STATUTORY INSTRUMENTS

2014 No. 651

EDUCATION

The Education (Student Loans) (Repayment) (Amendment) Regulations 2014

Made - - - -	*13th March 2014*
Laid before Parliament	*14th March 2014*
Laid before the National Assembly for Wales	*14th March 2014*
Coming into force - -	*6th April 2014*

The Secretary of State for Business, Innovation and Skills makes the following Regulations in exercise of the powers conferred by sections 22 and 42 of the Teaching and Higher Education Act 1998(**a**).

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations 2014 and come into force on 6th April 2014.

(2) Subject to paragraph (3), these Regulations extend to England and Wales only.

(3) Regulations 3 and 5 to 11 extend to all of the United Kingdom in so far as they impose any obligation or confer any power on Her Majesty's Revenue and Customs, an employer or a borrower in relation to repayments under Part 3 or 4 of the Education (Student Loans) (Repayment) Regulations 2009(**c**).

(**a**) 1998 c.30; section 22 was amended by the Learning and Skills Act 2000 (c.21) section 146, the Income Tax (Earnings and Pensions) Act 2003 (c.1) Schedule 6, the Finance Act 2003 (c.14) section 147, the Higher Education Act 2004 (c.8) sections 42, 43 and Schedule 7, the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) section 257 and the Education Act 2011 (c.21) section 76.

(**b**) The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 as regards Wales were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004, except for those functions under section 22(2)(a), (c), (j) and (k), (3)(e) and (f) and (5). Functions under subsections (2)(a), (c) and (k) are exercisable by the Secretary of State concurrently with the National Assembly for Wales. The section 22 functions which were transferred to, or became exercisable by, the National Assembly for Wales were subsequently transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32) section 162 and paragraph 30 of Schedule 11. The functions of the Secretary of State under section 42 of the Teaching and Higher Education Act 1998 as regards Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The section 42 functions which were transferred to the National Assembly for Wales were subsequently transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32) section 162 and paragraph 30 of Schedule 11.

(**c**) S.I. 2009/470, amended by S.I. 2010/661, 2010/1010, 2011/784, 2012/836, 2012/1309 and 2013/607.

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

2. The Education (Student Loans) (Repayment) Regulations 2009 are amended in accordance with regulations 3 to 12.

3. In regulation 23, after paragraph (2)(f) insert—

"(g) such other information about the borrower's financial position as may be required to determine whether the borrower is in receipt of any income."

4. In regulation 29(7)—

(a) in sub-paragraph (b) delete "but before or on 5 April 2016"; and

(b) delete sub-paragraph (c).

5. In regulation 58—

(a) for paragraph (1), substitute—

"(1) Subject to paragraphs (1A) and (2), where an employer has not on or before the 14th day after the end of an income tax period, beginning on or after 6 April 2014, paid an amount which the employer is liable to pay to HMRC under regulation 54 for that period, that amount will carry interest at the rate applicable under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from that date until payment.

(1A) Subject to paragraph (2), any amount which an employer is liable to pay to HMRC under regulation 54 and which is outstanding immediately prior to 6 April 2014 will carry interest from the 14th day after the end of the tax year in which it should have been paid to the date of payment at the rate applicable under—

(a) section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act in respect of the period up to and including 5 April 2014; and

(b) sections 101 and 103 of the Finance Act 2009 in respect of the period from 6 April 2014."; and

(b) in paragraph (2) for "year" substitute "period".

6. In regulation 59B—

(a) at the end of paragraph (1) insert "but this is subject to paragraph (1A)"; and

(b) after paragraph (1) insert—

"(1A) But a Real Time Information employer—

(a) which for the tax year 2014-15 meets Conditions A and B, or

(b) which for the tax year 2015-16 meets Conditions A and C,

may instead for that tax year deliver to HMRC the information specified in Schedule 2 in respect of all relevant payments made to an employee in a tax month on or before making the last relevant payment in that month.

(1B) Condition A is that at 5 April 2014 the employer is one to whom HMRC has issued an employer's PAYE reference.

(1C) Condition B is that at 6 April 2014 that Real Time Information employer employs no more than 9 employees.

(1D) Condition C is that at 6 April 2015 that Real Time Information employer employs no more than 9 employees.

(1E) In this regulation "employer's PAYE reference" means the combination of letters, numbers or both used by HMRC to identify an employer for the purposes of the PAYE Regulations and the number which identifies the employer's HMRC office."

7. In regulation 59E—

(a) at the end of paragraph (1) insert—

",

but this is subject to paragraph (2B)";

(b) after paragraph (2A) insert—

"(2B) This regulation does not apply if a Real Time Information employer within paragraph (1) makes a return using an approved method of electronic communications.";

(c) in paragraphs (3) and (6) for "month" substitute "quarter"; and

(d) in paragraph (5) for "period" substitute "quarter".

8. In regulation 59F—

(a) in paragraph (1) for "an employer discovers an error in a return" substitute "there is an inaccuracy in a return, whether careless or deliberate,";

(b) in paragraphs (2), (3) and (7)(a) for "error" substitute "inaccuracy";

(c) for paragraph (4) substitute—

"(4) When the employer becomes aware of an inaccuracy in a return submitted under regulation 59B or 59E, the employer must provide the correct information in the next return for the tax year in question."; and

(d) in paragraph (6)(b) for "discovery of the error" substitute "employer becomes aware of the inaccuracy".

9. In regulation 59G(5), at the end insert "but this paragraph does not apply to a return for the tax year 2014-15 or subsequent tax years".

10. In regulation 63, for paragraph (1), substitute—

"(1) Subject to paragraph (1A), where—

(a) an employer has not paid an amount of repayments to HMRC under regulation 54;

(b) HMRC makes a determination of the amount of such repayments under regulation 62; and

(c) repayments are payable pursuant to that determination,

those repayments will carry interest at the applicable rate under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from the 14th day after the end of the income tax period in which they are payable, beginning on or after 6 April 2014, until payment.

(1A) Any repayments under paragraph (1) that are outstanding immediately prior to 6 April 2014 will carry interest from the 14th day after the end of the tax year in which it should have been paid to the date of payment at the applicable rate under—

(a) section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act in respect of the period up to and including 5 April 2014; and

(b) sections 101 and 103 of the Finance Act 2009 in respect of the period from 6 April 2014."

11. In regulation 68—

(a) in paragraph (1), omit "Subject to paragraph (3),"; and

(b) after paragraph (3), insert—

"(4) For tax years commencing on or after 6 April 2014, where the date on which the return is due to be filed is on or after 6 April 2014, where a Real Time Information employer—

(a) carelessly or deliberately makes an incorrect return under regulations 59B or 59E; and

(b) the return contains an inaccuracy which amounts to, or leads to–

(i) an understatement of liability under this Part to make payments to HMRC; or

(ii) false or inflated claim for the recovery of payments made to HMRC under this Part,

penalties as set out in Schedule 24 to the Finance Act 2007 (penalties for error) will apply as they apply in connection with a return for the purposes of the PAYE Regulations."

12. In regulation 76(1A), delete "until and including 6 April 2015".

David Willetts
Minister of State for Universities and Science
Department for Business, Innovation and Skills

13th March 2014

Huw Lewis
Minister for Education and Skills
One of the Welsh Ministers

13th March 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470) ("the Principal Regulations"). The Principal Regulations govern the repayment of income-contingent student loans paid to students under section 22 of the Teaching and Higher Education Act 1998(c.30).

Regulations 3 to 12 amend the Principal Regulations.

Regulation 3 amends the content which may form part of a information notice which may be served on a borrower.

Regulations 4 and 12 remove the limit to the number of annual increases to repayment threshold and the applicable threshold for student loans which are not post-2012 student loans, by the retail price index, where the final increase would have been for the year 6 April 2015 to 5 April 2016.

Regulations 5 and 10 change the legislative provisions under which interest rates are calculated for amounts which employers have not paid to Her Majesty's Revenue and Customs.

Regulation 6 permits the smallest employers to file returns about all the student loan repayments in a month on or before making the last payment to employees in the tax month, providing that they meet certain conditions.

Regulation 7 extends the time for those employers who are permitted to file on paper (i.e. care and support employers) to file information with Her Majesty's Revenue and Customs from 14 days after the end of the tax month to 14 days after the end of the tax quarter.

Regulation 8 clarifies that regulation 59F (Returns under regulations 59B and 59E: amendments) applies whether the mistake is careless or deliberate.

Regulation 9 ensures there is no penalty awarded under section 98A Taxes Management Act 1970 (c.9) if the final return for 2014-15 is not made by 19th May 2015.

Regulation11 provides for penalties under Schedule 24 to Finance Act 2007 (c.11) where an employer makes an incorrect return and as a result of that return there is an understatement of a student loan or a false claim for repayment from Her Majesty's Revenue and Customs.

A final Impact Assessment covering regulations 5 and 10 of this instrument was published on 14 April 2009. This was produced following a consultation on the harmonisation of interest charged by Her Majesty's Revenue and Customs and is available on the National Archives' website at http://webarchive.nationalarchives.gov.uk/20090606121538/http:/www.hmrc.gov.uk/budget2009/interest-penalties-2410.pdf. It remains an accurate summary of the impacts that apply to regulations 5 and 10 of this instrument.

A Tax Information and Impact Note covering regulations 6 to 9 of this instrument was published on 15 March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S. I. 2012/822). This was updated as a result of changes to the impacts as a result of the year long Real Time Information pilot and is available on the Her Majesty's Revenue and Customs' website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to regulations 6 to 9 of this instrument.

A Tax Information and Impact Note covering regulation 11 of this instrument was published on 20 March 2013 and is available on the Her Majesty's Revenue and Customs' website at http://www.hmrc.gov.uk/budget2013/tiin-4762.pdf. It remains an accurate summary of the impacts that apply to regulation 11 of this instrument.

An impact assessment has not been produced for the regulations which are not covered by the Tax Information and Impact Notes and the Impact Assessment mentioned above because they have no impact on businesses or civil society organisations. The Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

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