STATUTORY RULES OF NORTHERN IRELAND

2011 No. 137

EDUCATION

The Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2011

Made - - - -	*22nd March 2011*
Coming into operation:	
For the purpose of regulation 7	*31st October 2011*
For all other purposes	*6th April 2011*

The Department for Employment and Learning(**1**) makes the following Regulations in exercise of the powers conferred by Articles 3(2) to (5) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(**2**) and now vested in it(**3**).

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2011 and, subject to paragraph (2), come into operation on 6th April 2011.

(2) Regulation 7 comes into operation on 31st October 2011.

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

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009(**4**) shall be amended as provided by regulations 3 to 12.

3. In regulation 3 (Interpretation)—

(a) after the definition of "repayment" insert—

""repayment threshold" means an amount given in regulation 24(6);

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; *see* S.I. 1999/283 (N.I. 1) and 2001 c.15 (N.I.)
(**2**) S.I. 1998/1760 (N.I. 14) Article 3(3) was amended by the Student Loans (Amendment) Act (Northern Ireland) 2011 c. 2 (N.I.)
(**3**) S.R. 1999 No. 481*see* Article 5(b) and Schedule 3 Part II
(**4**) S.R. 2009 No. 128, amended by S.R. 2010 No. 91

"repayment threshold Year" means: the period from 6th April to 5th April of the following year;";

(b) in the definition of "tax year" —

(i) in sub-paragraph (b) before "for the purpose of Part 3" insert "subject to sub-paragraph (c),"

(ii) After sub-paragraph (b) insert—

"(c) for the purposes of regulations 31 and 35(1) and (2) means the period from 6th April to 5th April of the following year"; and

(c) after the definition of "tax year" insert—

""tax year 2009-10" for the purpose of Part 3 means the tax year beginning on 6 th April 2009 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way);".

4. In regulation 15(4) (Refunds) for "£15,000" substitute "the repayment threshold".

5. In regulation 24 (Time for and amount of repayments)—

(a) in paragraph (3)(a) for "first £15,000" substitute "repayment threshold" and

(b) after paragraph (5) insert—

"(6) The repayment threshold is—

(a) for any repayment threshold year ending on or before 5th April 2012, an amount of £15,000;

(b) for any repayment threshold year ending on or after 6th April 2012 but before or on 5th April 2016, an amount equal to X + (X x Y%) and rounded up to the nearest £5 where—

X is the repayment threshold for the previous repayment threshold year,

Y is the percentage increase between the retail prices all items index published by the Office for National Statistics for the two Marches immediately before the commencement of the previous tax year; and

(c) for any repayment threshold year ending on or after 6th April 2016, the amount of the repayment threshold for the previous repayment threshold year;"

6. For regulation 31 (Surcharges) substitute—

"**Late payment penalties**

31. Schedule 56 to the Finance Act 2009(**5**) (penalty for failure to make payments on time) applies to repayments which have become payable by a borrower under this Part as it applies to an amount of income tax which—

(a) is payable in relation to the tax year 2010-11 or any subsequent tax year, and

(b) falls within—

(i) item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule, or

(ii) insofar as the tax falls within item 1 of that Table, item 17, 23 or 24 of that Table.".

7. For regulation 34 (Interest) substitute—

(**5**) 2009 c. 10

"**Interest**

34.—(1) Subject to paragraph (2), any repayment due and payable under this Part carries 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 whichever of the following days is applicable—

(a) the last day of the period referred to in regulation 30(2); or

(b) the date mentioned in regulation 30(3),

until payment, whether or not the applicable day is a non-business day with the meaning of section 92 of the Bills of Exchange Act 1882(**6**).

(2) In relation to any repayment amount due under this Part and outstanding immediately prior to 31st October 2011—

(a) section 178 of the Finance Act 1989(**7**) for the purposes of section 86 of the 1970 Act has effect up to and including 30th October 2011, and

(b) sections 101 and 103 of the Finance Act 2009 have effect on and after 31st October 2011.

(3) Sections 90 and 91 of the 1970 Act apply to interest under this regulation as they apply to interest on income tax.

(4) Subject to paragraph (5), a refund by HMRC to a borrower of an overpayment of amounts payable under this Part carries interest at the rate applicable under section 103 of the Finance Act 2009 from the date on which the overpayment arose to the date on which the order for the refund is issued.

(5) In relation to any refund by HMRC where the date of overpayment arose on or before 30th October 2011—

(a) section 178 of the Finance Act 1989 has effect for any period up to and including 30th October 2011; and

(ii) sections 102 and 103 of the Finance Act 2009 has effect for any period on or after 31st October 2011.".

8. In regulation 35 (Penalties)—

(a) for paragraph (1) substitute—

"(1) Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc) applies—

(a) in relation to a return or other document which is required to be made or delivered to Her Majesty's Revenue and Customs for the tax year 2010-11 or any subsequent tax year,

(b) which falls within item 1 of the Table in paragraph 1 of that Schedule, and

(c) which is required to include information under regulation 25,

as it applies to income tax on that same return."; and

(b) for paragraph (2) substitute—

"(2) The references to liability to tax in Schedule 55 to the Finance Act 2009 are construed as references to the aggregate of the amounts which, if a proper return had been delivered on the filing date, would have been payable—

(a) by the taxpayer under section 59B of that Act (payment of income tax and capital gains tax); and

(**6**) 1882 c.61 Section 92 was amended by the Banking and Financial Dealings Act 1971 (c.80) sections 3(1) and 4(4)
(**7**) 1989 c.26 Section 178 was amended by the Finance Act 1994 (c.9), Schedule 19, Paragraph 44