

2001 No. 971

**EDUCATION, ENGLAND AND WALES
EDUCATION, SCOTLAND**

**The Education (Student Loans) (Repayment) (Amendment)
Regulations 2001**

<i>Made</i> - - - -	<i>13th March 2001</i>
<i>Laid before Parliament</i>	<i>15th March 2001</i>
<i>Coming into force</i>	<i>6th April 2001</i>

The Secretary of State for Education and Employment, in exercise of the powers conferred on the Secretary of State by sections 22 and 42(6) of the Teaching and Higher Education Act 1998(a) and sections 73(f) and 73B of the Education (Scotland) Act 1980(b) hereby makes the following Regulations:

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulation 2001 and shall come into force on 6th April 2001.

2. The Education (Student Loans) (Repayment) Regulations 2000(c) shall be amended as follows.

3.—(1) In sub-paragraph (d) of paragraph (5) of regulation 11 for the words “the final year of assessment in respect of which the borrower shall be required to make repayments under Part III because” there shall be substituted the words “the year of assessment in respect of which the borrower shall cease to be required to make repayments under Part III because”.

(2) In sub-paragraph (ii) of that paragraph for the words “following the date of issue of the notice” there shall be substituted the words “in the year of assessment immediately following the year of assessment in which the notice is issued”.

(3) In paragraph (6) of regulation 11 the word “final” shall be deleted.

(4) After paragraph (9) of that regulation there shall be inserted the following paragraphs—

“(10) Without prejudice to regulation 6 a notice may be given to the Board by the Secretary of State under this regulation by transmitting it electronically to the Board.

(11) A notice is transmitted electronically for the purposes of paragraph (10) where the particulars contained in the notice are transmitted by electronic means from a computer

(a) 1998 c. 30.

(b) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998, section 29(1); section 73B was inserted by the same Act, section 29(2).

(c) S.I. 2000/944.

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system operated by or on behalf of the Secretary of State to the Board's computer system and accepted by the Board's computer system.

(12) If notices under paragraph (5) or (7) fall to be given to the Board in respect of two or more borrowers, one notice may be given by the Secretary of State in respect of all of those borrowers containing, in respect of each of them, the particulars specified in paragraph (5).”.

4. At the end of regulation 34 there shall be inserted the following paragraph—

“(5) If notices under paragraph (1) or (3) fall to be given by the Board to the employer of two or more borrowers, one notice may be given by the Board in respect of all of those borrowers containing, in respect of each of them, the particulars specified in paragraph (2) or (4) as the case requires.”.

5. After regulation 39 there shall be inserted the following regulations—

“Notice and certificate when repayments deducted not paid

39A.—(1) This regulation applies where, within 14 days of the end of any income tax period, the employer has paid no amount in respect of student loan repayments to the collector under regulation 39 for that income tax period, and the collector is unaware of the amount, if any, which the employer is liable so to pay.

(2) Where this regulation applies, the collector may give notice to the employer, requiring him to render, within 14 days, a return in such form as the Board may prescribe showing the amount in respect of student loan repayments which the employer is liable to pay to the collector under regulation 39 in respect of the income tax period in question.

(3) Where a notice given by the collector under paragraph (2) extends to two or more consecutive income tax periods, these Regulations shall have effect as if the consecutive income tax periods were one income tax period.

(4) The collector may give a notice under paragraph (2) notwithstanding that an amount in respect of student loan repayments has been paid to him by the employer under regulation 39 for an income tax period, if he is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for the income tax period in question.

(5) Upon receipt of a return made by the employer under paragraph (2), the collector may prepare a certificate showing the amount in respect of student loan repayments which the employer is liable to pay to the collector in respect of the income tax period in question.

(6) The production of the return made by the employer under paragraph (2) and of the certificate of the collector under paragraph (5) shall be sufficient evidence that the amount shown in the certificate is the amount of student loan repayment which the employer is liable to pay to the collector in respect of the income tax period in question.

(7) Any document purporting to be a certificate under paragraph (5) shall be deemed to be such a certificate until the contrary is proved.

Notice of specified amount and certificate when repayments deducted not paid

39B.—(1) This regulation applies where, after 14 days following the end of any income tax period, the employer has paid no amount in respect of student loan repayments to the collector under regulation 39 for that income tax period and there is reason to believe that the employer is liable so to pay.

(2) Where this regulation applies, the collector, upon consideration of the employer's record of past payments, may to the best of his judgment specify the amount in respect of student loan repayments which he considers the employer is liable to pay, and serve notice on the employer of that amount.

(3) Where the employer has paid no amount under regulation 39 for the relevant income tax periods, the collector may give a notice under paragraph (2) which extends to two or more consecutive income tax periods, and these Regulations shall have effect as if those income tax periods were the latest income tax period specified in the notice.

(4) The collector may give a notice under paragraph (2) notwithstanding that an amount in respect of student loan repayments has been paid to him by the employer under regulation

39 for any income tax period, if he is not satisfied, after seeking the employer's explanation, that the amount so paid is the full amount which the employer is liable to pay to him for that income tax period, and this regulation shall have effect accordingly.

(5) If, during the period allowed in a notice given by the collector under paragraph (2), the employer claims, but does not satisfy the collector, that the payment made in respect of the income tax period specified in the notice is the full amount he is liable to pay to the collector for that income tax period, then—

- (a) the employer may require the collector to inspect the employer's documents and records as if the collector had called upon the employer to produce those documents and records in accordance with regulation 43, and
- (b) regulation 43 shall apply to that inspection, and the notice given by the collector under paragraph (2) shall be disregarded.

(6) Subject to paragraph (7), if the specified amount in respect of student loan repayments, or any part of it, is unpaid on the expiration of the period of seven days allowed in the notice, the amount so unpaid—

- (a) shall be deemed to be an amount in respect of student loan repayments which the employer was liable to pay for that income tax period in accordance with regulation 39, and
- (b) may be certified by the collector.

(7) Paragraph (6) shall not apply if, during the period allowed in the notice—

- (a) the employer pays the full amount in respect of student loan repayments which he is liable to pay to the collector under regulation 39 for that income tax period, or
- (b) the employer satisfies the collector that no amount, or no further amount, is due for that income tax period.

(8) The production of a certificate under paragraph (6) shall be sufficient evidence that the employer is liable to pay the amount shown in the certificate to the collector.

(9) Any document purporting to be a certificate under paragraph (6) shall be deemed to be such a certificate until the contrary is proved.

(10) Notwithstanding anything in this regulation, if the employer pays any amount certified by the collector under this regulation and that amount exceeds the amount which he would have been liable to pay in respect of that income tax period apart from this regulation, he shall be entitled to set off such excess against any amount which he is liable to pay to the collector under regulation 39 for any subsequent income tax period.

(11) If the employer renders the return required by regulation 42(1) after the end of the year, and pays the total net amount in respect of student loan repayments which he is liable to pay, any excess amount paid, and not otherwise recovered by set-off in accordance with this regulation shall be repaid.”.

6. In paragraph (1) of regulation 40 after the words “regulation 39” there shall be inserted the words “, 39A, 39B, 42 or 43” and after that paragraph there shall be inserted the following paragraph—

“(1A) Without prejudice to paragraph (1), paragraphs (1) to (5) of regulation 54 of the Income Tax (Employments) Regulations 1993^(a) (being regulations made under section 203 of the 1988 Act) shall apply to the amount shown in a certificate under regulation 39A(5), 39B(6), 42(4) or 43(7) with the modification that summary proceedings for the recovery of the amount in respect of student loan repayments, or such part of it as remains unpaid, may be brought at any time before the expiry of twelve months after the date of the certificate.”.

7. In paragraph (4) of regulation 42 there shall be deleted the words “, and the provisions of regulation 40 shall apply with the necessary modifications to the amount shown in the said certificate”, and after paragraph (8) of that regulation there shall be inserted the following paragraphs—

(a) S.I. 1993/744; a relevant amending instrument is S.I. 1995/1223.

“(9) A certificate of the collector under paragraph (4) that the net amount in respect of student loan repayments remaining unpaid for that year has not been paid to him or, to the best of his knowledge and belief, to any other collector or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown.

(10) Any document purporting to be a certificate under paragraph (4) shall be deemed to be such a certificate until the contrary is proved.”.

8. At the end of regulation 43 there shall be added the following paragraphs—

“(7) By reference to the information obtained from an inspection of the documents and records produced under paragraph (1) the collector may, on the occasion of each inspection, prepare a certificate showing—

(a) the amount in respect of student loan repayments which it appears from the documents and records so produced that the employer is liable to pay to the collector for the years or income tax periods covered by the inspection; and

(b) any amount in respect of such student loan repayments which has not been paid to him or, to the best of his knowledge and belief, to any other collector or to any person acting on his behalf or on behalf of another collector.

(8) The production of a certificate under paragraph (7) shall be sufficient evidence that the employer is liable to pay the amount shown in the certificate pursuant to paragraph (7)(b) to the collector in respect of the years or income tax periods mentioned in the certificate.

(9) Any document purporting to be a certificate under paragraph (7) shall be deemed to be such a certificate until the contrary is proved.”.

9. The Schedule to these Regulations shall have effect for the purpose of making minor and drafting amendments to the Education (Student Loans) (Repayment) Regulations 2000.

13th March 2001

Tessa Blackstone
Minister of State,
Department for Education and Employment

SCHEDULE

Regulation 9

Minor and drafting amendments to the Education (Student Loans) (Repayment)
Regulations 2000

1. In regulation 2 insert at the end of the definition of “the 1998 Act” the words “as amended from time to time both before and after the date of these Regulations” and in the definition of “Secretary of State” delete “and (5)”.
2. In regulation 9(1) substitute “paragraph (2)” for “paragraphs (2) and (3)”.
3. In regulation 11(3) substitute “Education (Student Support) Regulations 2000”(a) for “Education (Student Support) Regulations 1999” and after “regulation 8” insert “or 35”.
4. In regulation 15(3) delete “the” before “9%”.
5. In regulation 40(3) insert “the employer” before “is liable to pay to the collector”.
6. In regulation 42(7)(a)(ii) substitute “the Board” for “the Secretary of State”.
7. In regulation 55(3) insert “and” between paragraphs (a) and (b).

(a) S.I. 2000/1121; amended by S.I. 2000/1490 and 2000/2142.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 2001, amend the Education (Student Loans) (Repayment) Regulations 2000 (“the Repayment Regulations”). The amendments to regulations 40, 42 and 43 and the insertion of regulations 39A and 39B bring the Repayment Regulations more closely into line with the corresponding income tax regulations (the Income Tax (Employments) Regulations 1993 (S.I. 1993/744)—“the Income Tax Regulations”).

Regulation 11 of the Repayment Regulations is amended in several ways. Apart from minor drafting changes, the end of the period referred to in regulation 11(5)(d) for the likely repayment of the balance of a loan is extended from 30th April following the date of issue of a notice given by the Secretary of State under the regulation to 30th April in the year of assessment following the year of assessment in which the notice is given. Provision is made authorising the electronic delivery of notices by the Secretary of State to the Commissioners of Inland Revenue (“the Board”) and for such notices to cover more than one borrower (*regulation 3*).

Regulation 34 of the Repayment Regulations is amended to permit notices given by the Board to an employer to cover more than one borrower (*regulation 4*).

New regulations 39A and 39B are added to the Repayment Regulations. Regulation 39A permits a tax collector to require a return of the amount in respect of student loans which an employer is required to pay for a specified period. The amount returned may then be certified by the collector as the amount which the employer is liable to pay. This mirrors regulation 47 of the Income Tax Regulations. Regulation 39B permits a collector to serve notice on an employer estimating the employer’s liability to pay an amount in respect of student loans and to certify any amount specified in the notice which is unpaid when the seven day period for which the notice allows expires. This mirrors regulation 48 of the Income Tax Regulations (*regulation 5*).

Regulation 40 of the Repayment Regulations is amended so that regulation 54 of the Income Tax Regulations applies to the recovery of amounts specified in certificates given under the regulations mentioned in regulation 40 (*regulation 6*).

Regulation 42 of the Repayment Regulations is amended so that a collector’s certificate given under regulation 42(4) is to be treated as sufficient evidence that the sum specified is unpaid and a document purporting to be a certificate is deemed to be such until the contrary is proved (*regulation 7*).

Regulation 43 of the Repayment Regulations is amended to enable a collector to prepare a certificate of the amount due in respect of student loan repayments based on an examination of an employer’s records (*regulation 8*).

A number of minor and drafting changes to the Repayment Regulations are made (*regulation 9 and the Schedule*).

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