

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT) (NO. 4)**  
**REGULATIONS 2022**

**2022 No. 1335**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.
- 1.2. These are composite regulations with the Welsh Ministers and will also be laid before Senedd Cymru.

**2. Purpose of the instrument**

- 2.1. This instrument amends the 2009 Regulations governing student loan repayments (“the 2009 Regulations”) to implement the reforms to student loans announced by the Government on 24 February 2022, as part of the higher education policy statement and reform consultation. The changes to student loans implemented by this instrument will help to ensure the long-term sustainability of the student finance system, making it fairer for taxpayers and students – including, for those starting new courses from 1 August 2023 onwards, removing the real rate of interest on their loans.
- 2.2. This instrument also amends the 2009 Regulations to: (1) improve the clarity of the regulations in several areas; (2) enable the correct repayment threshold to apply to borrowers with both post-2012 (Plan 2) and Scottish (Plan 4) student loans, when the Plan 4 repayment threshold exceeds the Plan 2 threshold for the first time in April 2023; and (3) update fixed instalment repayment rates for overseas borrowers with Plan 2 and/or postgraduate degree (Plan 3) loans.

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

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

- 3.1. None.

**4. Extent and Territorial Application**

- 4.1. The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is primarily England and Wales because it concerns the repayment terms in respect of student loans made to borrowers ordinarily resident in England and, in respect of Plan 2 loans, England and Wales. However, the collection of student loan repayments is managed on a UK-wide basis by the Student Loans Company (SLC), working in partnership with His 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.
- 4.2. The territorial application of this instrument (that is, where the instrument produces a practical effect) is primarily England and Wales only.

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

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

## **6. Legislative Context**

- 6.1. Income-contingent repayment (ICR) student loans were first introduced in the UK in 1998, with their repayment initially governed by the Education (Student Loan) (Repayment) Regulations 2000 (SI 2000/944) (“the 2000 Repayment Regulations”). The 2000 Repayment Regulations were revoked and consolidated with amendments by the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470).
- 6.2. This instrument amends the 2009 Regulations to give effect to policies announced in February 2022 by oral and written statements in the House of Commons and a written statement in the House of Lords. It introduces a new student loan repayment plan (Plan 5) for borrowers starting new courses from 1 August 2023 and makes changes to the repayment terms of existing Plan 2 student loans. Further, it amends the overseas fixed instalment repayment rates for Plan 2 and Plan 3 student loans, which have not increased since their introduction in 2012 and 2016 respectively.

## **7. Policy background**

### *How student loans protect borrowers and provide a taxpayer subsidy*

- 7.1. The Government has, since 1998, provided financial support for students in the form of ICR loans issued by the SLC. The repayment terms of these loans have changed periodically, and there are currently four different ICR loan types in operation in the UK, referred to as “Plans”.
- 7.2. All UK ICR student loans offer unique protections to borrowers that are not available in comparable commercial loans. First, borrowers are only required to repay towards their student loan once they have reached their statutory repayment due date (SRDD)<sup>1</sup>. Second, borrowers are only required to repay when earning above the relevant repayment threshold for their loan type, with repayments fixed at a set percentage of earnings above that threshold. Third, any outstanding loan debt is written off at the end of the loan term at no detriment to individual borrowers.
- 7.3. The subsidy that these loan protections provide to students is a deliberate investment in the long-term skills capacity of the country. However, the cost of the system has grown significantly in recent years; the taxpayer is forecast to subsidise 44% (or £8.2bn) of the cost of Plan 2 full-time undergraduate higher education loans issued in financial year (FY) 2021-22, and just 20% of borrowers who started in academic year (AY) 2021/22 are forecast to repay in full<sup>2</sup>.
- 7.4. The reforms delivered by this instrument will make the student loan system fairer for taxpayers and fairer for students, helping to keep the system sustainable in the long term. For loans issued to full-time borrowers in FY2022-23 the taxpayer subsidy will reduce to a forecast 29% (or £5.7bn), with more borrowers repaying more of their

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<sup>1</sup> A borrower reaches their SRDD at the end of the financial year in which either: the borrower ceases to be eligible for financial support; the borrower leaves their course; or, in the case of loans in relation to part-time and doctoral courses, the fourth anniversary of their course start date occurs.

<sup>2</sup> [Student loan forecasts for England, Financial Year 2021-22 – Explore education statistics – GOV.UK](#)

loans than currently. In FY2023-24 the taxpayer subsidy will reduce further, to a forecast total of £5.4bn for loans issued to full-time undergraduate higher education students. This comprises a 24% subsidy for loans issued to new students on Plan 5 terms, and 28% for loans issued on Plan 2 terms to continuing students. The proportion of the full-time higher education cohort starting in AY2023/24 who are forecast to pay off their loans in full increases to 55%<sup>3</sup>.

- 7.5. The impact of the changes implemented by this instrument on the amount borrowers will repay are detailed in the ‘Impacts’ section and annex of this Explanatory Memorandum, and in the Equality Impact Assessment that was published alongside the loan reform announcement on 24 February 2022.

*How loan repayment terms are changing*

- 7.6. The repayment threshold for Plan 2 loans is currently £27,295 per year. Without intervention, this would increase to £28,445 in April 2023 in line with the change in average earnings over the previous year. This instrument instead maintains the Plan 2 repayment threshold at £27,295 for two years, up to and including FY2024-25, and changes the mechanism by which the threshold is adjusted in future, so that in April 2025 (and annually thereafter) the Plan 2 repayment threshold will be determined with reference to RPI<sup>4</sup> rather than average earnings.
- 7.7. For England-domiciled students starting new courses from 1 August 2023, student loans will be issued on new Plan 5 terms. Plan 5 loans will have a flat rate of interest of RPI only, compared to up to RPI+3% for Plan 2 loans. This change ensures that, under the new terms, borrowers will not repay more over the lifetime of their loans than they originally borrowed when adjusted for inflation. The first SRDD for Plan 5 loans will be in April 2026. The repayment threshold will be £25,000 for FY2026-27, adjusted annually thereafter with reference to RPI. Plan 5 loans will also have a loan term of 40 years before write-off, compared to 30 years for Plan 2.
- 7.8. The terms and conditions for student loans that students must sign before any money is paid to them make clear that the conditions of the loan may change in line with the regulations that govern the loans.

*Transitional arrangements*

- 7.9. Where a student with a Plan 2 loan changes their course or provider following 1 August 2023, transitional arrangements will apply in accordance with the existing rules governing a borrower’s period of eligibility, as set out in regulation 6(4) of the Education (Student Support) Regulations 2011(S.I. 2011/1984) and, for Advanced Learner Loan (ALL) borrowers, regulations 5 and 8 of the Further Education Loans Regulations 2012 (S.I. 2012/1818).
- 7.10. Where borrowers remain within the same period of eligibility, they will continue to receive loans on Plan 2 terms, and where a borrower’s period of eligibility is terminated, they will need to apply for a new loan on Plan 5 terms for further study.
- 7.11. Loans issued under the Higher Education Short Course Loans Regulations 2022 (S.I. 2022/349) will continue to be issued on Plan 2 terms.

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<sup>3</sup> Ibid

<sup>4</sup> Where student loan repayment thresholds are adjusted by RPI, the calculation uses the percentage increase between the retail prices all items index, as published by the Office for National Statistics, for the two Marches immediately before the commencement of the previous repayment threshold year.

### Fixed instalment rates for overseas borrowers

- 7.12. Where a student loan borrower lives overseas, they are required to submit details of their expected income for the forthcoming year to the SLC. The SLC then calculates a repayment plan for the borrower based on 9% of their expected earnings over the relevant repayment threshold for their country of residence. Where an overseas borrower fails to submit their income details to the SLC, they instead repay - or accrue arrears - at a set fixed instalment rate. Currently the 2009 Regulations provide fixed overseas instalments for Plan 1 loans of £246 per month and Plan 2 and 3 loans of £201 per month, which in use are adjusted according to the price level index of borrowers' countries of residence. These amounts have not been increased since their introduction in 2000, 2012 and 2016 respectively, and the 2009 Regulations do not provide for their automatic uprating. Consequently, there is now a perverse incentive for high-earning borrowers overseas not to submit their earnings information to the SLC, as doing so could increase their monthly repayments.
- 7.13. This instrument updates overseas fixed instalments for Plan 2 and 3 loans so that they are based on a country-adjusted equivalent of the repayments a borrower earning twice the median working age graduate salary in England would make under the relevant loan terms. Further, it introduces an overseas fixed instalment rate for Plan 5 loans which is calculated on the same basis. The updated fixed monthly instalment rates in FY2023-24 will be £335 for Plan 2, £255 for Plan 3 and £352 for Plan 5. The Plan 1 overseas fixed instalment rate is also currently being reviewed in conjunction with the devolved administrations, with a view to updating it at the point all relevant administrations are in a position to make regulations.

### Further technical changes

- 7.14. This instrument makes necessary drafting amendments to ensure that the 2009 Regulations continue to function correctly when the Plan 4 repayment threshold exceeds the Plan 2 threshold for the first time in April 2023. The instrument also improves the clarity of the 2009 Regulations in several areas.

## **8. European Union Withdrawal and Future Relationship**

- 8.1. This instrument does not relate to the UK's withdrawal from the European Union and does not trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

- 9.1. The Department for Education does not consider that consolidation of the 2009 Regulations is necessary at this time but will keep the position under review.

## **10. Consultation outcome**

- 10.1. There is no statutory requirement to consult on student loan terms, and no formal public consultation was undertaken on this instrument. The loan reforms build on recommendations made in the report of the independent panel to Government's Review of Post-18 Education and Funding, which included a public call for evidence.

10.2. The reforms that this instrument implements were announced to the public and Parliament in February 2022. The Devolved Administrations and the SLC were involved in drafting this instrument.

## 11. Guidance

11.1. Extensive guidance on the operation of the student loan repayments system is provided on GOV.UK. This includes: how student loan repayment works (including current repayment thresholds and interest rates applicable to borrowers resident in the UK and overseas); how borrowers can find out what they owe; and how borrowers can contact the SLC, update their personal details and make voluntary repayments. HMRC provides [guidance to employers](#) on the collection of student loan repayments from employees, and the SLC publishes [technical guidance](#) for practitioners.

## 12. Impact

12.1. There is no, or no significant, impact on business, charities or voluntary bodies.

12.2. There is no, or no significant, impact on the public sector. The taxpayer savings generated by this instrument, as outlined in the ‘Policy Background’ section of this Explanatory Memorandum, are significant.

12.3. An [Equality Impact Assessment](#), which assesses the impact on borrowers, including those with particular protected characteristics, of the introduction of Plan 5 and the changes to Plan 2 implemented by this instrument, was published in February 2022. The findings of the Equality Impact Assessment have been reviewed, prior to the making of this instrument, in light of the [latest economic forecasts](#) published by the Office for Budgetary Responsibility (OBR) on 17 November 2022. The updated economic forecasts do not materially alter the overall impacts of the changes as detailed in the impact assessment.

12.4. The remainder of this section (with additional detail in the annex) provides an overview of the impacts of this instrument on borrowers’ monthly outgoings, calculated using the November 2022 OBR economic forecasts

12.5. Table 1, below, compares the monthly repayments that will be required from borrowers at a range of income levels in the coming financial year, comparing: (a) repayments if this instrument were not made and the Plan 2 threshold increased with average earnings in April 2023; and (b) repayments with the change to the Plan 2 repayment threshold implemented by this instrument.

*Table 1: Monthly repayments for Plan 2 borrowers in FY2023-24. Figures rounded to nearest pound<sup>5</sup>.*

Annual income	Plan 2 monthly repayments in FY2023-24	
	(a) Without the changes made by this instrument (Plan 2 repayment threshold = £28,445)	(b) As a result of this instrument (Plan 2 repayment threshold = £27,295)
£20,000	£0	£0 (£0 increase)
£25,000	£0	£0 (£0 increase)
£30,000	£12	£20 (£8 increase)
£35,000	£49	£58 (£9 increase)

<sup>5</sup> Tables throughout assume that the earnings growth and RPI forecasts remain in line with OBR forecasts from November 2022 and that the illustrative borrower at each salary level only has one student loan.

<b>£40,000</b>	£87	£95 (£8 increase)
<b>£50,000</b>	£162	£170 (£8 increase)
<b>£100,000</b>	£537	£545 (£8 increase)

12.6. Table 2 compares the expected monthly repayments that will be required from borrowers at a range of income levels in FY2026-27 (the first year in which Plan 5 borrowers will be required to make repayments). It shows: (a) repayments if this instrument were not made and loans continued to be issued to all borrowers on Plan 2 terms; (b) repayments for Plan 2 borrowers with the changes made by this instrument; and (c) monthly repayments for borrowers with loans issued on the new Plan 5 terms. The increases shown in columns (b) and (c) are both with reference to column (a).

Table 2: *Forecast monthly repayments for borrowers in FY2026-27. Figures rounded to nearest pound.*

<b>Monthly repayments in FY2026-27</b>			
<b>Annual income</b>	<b>(a) Without the changes made by this instrument (forecast Plan 2 threshold = £30,950)</b>	<b>(b) For loans issued on amended Plan 2 terms (forecast Plan 2 threshold = £28,475)</b>	<b>(c) For loans issued on Plan 5 terms (Plan 5 threshold = £25,000)</b>
<b>£20,000</b>	£0	£0 (£0 increase)	£0 (£0 increase)
<b>£25,000</b>	£0	£0 (£0 increase)	£0 (£0 increase)
<b>£30,000</b>	£0	£11 (£11 increase)	£38 (£38 increase)
<b>£35,000</b>	£30	£49 (£19 increase)	£75 (£45 increase)
<b>£40,000</b>	£68	£86 (£18 increase)	£113 (£45 increase)
<b>£50,000</b>	£143	£161 (£18 increase)	£188 (£45 increase)
<b>£100,000</b>	£518	£536 (£18 increase)	£563 (£45 increase)

### 13. Regulating small business

13.1. The legislation applies to activities that are undertaken by small businesses. To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to update the standard guidance provided by HMRC to all employers. This guidance specifies the repayment terms of the different student loan plans and explains which borrowers these apply to. The basis for the final decision on what action to take to assist small businesses is the low impact caused by this instrument, which is limited to a minor aspect of routine payroll administration.

### 14. Monitoring & review

14.1. The approach to monitoring of this legislation is that the Department for Education, the SLC and HMRC will continue to monitor the collection of student loan repayments as part of their ongoing work in this area.

### 15. Contact

15.1. Harriet Pratley at the Department for Education (telephone: 020 8078 9912 or email: [harriet.pratley@education.gov.uk](mailto:harriet.pratley@education.gov.uk)) can be contacted with any queries regarding the instrument.

15.2. Samir Prakash, Deputy Director for Future Student Finance and Funding, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3. Baroness Barran, Minister for the School System and Student Finance at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

## Annex: Further information on borrower impacts

### Changes to Plan 2

- 1.1 Table A1, below, shows forecast monthly repayments that will be required from Plan 2 borrowers at a range of income levels in FY2024-25 and FY2025-26, comparing:
- Repayment amounts if this instrument was not made and the Plan 2 repayment threshold were to resume annual uprating in line with forecast changes in average earnings from April 2023 onwards; and
  - Repayment amounts that will result from the changes made by this instrument, i.e. with the Plan 2 repayment threshold maintained at £27,295 for two further years and then adjusted with reference to RPI from April 2025 onwards.
- 1.2 The maximum increase in monthly repayments resulting from this instrument is 9% of the difference between what the threshold would be if this instrument was (i) made and (ii) not made (provided in the table), divided by twelve to give a monthly value. The table shows that, regardless of income level, the forecast maximum increase in monthly repayments for a Plan 2 borrower as a result of this instrument in FY2024-25 will be £19, and in FY2025-26 will be £15.

Table A1: Forecast monthly repayments for Plan 2 borrowers in FY2024-25 and FY2025-26. Figures rounded to nearest pound.

Annual income	Plan 2 monthly repayments in FY2024-25		Plan 2 monthly repayments in FY2025-26	
	(a) Without changes made by this instrument (forecast Plan 2 threshold = £29,830) <sup>6</sup>	(b) With Plan 2 threshold maintained at £27,295	(a) Without changes made by this instrument (forecast Plan 2 threshold = £30,450)	(b) With threshold uprated by RPI in April 2025 (forecast Plan 2 threshold = £28,430)
£20,000	£0	£0 (£0 increase)	£0	£0 (£0 increase)
£25,000	£0	£0 (£0 increase)	£0	£0 (£0 increase)
£30,000	£1	£20 (£19 increase)	£0	£12 (£12 increase)
£35,000	£39	£58 (£19 increase)	£34	£49 (£15 increase)
£40,000	£76	£95 (£19 increase)	£72	£87 (£15 increase)
£50,000	£151	£170 (£19 increase)	£147	£162 (£15 increase)
£100,000	£526	£545 (£19 increase)	£522	£537 (£15 increase)

<sup>6</sup> Forecast repayment thresholds throughout calculated using [November 22 OBR determinants](#); RPI values in supplementary economic tables download, tab 1.7.



Introduction of Plan 5

- 1.3 Table A2, below, shows forecast monthly repayments that will be required from Plan 5 borrowers at a range of income levels in FY2027-28 and FY2028-29.
- 1.4 It compares:
- (a) Repayment amounts if this instrument was not made and loans continued to be issued on Plan 2 terms, with the repayment threshold resuming annual uprating in line with changes in average earnings from April 2023; and
  - (b) Repayment amounts that will result from the changes made by this instrument, i.e. with the introduction of Plan 5.
- 1.5 It can be seen that the forecast maximum increase in monthly repayments for a borrower on new Plan 5 terms, compared to a scenario in which this instrument was not made and Plan 2 loans continued to be issued on current terms, will be £49 in FY2027-28 and £50 in FY2028-29.

*Table A2: Forecast monthly repayments for borrowers in FY2027-28 and FY2028-29. Figures rounded to nearest pound.*

Annual income	Plan 5 monthly repayments in FY2027-28		Plan 5 monthly repayments in FY2028-29	
	(a) Without changes made by this instrument (forecast Plan 2 threshold = £31,465)	(b) Plan 5 (forecast threshold = £25,000)	(b) Without changes made by this instrument (forecast Plan 2 threshold = £33,255)	(a) Plan 5 (forecast threshold = £25,590)
£20,000	£0	£0 (£0 increase)	£0	£0 (£0 increase)
£25,000	£0	£0 (£0 increase)	£0	£0 (£0 increase)
£30,000	£0	£38 (£38 increase)	£0	£33 (£33 increase)
£35,000	£27	£75 (£48 increase)	£21	£71 (£50 increase)
£40,000	£64	£113 (£49 increase)	£58	£108 (£50 increase)
£50,000	£139	£188 (£49 increase)	£133	£183 (£50 increase)
£100,000	£514	£563 (£49 increase)	£508	£558 (£50 increase)

Fixed instalment rates for overseas borrowers

- 1.6 Borrowers affected by this change will be those who are repaying (or accruing arrears) at the overseas fixed instalment rate because of their failure to provide the SLC with details of their income, which is a requirement in the terms and conditions borrowers must agree to when taking out a student loan. The updated overseas fixed instalment rates will increase repayments for any Plan 2 or 3 borrower who continues to withhold their income details and will also apply to Plan 5 borrowers. However, all borrowers are free to avoid the fixed instalment rates by providing the SLC with details of their income. On doing so they will be moved into a position of repaying 9% of their expected annual income over the relevant repayment threshold for their country of residence.
- 1.7 Table A3 shows, for comparison, what a UK-based borrower would be earning in FY2023-24 to repay an amount equivalent to the old and new overseas fixed instalment repayment rates.

*Table A3: UK borrower earnings in FY2023-24 that would result in repayments equivalent to the existing and new overseas fixed instalment rates.*

	<b>Current annual salary that a UK based borrower would be required to earn to reach repayment levels equivalent to fixed instalment rates without the changes made by this instrument</b>	<b>Current annual salary that a UK based borrower would be required to earn to reach repayment levels equivalent to fixed instalment rates with the changes made by this instrument</b>
<b>Plan 2</b>	£54,095	£72,000
<b>Plan 3</b>	£61,200	£72,000
<b>Plan 5</b>	N/A	£72,000