SCOTTISH STATUTORY INSTRUMENTS

2000 No. 110

EDUCATION

The Repayment of Student Loans (Scotland) Regulations 2000

Made - - - -	*10th April 2000*
Laid before the Scottish Parliament - - - -	*13th April 2000*
Coming into force. - -	*16th May 2000*

The Scottish Ministers, in exercise of the powers conferred upon them by sections 73(f), 73B, and 74(1) of the Education (Scotland) Act 1980(**1**), hereby make the following Regulations:

PART I

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Repayment of Student Loans (Scotland) Regulations 2000 and shall come into force on 16th May 2000.

Interpretation

2. In these Regulations–

"the Act" means the Education (Scotland) Act 1980(**2**);

"the Board" means the Commissioners of Inland Revenue;

"borrower" means a person to whom the Scottish Ministers have lent money pursuant to regulations made under section 73 of the Act and who has not received a notice from them that it has been repaid in full or cancelled;

"Collection Regulations" means the Education (Student Loans) (Repayment) Regulations 2000(**3**);

(**1**) 1980 c. 44. Section 73(f) was amended by section 29(1) of the Teaching and Higher Education Act 1998 (c. 30). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) 1980 c. 44.

(**3**) S.I. 2000/944.

"disability related benefit" means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits Act 1992(**4**), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations 1987(**5**);

"Loan Regulations" means the Education (Student Loans) (Scotland) Regulations 1999(**6**);

"repayment" means a repayment of a student loan;

"Scottish Ministers" includes any person exercising functions on their behalf pursuant to arrangements made under section 73A(3) of the Act(**7**);

"student loan" means the total outstanding principal, interest, penalties and charges owed by a borrower to the Scottish Ministers pursuant to these or any other regulations made under section 73 of the Act, excluding any interest, penalties or charges payable under Part III or IV of the Collection Regulations;

"year of assessment" means the period 6th April to the following 5th April.

Revocation

3. Regulation 16 of the Loan Regulations is hereby revoked.

PART II

PROVISIONS APPLICABLE TO ALL REPAYMENTS

Application of Regulations

4. These Regulations apply to repayments of all student loans.

Period and manner of repayment

5. Subject to regulation 7 and Part III, where the Scottish Ministers–

(a) have not determined that repayments of student loans made under the Act shall be collected by the Board under Parts III and IV of the Collection Regulations; or

(b) having so determined, are, by virtue of regulation 11(8) of those Regulations, not required to give notices under paragraph 11(5)(a) or (b) of those Regulations,

they may require the borrower to repay his student loan in such manner and over such period of time as in all the circumstances seems appropriate.

Application of payments received

6. Any repayment received by the Scottish Ministers shall be applied by them in reduction or in satisfaction of–

(**4**) 1992 c. 4, amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 1 to 3, 5 to 6, 8 to 11 and Schedules 1 and 2.
(**5**) S.I. 1987/1967 (see Parts III and IV of Schedule 2); the relevant amending regulations are S.I. 1988/663, 2022, 1989/1678, 1991/1559, 2742, 1993/1150, 2119, 1994/2139, 3061, 1995/482, 515, 1997/543.
(**6**) S.I. 1999/1001; as amended by S.I. 1999/1131.
(**7**) 1980 c. 44. Section 73A was inserted by section 29(2) of the Teaching and Higher Education Act 1998 (c. 30). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(a) first, any outstanding interest payable by the borrower by virtue of regulation 15 of the Loan Regulations or regulation 12(3) of these Regulations; and

(b) second, any outstanding principal of the relevant student loan, which shall be reduced or satisfied from the date of receipt.

Time for repayments

7.—(1) A borrower may repay all or any part of his student loan to the Scottish Ministers at any time.

(2) A borrower shall not be required to repay such part of his student loan as relates to a particular notification of eligibility under the Loan Regulations until the year of assessment beginning after the date on which that eligibility terminates under regulation 8 of those Regulations.

(3) A borrower–

(a) whose student loan was made in connection with his attendance at a course for the initial training of teachers, other than a course leading to a first degree; and

(b) who has notified the Scottish Ministers in writing that he does not wish to repay that loan during any period in which he is required to repay a loan under the Education (Student Loans) Act 1990(**8**) or the Education (Student Loans) (Northern Ireland) Order 1990(**9**),

shall not be required to repay any of his student loan during any such period.

Cancellation

8.—(1) Subject to paragraph (4) where a borrower is not in breach of any obligation to repay his student loan or in breach of any obligation to repay any other loan mentioned in paragraph (2) and the Scottish Ministers are satisfied that he–

(a) has died;

(b) has attained the age of 65; or

(c) receives a disability related benefit and because of his disability he is permanently unfit for work,

the Scottish Ministers shall cancel his liability to repay his student loan.

(2) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Teaching and Higher Education Act 1998 and regulations made thereunder(**10**) and the Education (Student Support) (Northern Ireland) Order 1998(**11**) and regulations made thereunder.

(3) For the purposes of this Part the cancellation of a student loan shall have effect on the date on which it is cancelled, not on the date the event giving rise to the right to cancellation takes place.

(4) The cancellation of a borrower's liability to repay his student loan under paragraph (1) shall not affect his liability to make repayments under Part III of the Collection Regulations subject to and in accordance with that Part in respect of any year of assessment–

(a) in the case of cancellation under paragraph (1)(a) during which the borrower was alive; and

(b) in any other case preceding the year of assessment during which the loan is cancelled.

(5) The cancellation of a borrower's liability to repay his student loan under paragraph (1) shall not affect his liability to make repayments by way of deductions made under Part IV of the Collection

(**8**) 1990 c. 6.
(**9**) S.I. 1990/1506 (N.I.11).
(**10**) 1998 c. 30.
(**11**) S.I. 1998/1760 (N.I.14).

Regulations subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.

Refunds

9.—(1) Where the Scottish Ministers have received a repayment either directly from the borrower or by way of deduction from a borrower's emoluments in accordance with Part IV of the Collection Regulations–

(a) which results in the student loan being paid in full; or

(b) when the student loan has already been paid in full,

they shall refund to the borrower any amount not required to repay the student loan in full together with interest calculated as if it were the principal of a student loan outstanding from the date of receipt of the repayment to the date of the refund.

(2) Where the Scottish Ministers are considered to have received a payment collected under Part III of the Collection Regulations in respect of a year of assessment–

(a) which results in the student loan being paid in full; or

(b) when the student loan has already been paid in full,

the repayment shall be considered to have been received by the Scottish Ministers on the 31st January next following the year of assessment in accordance with paragraph (5)(b), and the Scottish Ministers shall refund to the Board for the account of the borrower any overpayment which results from the receipt.

(3) The Board shall be considered to have received a refund under paragraph (2) on the date on which the amount refunded was considered to have been received by the Scottish Ministers in accordance with paragraph (5).

(4) Where the Scottish Ministers have received a repayment of a student loan by way of deduction from a borrower's emoluments for a year of assessment in accordance with Part IV of the Collection Regulations and those emoluments do not exceed £10,000, the Scottish Ministers shall on application by the borrower refund the amount deducted.

(5) For the purposes of this regulation, a repayment shall be considered to have been paid by the borrower and received by the Scottish Ministers as follows–

(a) where an amount is paid by the borrower directly to the Scottish Ministers, a repayment of that amount shall be considered to have been received by them on the date on which the amount is in fact received;

(b) where the Board have collected a repayment under Part III of the Collection Regulations, a repayment of that amount shall be considered to have been received by the Scottish Ministers on 31st January following the year of assessment, whether or not the borrower has in fact paid any or all of that amount to the Board; and

(c) where an amount is deducted by an employer under Part IV of the Collection Regulations, that amount shall be aggregated with all other such amounts deducted in the same year of assessment and repayments of the aggregate amount shall be considered to have been received by the Scottish Ministers in equal instalments received on the days during the year of assessment which are–

(i) the last days of a month;

(ii) days after the date on which the Scottish Ministers have given notice under regulation 11(5)(b) ofthe Collection Regulations that payment should be deducted; and

(iii) days before the date on which they have given notice under regulation 11(5)(e) of the Collection Regulations that payment should cease to be deducted.