Draft Regulations laid before Parliament under section 42(5) of the Teaching and Higher Education Act 1998 and under section 133(2B) of the Education (Scotland) Act 1980 for approval by a resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2000 No.

EDUCATION, ENGLAND AND WALES
EDUCATION, SCOTLAND

Education (Student Loans) (Repayment) Regulations 2000

Made - - - -

Coming into force - - 1st April 2000

The Secretary of State for Education and Employment, in exercise of the powers conferred on the Secretary of State by sections 22 and 42(6) of the Teaching and Higher Education Act 1998(**1**) and sections 73(f) and 73B of the Education (Scotland) Act 1980(**2**), hereby makes the following Regulations, a draft of which has been laid before and approved by both Houses of Parliament:–

PART I

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) Regulations 2000, and shall come into force on 1st April 2000.

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

(3) These Regulations extend to all of the United Kingdom in so far as they impose any obligation or confer any power on the Board, an employer or a borrower in relation to repayments under Part III or IV.

Interpretation

2. In these Regulations–

(**1**) 1998 c. 30.
(**2**) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998, section 29(1); section 73B was inserted by the same Act, section 29(2).

"the Act" means the Teaching and Higher Education Act 1998;

"the 1970 Act" means the Taxes Management Act 1970(**3**) as amended from time to time both before and after the date of these Regulations;

"the 1988 Act" means the Income and Corporation Taxes Act 1988(**4**) as amended from time to time both before and after the date of these Regulations;

"the Board" means the Commissioners of Inland Revenue;

"borrower" means a person to whom the Secretary of State has lent money pursuant to regulations made under section 22 of the Act and who has not received a notice from him that it has been repaid in full or cancelled, and also has the meaning given it in regulation 3(3);

"collector" means a Collector of Taxes;

"inspector" means an Inspector of Taxes;

"repayment" means a repayment of a student loan;

"Secretary of State" includes any person exercising functions on behalf of a Secretary of State pursuant to section 23(4) of the Act, and also has the meanings given it in regulation 3(3) and (5);

"student loan" means the total outstanding principal, interest, penalties and charges owed by a borrower to the Secretary of State pursuant to these or any other regulations made under section 22 of the Act, excluding any interest, penalties or charges payable under Part III or IV, and also has the meaning given to it in regulation 3(3);

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

Application

3.—(1) These Regulations apply to repayments of student loans made under the Act.

(2) Where the Scottish Ministers have determined that repayments of student loans made under the Education (Scotland) Act 1980 shall be collected by the Board under Parts III and IV they shall give notices to the borrower and to the Board in accordance with regulation 11.

(3) Where the Scottish Ministers have given notices in accordance with regulation 11(5)(a) or (b) Parts III and IV, and the provisions of Parts I and II so far as they relate to the application of Parts III and IV, shall apply to repayments of students loans made under the Education (Scotland) Act 1980 as they apply to student loans made under the Act, and for those purposes in these Regulations–

"borrower" means a person to whom the Secretary of State or the Scottish Ministers have lent money pursuant to regulations made under section 73(f) of the Education (Scotland) Act 1980 and who has not received a notice from them that it has been repaid in full or cancelled;

"Secretary of State" means, other than in this regulation and regulation 4, the Scottish Ministers, and includes any person exercising functions on behalf of the Secretary of State or the Scottish Ministers pursuant to section 73A(4) of the Education (Scotland) Act 1980; and

"student loan" means the total outstanding principal, interest and charges owed by a borrower to the Scottish Ministers pursuant to regulations made under section 73(f) of the Education (Scotland) Act 1980, excluding any interest, penalties or charges payable under Part III or IV.

(**3**) 1970 c. 9.
(**4**) 1988 c. 1.

Functions of the Inland Revenue

4.—(1) The Board shall collect repayments from borrowers in accordance with Parts III and IV, and the provisions of section 1 of the 1970 Act shall apply for those purposes as they apply for the purposes of income tax.

(2) The Board shall, at such times and in such manner as the Treasury may direct, account to the Secretary of State for, and pay to him the sums estimated by the Board (in the manner so directed) to have been collected by them as repayments in accordance with Parts III and IV.

(3) Repayments shall not include any interest, penalties or charges payable under Part III or IV, and the Board shall cause any such sums which they recover to be paid, at such times and under such regulations as the Treasury may from time to time prescribe, to accounts, to be intituled "The Account of Her Majesty's Exchequer", at the Bank of England, and the sums so paid shall form part of the Consolidated Fund.

Inspectors and collectors

5. Any legal proceedings or administrative act authorised by or done for the purposes of these Regulations and begun by one inspector or collector may be continued by another inspector or, as the case may be, collector; and any inspector or collector may act for any division or other area.

Service by post

6. Any notice or other document which is authorised or required to be given, served or issued under these Regulations may be sent by post.

Penalties etc. in relation to Parts III and IV

7.—(1) Section 98 of the 1970 Act (special returns etc.) shall apply for the purposes of repayments under Part III or IV as if any reference to a provision in the Table in that section were a reference to a provision in those Parts other than regulation 16.

(2) Section 99 of the 1970 Act (assisting in the preparation of incorrect returns etc.) shall apply in the case of returns, statements, declarations, accounts, information or documents for the purposes of repayments under Part III or IV as they apply for the purposes of income tax.

(3) Sections 100 and 100A (determination of penalties by officer of Board), 100B (appeals against penalty determinations), 100C (penalty proceedings before Commissioners), 100D (penalty proceedings before court), 102 (mitigation of penalties), 103(3) and (4) (time limits for penalties), 103A (interest on penalties), 104 (savings for criminal proceedings) and 105 (evidence in case of fraudulent conduct) of the 1970 Act shall apply to penalties in connection with repayments under Part III or IV as they apply to penalties in connection with income tax.

(4) Sections 112 to 115A of and Schedule 3A to the 1970 Act (documents) shall apply to assessments, returns or any other documents made, required, issued, served, sent or lodged for the purposes of or in connection with repayments under Part III or IV as they apply to documents for the purposes of or in connection with income tax.

(5) Section 118(2) of the 1970 Act (failure to act within limited time) shall apply in relation to anything required to be done under Part III or IV as it applies in relation to anything required to be done under that Act.

(6) For the purposes of these Regulations the amount of a repayment covered by any assessment under Part III shall not be deemed to be finally determined until that assessment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

Revocation

8. Regulation 27 of the Education (Student Support) Regulations 1999 is hereby revoked.

PART II

PROVISIONS APPLICABLE TO ALL REPAYMENTS

Interpretation

9.—(1) In this Part–

"date of receipt" in relation to a repayment shall be construed in accordance with paragraphs (2) and (3);

"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(**5**), 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(**6**).

(2) For the purposes of this Part a repayment shall be considered to have been paid by the borrower and received by the Secretary of State as follows:

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

(b) where the Board has notified the Secretary of State that an amount has become payable to the Board in respect of a year of assessment under Part III, a repayment of that amount shall be considered to have been received by him 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 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 Secretary of State 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 Secretary of State has given notice under regulation 11(5)(b) that payment should be deducted, and

(iii) days before the date on which he has given notice under regulation 11(5)(e) that payment should cease to be deducted.

Interest and penalties

10.—(1) Interest or penalties charged under Parts III or IV shall not be added to the principal outstanding, and payment of such interest or penalties shall not be credited against the principal outstanding.

(**5**) 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.

(**6**) S.I.1987/1967 (see Parts III and IV of Schedule 2); the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/515, 1997/543.

(2) Any repayment received by the Secretary of State shall be applied by him in reduction or in satisfaction of:

(a) first, any outstanding penalties or charges under Part V,

(b) second, any outstanding interest, and

(c) third, any outstanding principal, which shall be reduced or satisfied from the date of receipt.

Time for repayments

11.—(1) A borrower may repay all or any part of his student loan to the Secretary of State at any time.

(2) A borrower shall not be required to repay any of his student loan before 6th April 2000.

(3) A borrower shall not be required to repay such part of his student loan as relates to a particular notification of eligibility under the Education (Student Support) Regulations 1999(**7**) until the year of assessment beginning after the date on which that eligibility terminates under regulation 8 of those Regulations.

(4) 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 Secretary of State in writing that he does not wish to repay that loan during any period in which he is required to repay a loan made 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.

(5) Subject to paragraph (7) the Secretary of State shall notify the borrower and the Board of–

(a) the first, or as the case may be next, year of assessment in respect of which the borrower may be required to make repayments under Part III;

(b) the date on and after which a borrower may be required to make repayments by way of deduction from his emoluments under Part IV;

(c) where the borrower has given the Secretary of State notification in accordance with paragraph (4), the year of assessment in respect of which the borrower shall cease to be required to make repayments under Part III;

(d) the final year of assessment in respect of which the borrower shall be required to make repayments under Part III because–

(i) the loan has been repaid to the Secretary of State in full, or

(ii) an amount sufficient to repay the balance owing to the Secretary of State in full is likely to be received by the Board under Part IV and by the Secretary of State under Part V by the 30th April following the date of issue of the notice, or

(iii) the loan has been cancelled; and

(e) the date after which a borrower shall not be required to make repayments by way of deduction from his emoluments under Part IV because–

(**7**) S.I. 1999/496, amended by S.I. 1999/2266.

(**8**) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

(**9**) S.I. 1990/1506 (N.I. 11).