WELSH STATUTORY INSTRUMENTS

2007 No. 3509 (W.308)

EDUCATION, WALES

The Education (Student Loans) (Repayment) (Amendment) (Wales) Regulations 2007

Made - - - -	*12 December 2007*
Laid before the National Assembly for Wales2007	*13 December 2007*
Coming into force - -	*10 January 2008*

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(**1**), and now exercisable by them(**2**) make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Student Loans) (Repayment) (Amendment) (Wales) Regulations 2007 and they come into force on 10 January 2008.

(2) These Regulations apply in relation to Wales.

Amendment of Education (Student Loans) (Repayment) Regulations 2000

2. The Education (Student Loans) (Repayment) Regulations 2000(**3**) are amended as follows.

3. Renumber regulation 2 so that it becomes regulation 2(1) and —

(**1**) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), section 42. Section 42 and section 43 were amended by the Education Act 2002 (c. 32), Schedule 12. The functions of the Secretary of State were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004, the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149)(C.79) and Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159)(C.56)).

(**2**) The functions of the Secretary of State under the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 and the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149)(C.79)) as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159) (C.56)). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30(1) and 30(2)(a) of Schedule 11 of the Government of Wales Act 2006 (c. 32).

(**3**) S.I. 2000/944; relevant amending regulations are S.I. 2001/971, 2004/2752 and 2006/2009.

(a) in regulation 2(1) (as renumbered) insert at the end of the definition of "the Assembly" the words, "and includes any person exercising functions on its behalf pursuant to section 23(4) of the Act;" ;

(b) in regulation 2(1) (as renumbered) in the appropriate place in the alphabetical order insert —

> ""Welsh Ministers" includes any person exercising functions on their behalf pursuant to section 23(4) of the Act;";

(c) after regulation 2(1) (as renumbered) insert new paragraphs —

> "(2) Subject to paragraph (3), any reference in any provision in Part 2 of these Regulations to the Secretary of State is to be read, in relation to a student loan made by the Welsh Ministers, as a reference to the Welsh Ministers.
>
> (3) Paragraph (2) does not apply to any reference to the Secretary of State in a provision to the extent that the provision relates to Part 3 or 4.".

4. In regulation 3(5), in the definition of "Secretary of State" omit, "and includes any person exercising functions on behalf of the Assembly pursuant to section 23(4) of the Act".

5. In regulation 9, in the definition of "the 2006 Regulations", after "2006" insert, "in relation to England;", and after that definition insert the following definition —

> ""the 2006 Welsh Regulations" means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006 (**4**);".

6. For regulation 12, substitute the following —

> "**12.**—(1) This regulation applies in relation to Wales.
>
> (2) This regulation applies where a borrower is not in breach of any obligation to repay a student loan under Part 5 or any obligation to repay any loan mentioned in paragraph (5).
>
> (3) In this regulation "post-2006 student loan" means any student loan paid under the 2006 Welsh Regulations or any subsequent regulations made by the Welsh Ministers under section 22 of the Act and taken out by the following —
>
> (a) a borrower who takes out a student loan for the first time in respect of an academic year beginning on or after 1 September 2006; or
>
> (b) a borrower who takes out a student loan in respect of a course which satisfies the following conditions —
>
> (i) it begins on or after 1 September 2006;
>
> (ii) it is not an end-on course following on from a course which he or she began before 1 September 2006; and
>
> (iii) it is not one to which his or her status as a student eligible for support under regulations made under section 22 of the Act has been transferred from another course which he or she began before 1 September 2006.
>
> (4) The Welsh Ministers must cancel the borrower's liability to repay his or her student loan when one of the following occurs —
>
> (a) the borrower dies;
>
> (b) the borrower receives a disability related benefit and because of his or her disability is permanently unfit for work;
>
> (c) in the case of post-2006 student loans, the 25th anniversary of the date on which the borrower became liable to repay the student loan; or

(**4**) S.I.2006/126 (W.19) as amended by S.I.2006/1863 (W.196).

(d) in the case of student loans which are not post-2006 student loans, the borrower reaches the age of 65.

(5) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990(**5**), the Education (Student Loans) (Northern Ireland) Order 1990(**6**), the Education (Scotland) Act 1980(**7**) and regulations made under it and the Education (Student Support) (Northern Ireland) Order 1998(**8**) and regulations made under it.

(6) The cancellation of the borrower's liability to repay his or her student loan under paragraph (4) does not affect his or her liability to make repayments under Part 3 subject to and in accordance with that Part in respect of any year of assessment —

(a) in the case of cancellation under paragraph (4)(a), during which the borrower was alive; and

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

(7) The cancellation of a borrower's liability to repay his or her student loan under paragraph (4) does not affect his or her liability to make repayments by way of deductions made under Part 4 subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.".

7. For Part 5 substitute the following —

"PART 5

Repayment by Overseas Borrowers

52D. This Part applies in relation to Wales.

Interpretation

53. In this Part —

"gross income" means income from all sources before deductions for or relief from tax or other statutory charge;

"residence" in or outside the United Kingdom has the same meaning as it has in the Taxes Acts;

"Eurostat" means the Statistical Office for the European Communities.

Notice of overseas residence

54.—(1) A borrower must notify the Welsh Ministers of any period of residence outside the United Kingdom which exceeds three months.

(2) A borrower must provide such information about his or her income during any such period of residence as the Welsh Ministers may require.

(**5**) 1990 c. 6: repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.
(**6**) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), article 43 and Schedule 5 Part 11, S.I. 1996/1918 (N.I. 15), article 3 and the Schedule and S.I. 1998/258 (N.I. 1), articles 3 to 6.
(**7**) 1980 c. 44: amended by the Teaching and Higher Education Act 1998 (c. 30), section 29; the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3; and the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10.
(**8**) S.I. 1998/1760 (N.I. 14).

Notice of liability to make repayments

55.—(1) Subject to regulation 57, where the Welsh Ministers are satisfied that a borrower is resident outside the United Kingdom they may serve a notice on the borrower requiring the borrower to repay his or her student loan in accordance with regulation 56.

(2) In a notice served under paragraph (1) the Welsh Ministers may require a borrower who has failed to —

(a) give the notice required by regulation 54(1), or

(b) provide any information required by the Welsh Ministers under regulation 54(2)

to repay immediately such part of his or her student loan as will reduce the amount outstanding to the amount which the Welsh Ministers consider would have been outstanding if the borrower had given the notice or provided the information required of him or her.

Repayment by fixed instalments

56. A borrower must not later than the day specified in a notice served under regulation 55 and not later than the same day of each subsequent month pay the Welsh Ministers a fixed instalment, calculated in accordance with regulation 57A.

Repayment by income-related instalments

57.—(1) Where the Welsh Ministers are satisfied that a borrower to whom regulation 55 applies has complied with a requirement to provide information under regulation 54, they may determine that the borrower may repay his or her loan by income-related instalments, in accordance with this regulation.

(2) The first such instalment must be paid on a date determined by the Welsh Ministers being a date not more than two months later than the date of the determination, and subsequent instalments must be paid on the same date in each subsequent month for up to twelve months.

(3) Each instalment must be one twelfth of the relevant amount.

(4) The relevant amount is 9% of the gross income which the Welsh Ministers consider the borrower is likely to receive during the twelve month period following the date of the determination referred to in paragraph (2), disregarding —

(a) income up to the applicable threshold, calculated in accordance with regulation 57A; and

(b) income in respect of which the Welsh Ministers are satisfied that repayments are likely to be made under Part 3 or 4.

(5) The amount of the instalment must be stated in the determination.

(6) At the end of the period referred to in paragraph (2), the borrower must pay fixed instalments under regulation 56, subject to a further determination under paragraph (1).

(7) At any time during the period referred to in paragraph (2) the Welsh Ministers may make a re-determination under paragraph (1).

Calculation of fixed instalment and applicable threshold

57A.—(1) The fixed instalment in regulation 56 and the applicable threshold in regulation 57 are to be determined by reference to the most recent price level index for the borrower's country of residence and in accordance with the following tables—