

EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT) (NO. 5)
REGULATIONS 2022

2022 No. 1392

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.
- 1.3 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument corrects two drafting errors in [the Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No.4\) Regulations 2022](#) (S.I. 2022/1335) before they come into force. The procedure for free issue will be applied and these Regulations will be issued free of charge to all known recipients of the Education (Student Loans) (Repayment) (Amendment) (No.4) Regulations 2022 (the “principal Regulations”).
- 2.2 These Regulations are made solely to correct drafting errors in the principal Regulations. The policy background to the principal Regulations can be found in the [explanatory memorandum](#) to that instrument.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The principal Regulations were made on 13th December 2022 and laid before Parliament and Senedd Cymru on 15th December 2022. Those Regulations contained errors in regulations 2 and 3 (commencement and extent), which are corrected in this instrument.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England & Wales, Scotland and Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is primarily England and Wales because it concerns the repayment terms of student loans made to borrowers ordinarily resident in England and Wales. However, the collection of student loans is managed on a UK-wide basis by the Student Loans Company (SLC), working in partnership with His Majesty’s Revenue and Customs (HMRC). [The Education \(Student Loans\) \(Repayment\) Regulations 2009](#) (S.I. 2009/470) (the “2009 Regulations”) and the principal Regulations therefore extend and apply to all of the UK insofar as they impose any obligation or confer any power on HMRC, an employer or a borrower in relation to repayment under Part 3 or 4 of the 2009 Regulations, or on any other person in relation to the retention or production of records.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The 2009 Regulations make provision for the repayment of income-contingent student loans issued to borrowers ordinarily resident in England, Wales and Scotland. The principal Regulations make changes to the 2009 Regulations to implement reforms to student loan repayment terms for borrowers ordinarily resident in England and Wales. The principal Regulations are to come into force in two stages. On 16th January 2023, consolidating amendments to provisions relating to interest rates on plan 2 (post-2012) and plan 3 (postgraduate) loans are to come into force. On 6th April 2023, substantive changes to loan repayment terms are to come into force.
- 6.2 These Regulations are made solely to correct technical errors in the commencement and extent provisions of the principal Regulations. The issue was identified and corrected promptly and these Regulations are issued free of charge to all known recipients of the principal Regulations.
- 6.3 The specific corrections made by these Regulations are as follows:
- 6.4 Regulation 4 of the principal Regulations (which identifies the instrument to be amended, i.e. the 2009 Regulations) is to come into force on 16th January 2023 rather than 6th April 2023.
- 6.5 Part 1 (preliminary provisions) of the principal Regulations, and regulation 4, are to have UK extent (rather than England and Wales extent).

7. Policy background

What is being done and why?

- 7.1 The policy background to the changes made by the principal Regulations is set out in the [explanatory memorandum](#) to that instrument. These Regulations are made solely to correct drafting errors in the principal Regulations before they come into force.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to 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 No consultation was undertaken in relation to this instrument, which solely corrects errors in the principal Regulations before they come into force.

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 impact on borrowers of the changes made in the principal Regulations are set out in the explanatory memorandum to that instrument.

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 Adam Dunajko at the Department for Education (telephone: 0771 242 3974 or email: adam.dunajko@education.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul Williams, Deputy Director for Student Funding Policy 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.