outcome**

- 8.1 No formal consultation was undertaken on this instrument.

## **9. Guidance**

- 9.1 SLC provides extensive guidance to borrowers on the operation of the student loan repayments system through its repayments website<sup>3</sup>. This includes: details of how student loan repayment works (including the current repayment thresholds and

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<sup>1</sup> [http://www.studentloanrepayment.co.uk/portal/page?\\_pageid=93.6678823&\\_dad=portal&\\_schema=PORTAL](http://www.studentloanrepayment.co.uk/portal/page?_pageid=93.6678823&_dad=portal&_schema=PORTAL)

<sup>2</sup> The SLC helpline telephone number is 0300 100 0611 for borrowers resident in the UK and +44 141 243 3660 for borrowers resident overseas.

<sup>3</sup> [http://www.studentloanrepayment.co.uk/portal/page?\\_pageid=93.3866794&\\_dad=portal&\\_schema=PORTAL](http://www.studentloanrepayment.co.uk/portal/page?_pageid=93.3866794&_dad=portal&_schema=PORTAL)

variable interest thresholds applicable to borrowers resident in the UK and borrowers resident overseas); the current interest rates applicable to student loans; an explanation of how borrowers can find out how much they owe and how they can make voluntary repayments; and details on how borrowers can update their personal details and contact SLC.

- 9.2 HMRC provides guidance to employers on matters relating to the collection of student loan repayments from employees.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument. DfE has considered the amendments with reference to the Public Sector Equality Duty and has concluded that, on balance, increasing the repayment threshold for these loans is likely to benefit student loan borrowers with protected characteristics more than student loan borrowers without protected characteristics. This is because individuals with protected characteristics tend to earn less than their counterparts without protected characteristics and are therefore likely to be earning in the lower or middle section of the student loan borrower earnings distribution. Borrowers with earnings at these levels benefit proportionately more than higher earning graduates from increases to the repayment threshold because the maximum benefit (in terms of the reduction in repayments) represents a larger percentage of their total income.

## **11. Regulating small business**

- 11.1 Small businesses will be required to change annually the threshold at which they deduct student loan repayments for employees who are repaying the student loans which are within scope of these changes. However, changes to the repayment thresholds will be included automatically in payroll software by HMRC and by software suppliers, so there is not expected to be any additional impact on small businesses as a result of these changes. Any additional guidance needed on the new thresholds will be provided by HMRC.

## **12. Monitoring & review**

- 12.1 DfE, SLC and HMRC will continue to monitor the collection of student loan repayments as part of their ongoing work in this area.

## **13. Contact**

- 13.1 Andrew Busby at DfE - telephone: 0370 000 2288 or email: [andrew.busby@education.gov.uk](mailto:andrew.busby@education.gov.uk) - can answer any queries regarding the instrument.