

2021 No. 191

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations 2021**

<i>Made</i>	- - - -	<i>24th February 2021</i>
<i>Laid before Parliament</i>		<i>26th February 2021</i>
<i>Laid before Senedd Cymru</i>		<i>26th February 2021</i>
<i>Coming into force</i>	- -	<i>6th April 2021</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 22(1), (2), (3) and (5) 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).

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the Secretary of State by sections 22(1), (2) and (3) and 42(6) of the Teaching and Higher Education Act 1998, now exercisable by them(c).

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations 2021 and come into force on 6th April 2021.

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- (a) 1998 c. 30; section 22 was amended by section 146(2) of, and Schedule 11 to, the Learning and Skills Act 2000 (c. 21), paragraph 236 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), section 147(3) of the Finance Act 2003 (c. 14), sections 42(1) and 43 of, and Schedule 7 to, the Higher Education Act 2004 (c. 8), section 257(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 76 of the Education Act 2011 (c. 21), section 88 of the Higher Education and Research Act 2017 (c. 29) and S.I. 2013/1881. Section 43(1) of the Teaching and Higher Education Act 1998 defines “prescribed” and “regulations”.
- (b) 1980 c. 44; section 73(f) was amended by section 29(1) of the Teaching and Higher Education Act 1998 and section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998 and amended by section 3(3) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, paragraph 149 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), section 34(1) of the Bankruptcy and Diligence etc (Scotland) Act 2007 (asp 3) and paragraph 8 of Schedule 8 to the Bankruptcy (Scotland) Act 2016 (asp 21).
- (c) The Secretary of State’s functions in section 22(2)(a) to (i) and (k) of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with subsection (2)(a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State’s function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. The above functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). The National Assembly for Wales was renamed Senedd Cymru, or the Welsh Parliament, by section 2 of the Senedd and Elections (Wales) Act 2020 (anaw. 1).

Amendment of the Education (Student Loans) (Repayment) Regulations 2009

2. The Education (Student Loans) (Repayment) Regulations 2009(a) are amended in accordance with regulations 3 to 11.

Amendment of regulation 3 (interpretation)

3. In regulation 3(b)—

(a) for the definition of “repayment threshold” substitute—

““repayment threshold” has the meaning given in regulation 29(7) to (10);”;

(b) after the definition of “repayment threshold year” insert—

““Scottish student loan” means a student loan within the meaning given in regulation 6;”.

Amendment of regulation 8 (service by post or electronic communication)

4. In regulation 8(1), for the words from “post” to the end substitute “post or by an electronic format”.

Amendment of regulation 17 (date of repayment)

5. In regulation 17(ca)(ii)(c), for the words from “such” to “that adjustment” substitute “the day on which that adjustment is made or the last day of the relevant tax year if the adjustment is made outside the relevant tax year”.

Amendment of regulation 18A (division of repayment)

6. In regulation 18A(d)—

(a) in paragraph (1), after “not a post-2012 student loan” in both places it occurs insert “nor a Scottish student loan”;

(b) after paragraph (1) insert—

“(1A) Subject to paragraph (2), where a borrower both has a student loan which is neither a post-2012 student loan nor a Scottish student loan, and has a Scottish student loan, and it is time for the borrower to repay both loans in accordance with regulation 15, the repayment will be divided between the loans so that—

(a) the part of the repayment relating to income above the repayment threshold in regulation 29(8B) is to reduce the outstanding balance of the Scottish student loan; and

(b) the part of the repayment relating to income above the applicable repayment threshold in regulation 29(7) up to and including the repayment threshold in regulation 29(8B) is to reduce the outstanding balance of the student loan which is not a post-2012 student loan nor a Scottish student loan.

(1B) Subject to paragraph (2), where a borrower has a post-2012 student loan and has a Scottish student loan, and it is time for the borrower to repay both loans in accordance with regulation 15, the repayment will be divided between the loans so that—

(a) the part of the repayment relating to income above the repayment threshold in regulation 29(8) is to reduce the outstanding balance of the post-2012 student loan; and

(a) S.I. 2009/470.

(b) Regulation 3 was amended by S.I. 2012/1309, 2017/831, 2018/284, 2018/599 and 2018/810; there are other amending instruments but none is relevant.

(c) Regulation 17(ca) was inserted by S.I. 2019/189.

(d) Regulation 18A was inserted by S.I. 2012/1309 and amended by 2019/189.

- (b) the part of the repayment relating to income above the repayment threshold in regulation 29(8B) up to and including the repayment threshold in regulation 29(8) is to reduce the outstanding balance of the student loan which is a Scottish student loan.

(1C) Subject to paragraph (2), where a borrower has a student loan which is neither a post-2012 student loan nor a Scottish student loan, and has a post-2012 student loan, and has a Scottish student loan, and it is time for the borrower to repay all three loans in accordance with regulation 15, the repayment will be divided between the loans so that—

- (a) the part of the repayment relating to income above the repayment threshold in regulation 29(8) is to reduce the outstanding balance of the post-2012 student loan;
 - (b) the part of the repayment relating to income above the repayment threshold in regulation 29(8B) up to and including the repayment threshold in regulation 29(8) is to reduce the outstanding balance of the student loan which is a Scottish student loan; and
 - (c) the part of the repayment relating to income above the applicable repayment threshold in regulation 29(7) up to and including the repayment threshold in regulation 29(8B) is to reduce the outstanding balance of the student loan which is not a post-2012 student loan nor a Scottish student loan.”;
- (c) in paragraph (2)—
- (i) for “paragraph (1)” substitute “paragraphs (1) to (1C)”;
 - (ii) for “and 29(8)” substitute “, 29(8) and 29(8B)”.

Amendment of regulation 20A (excess payments: more than one loan)

7. In regulation 20A(1)(a)(a)—

- (a) in paragraphs (ii) and (iii)—
 - (i) for “not” substitute “neither”;
 - (ii) at the end insert “nor a Scottish student loan”;
- (b) at the end of paragraph (ii) omit “or”;
- (c) at the end of paragraph (iii), before “and” insert—
 - “(iv) a Scottish student loan and a student loan which is neither a post-2012 student loan nor a Scottish student loan;
 - (v) a Scottish student loan and a post-2012 student loan; or
 - (vi) a Scottish student loan and a postgraduate degree loan;”.

Amendment of regulation 23 (information notices)

8. In regulation 23(1), for “at the borrower’s home address” substitute “by post or by an electronic format”.

Amendment of regulation 24 (penalties and penalty notices)

9. In regulation 24(5), for “at the borrower’s home address” substitute “by post or by an electronic format”.

Amendment of regulation 29 (time for and amount of repayments)

10. In regulation 29(b)—

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- (a) Regulation 20A was inserted by S.I. 2017/831 and amended by S.I. 2018/599.
 - (b) Regulation 29 was amended by S.I. 2012/1309, 2013/607, 2014/651, 2017/831 and 2018/284; there are other amending instruments but none is relevant.

- (a) in paragraph (7), after “(8)” insert “, (8B)”;
- (b) after paragraph (8A) insert—
 - “(8B) Subject to paragraph (9), the repayment threshold in relation to a Scottish student loan is that set out in regulation 2 (interpretation) of the Repayment of Student Loans (Scotland) Regulations 2000 as that regulation had effect on the day on which these Regulations come into force(a).”;
- (c) for paragraph (9) substitute—
 - “(9) The repayment threshold is that set out in paragraph (7)(a) or (b) (as the case may be) where—
 - (a) a borrower has a post-2012 student loan and a student loan which is neither a post-2012 student loan nor a Scottish student loan;
 - (b) a borrower has—
 - (i) a student loan which is neither a post-2012 student loan nor a Scottish student loan; and
 - (ii) a Scottish student loan;
 - (c) a borrower has—
 - (i) a student loan which is neither a post-2012 student loan nor a Scottish student loan;
 - (ii) a post-2012 student loan; and
 - (iii) a Scottish student loan.
 - (10) The repayment threshold where a borrower has a post-2012 student loan and a Scottish student loan is that set out in paragraph (8B).”.

Amendment of regulation 44 (amount of repayments)

- 11.** In regulation 44(7)(b)—
 - (a) for “not a post-2012 student loan” insert “neither a post-2012 student loan nor a Scottish student loan”;
 - (b) for “29(7)(b) or (c) (as the case may be)” substitute “29(7)(b)”.

24th February 2021

Michelle Donelan
Minister of State
Department for Education

24th February 2021

Kirsty Williams
Minister for Education, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loan) (Repayment) Regulations 2009 (S.I. 2009/470) (“the Principal Regulations”), which make provision for the repayment of income-contingent student loans in England and Wales. The changes are consequential to the change to the threshold at which Scottish student loans are to begin to be repaid.

Regulations 3 amends definitions in the Principal Regulations.

(a) S.S.I. 2000/110, amended by S.S.I. 2012/22, 2016/82 and 2021/8; there are other amending instruments but none is relevant.
 (b) Regulation 44(7) was inserted by S.I. 2013/607.

Regulation 4 removes the requirement in regulation 8(1) of the Principal Regulations for consent to be given to notices being sent by electronic format.

Regulation 5 amends regulation 17 of the Principal Regulations to specify that there is an adjustment to a deduction made by an employer under Part 4, the amount deducted is to be deemed received by the authority to whom the repayment is to be made on the day the adjustment is made or, where the adjustment is made outside of the relevant tax year, the last day of the relevant tax year.

Regulation 6 amends regulation 18A of the Principal Regulations which relates to division of repayments when a borrower has more than one type of student loan. With the threshold for Scottish student loans having changed, and a new Scottish student loan plan having been created (which reflects the changes to the terms and conditions relating to loan repayments for existing and future Scottish borrowers), regulation 6 adds into regulation 18A provision as to how repayments are to be divided when one of the student loans is a Scottish student loan. Provision is made for the various different combinations of loan types a borrower might have.

Regulation 7 amends regulation 20A of the Principal Regulations which relates to excess payments where a borrower has more than one type of loan. Regulation 7 adds to the list, in regulation 20A(1), of combinations of student loans a borrower might have, and to which regulation 20A applies, combinations of Scottish student loans with other student loan types.

Regulation 8 amends regulation 23 of the Principal Regulations to allow an information notice to be served electronically.

Regulation 9 amends regulation 24 of the Principal Regulations to allow a penalty notice to be served electronically.

Regulation 10 amends regulation 29 of the Principal Regulations to add provision relating to repayment thresholds for Scottish student loans both when they are the only type of student loan a borrower has and when the borrower has other types as well. It inserts a new paragraph (8B) into regulation 29 providing that the threshold for repayment of Scottish student loan when that is the only student loan a borrower has is that set out in regulation 2 of the Repayment of Student Loans (Scotland) Regulations 2000 (S.S.I. 2000/110) and provides that where someone has a combination of a Scottish student loan and another type of student loan(s), the repayment threshold is either that set out in regulation 29(8B) where the types of loans a borrower has are a Scottish student loan and a post-2012 student loan, or regulation 29(7) in the case of all other combinations of student loan types.

Regulation 11 amends regulation 44 of the Principal Regulations to provide that the default threshold for a Scottish student loan for the purposes of that regulation is the repayment threshold set out in regulation 29(7)(b) or (c).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to the exercise of the Welsh Ministers' functions in these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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