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DRAFT STATUTORY INSTRUMENTS

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**2000 No.**

**Education (Student Loans) (Repayment) Regulations 2000**

**PART III**

**REPAYMENTS BY ASSESSMENT TO INCOME TAX**

**Repayments of student loans by persons required to submit a tax return**

**14.** Repayments by a borrower who in respect of any year of assessment is required to make and deliver to the Board a return under section 8 of the 1970 Act shall be made, accounted for and recovered in like manner as income tax payable under the Taxes Acts; and in such case the provisions of this Part (which with extensions and modifications include provisions of the Taxes Acts) shall apply to and for the purposes of such repayments.

**Time for and amount of repayments**

**15.—(1)** Every borrower who has received notice from the Secretary of State under regulation 11(5)(a) that he may be required to make repayments of his student loan shall make a repayment in respect of any year of assessment—

- (a) which is specified in a notice under regulation 11(5)(a) or which, subject to paragraph (2), is any subsequent year up to and including any year specified in a notice under regulation 11(5)(d); and
- (b) in respect of which he has been required to make and deliver a return under section 8 of the 1970 Act.

(2) A borrower shall not be required to make repayments in respect of any year of assessment specified in a notice under regulation 11(5)(c) or any subsequent year falling before a year specified in a subsequent notice under regulation 11(5)(a).

(3) The repayment shall be an amount equal to the 9% of the borrower's total income for that year calculated in accordance with the Taxes Acts.

(4) In calculating a borrower's total income for the purposes of paragraph (1) any deduction which falls to be made by way of personal reliefs provided for in Chapter I of Part VII of the 1988 Act shall not be made.

(5) In calculating a borrower's total income for the purposes of paragraph (1) there shall be excluded:

- (a) the first £10,000 of that income;
- (b) income on which the borrower could not become liable to tax under a self-assessment made under section 9 of the 1970 Act for that year;
- (c) unearned income unless the amount of such income for that year exceeds £2,000;
- (d) incapacity benefit payable under the Social Security Contributions and Benefits Act 1992(1);

- (e) amounts chargeable to tax under sections 145, 146, 154, 157, 158, 159AA, 159A, 160 or 162 of the 1988 Act (benefits in kind);
  - (f) amounts in respect of which relief is given under Part XIV of the 1988 Act (pension schemes, social security benefits, life annuities etc.);
  - (g) the amount of any loss in respect of which relief is given under section 380 of the 1988 Act (trade etc. losses set-off against general income); and
  - (h) the amount of any payment in respect of which relief is given under section 109A of the 1988 Act (relief for post-cessation expenditure).
- (6) For the purposes of this regulation unearned income is income other than—
- (a) earned income within the meaning of section 833(4) and (5) of the 1988 Act;
  - (b) income referred to in section 127(1) of that Act (enterprise allowance);
  - (c) the profits arising from a business chargeable to tax under Case I of Schedule D pursuant to section 503(1) of that Act (furnished holiday accommodation);
  - (d) payments and other benefits chargeable to tax under section 148(1) of that Act (payments and benefits in connection with termination of employment);
  - (e) income treated as earned income under section 107 of that Act (receipts after cessation of trade);
  - (f) sums treated as earned income under section 491(5) of that Act (certain receipts from bodies corporate carrying on mutual business);
  - (g) an amount treated as earned income under section 531(6) of that Act (consideration in respect of the disposal of know-how);
  - (h) any annuity treated as earned income of the annuitant under section 619(1)(b) of that Act (certain retirement annuities); and
  - (i) annual payments treated as earned income under section 628(1) of that Act (partnership annuities).

### **Personal return**

**16.** For the purposes of establishing the amount of the repayment which a borrower is required to make for a year of assessment under regulation 14 an inspector or an officer of the Board may require him—

- (a) to include in a return required to be made and delivered under section 8 of the 1970 Act such information as may reasonably be required, and
- (b) to deliver with the return such accounts, statements and documents, relating to information contained in the return by virtue of sub-paragraph (a), as may reasonably be required.

### **Returns to include self-assessment**

**17.—(1)** Subject to subsection (2), every return made and delivered by a borrower under section 8 of the 1970 Act shall include a self-assessment, that is to say—

- (a) an assessment of the amount of the repayment which, on the basis of the information contained in the return and taking into account any relief or allowance mentioned in regulation 15 he is required to make for the year of assessment under regulation 15; and
- (b) an assessment of the amount payable by him by way of repayment, that is to say, the difference between the amount of the repayment which he is assessed to make for the year of assessment under sub-paragraph (a) and the aggregate amount of any repayments deducted from emoluments under Part IV during that year.

(2) Section 9(2) to (6) (self-assessment) and section 9A (power to enquire into returns) of the 1970 Act shall apply to a self-assessment under this regulation as they apply to a self-assessment under section 9(1) of that Act, and any reference in the Taxes Acts to those sections shall be construed as a reference to them as extended by this regulation.

### **Records**

**18.** Section 12B of the 1970 Act (records to be kept for the purposes of returns) shall apply in the case of a borrower as if any reference to a return includes reference to a return including the information required by regulation 16(a).

### **Other returns and information**

**19.**—(1) Part III of the 1970 Act (other returns and information) shall apply for the purposes of establishing the amount of the repayment a borrower may be required to make under this Part as it applies for the purposes of establishing the amounts in which a person is chargeable to income tax.

(2) Section 19A of the 1970 Act (power to call for documents for purposes of certain enquiries) shall apply where an officer of the Board gives notice under section 9A(1) of that Act in relation to a self-assessment under regulation 16 of these Regulations as it applies to a self-assessment under section 9 of that Act.

### **Assessments, claims and appeals**

**20.**—(1) Subject to paragraph (2) Parts IV (assessment and claims) and V (appeals and other proceedings) of the 1970 Act shall apply with any necessary modifications for the purposes of—

- (a) assessing the amount of the repayment a borrower is required to make under this Part,
- (b) claims or other matters concerning any such assessment, and
- (c) appeals against any such assessment

as if any reference to an assessment or a self-assessment included a reference to an assessment or self-assessment for the purposes of this Part.

(2) An officer of the Board shall not make a determination of the amount of a repayment a borrower may be required to make under this Part under section 28C of the 1970 Act (determination of tax where no return delivered).

### **Payment**

**21.**—(1) Any repayment by a borrower under this Part shall be paid as if the repayment were an amount of income tax payable by him under section 59B of the 1970 Act (payment of income tax and capital gains tax) in accordance with the following paragraphs.

(2) In a case where the borrower—

- (a) gave the notice required by section 7 of that Act within six months from the end of the year of assessment, but
- (b) was not given notice under section 8 of that Act until after the 31st October next following that year

any repayment by a borrower shall be made at the end of the period of three months beginning with the day on which the notice under section 8 was given.

(3) In any other case the repayment shall be made on or before the 31st January next following the year of assessment.

(4) Section 59B(4A), (5) or (6) of that Act shall apply where an enquiry, an amendment of a self-assessment or an assessment is made in respect of a repayment under this Part respectively, and any reference to tax payable in those subsections shall be treated as a reference to a repayment by a borrower.

(5) Section 59B(5A), (7) and (8) of that Act shall not apply for the purposes of this regulation.

### **Surcharges**

**22.** Section 59C of the 1970 Act (surcharges on unpaid income tax and capital gains tax) shall apply to repayments which have become payable by a borrower under this Part as it applies to income tax payable in accordance with section 55 or 59B of that Act.

### **Collection and recovery**

**23.** Part VI of the 1970 Act (collection and recovery) shall apply to repayments, interest and penalties which have become due and payable by a borrower under this Part as it applies to income tax and interest charged and penalties imposed under that Act.

### **Persons chargeable in a representative capacity**

**24.** Sections 72 (trustees, guardians, etc. of incapacitated persons), 74 (personal representatives), 75 (receivers appointed by a court) and 76 (protection for certain trustees, agents and receivers) of the 1970 Act shall apply in the case of repayments due and payable by a borrower under this Part as they apply in the case of income tax chargeable to any person.

### **Interest**

**25.—(1)** Any repayment due and payable under this Part shall carry interest at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act from whichever of the following days is applicable—

- (a) the last day of the period referred to in regulation 21(2), or
- (b) the date mentioned in regulation 21(3),

until payment, whether or not the applicable day is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(2).

(2) Sections 90 and 91 of the 1970 Act shall apply to interest under this regulation as they apply to interest on income tax.

(3) A refund by the Board to a borrower of an overpayment of amounts payable under this Part shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date on which the overpayment arose to the date on which the order for the refund is issued.

### **Penalties**

**26.—(1)** Section 93 of the 1970 Act (failure to make return for income tax and capital gains tax) shall apply to returns under section 8 of that Act which are required to include information under regulation 16 as it applies to any other such returns.

(2) In the case of such returns the references in section 93 to liability to tax which would have been shown in the return shall be references to the aggregate of the amounts which, if a proper return had been delivered on the filing date, would have been payable—

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(2) 1882 c. 61. Section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

- (a) by the taxpayer under section 59B of the Act (payment of income tax and capital gains tax), and
  - (b) where the taxpayer is a borrower by way of a repayment under regulation 15.
- (3) Section 95 of the 1970 Act (incorrect return or accounts for income tax or capital gains tax) shall apply in relation to anything done for the purposes of or in connection with the ascertainment of liability of a borrower to make a repayment under this Part as it applies for the purposes of or in connection with the ascertainment of liability to income tax, and for that purpose the difference referred to in section 95(2) shall be the difference between—
- (a) the amount calculated under regulation 15(1), and
  - (b) the amount which would have been the amount so calculated if the return, statement, declaration or accounts as made or submitted by the borrower had been correct.
- (4) Section 97 (incorrect return or accounts: supplemental) of the 1970 Act shall apply in the case of returns, statements, declarations, accounts, information or documents for the purposes of repayments under this Part as they apply for the purposes of income tax.