STATUTORY RULES OF NORTHERN IRELAND

2006 No. 331

EDUCATION

The Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations (Northern Ireland) 2006

Made - - - -	*8th August 2006*
Coming into operation	*1st September 2006*

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

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations (Northern Ireland) 2006 and come into operation on 1st September 2006.

Amendment of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000(**4**) shall be provided by regulations 3 to 8.

3. In regulation 9—

(a) there shall be inserted in the appropriate place the following definitions—

> ""the 1998 to 2005 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 1998(**5**), the Education (Student Support) Regulations (Northern Ireland 1999(**6**), the Education (Student Support) Regulations (Northern Ireland) 2000(**7**), the Education (Student Support)

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; *see*S.I. 1999/283 (N.I. 1) and the Department for Employment and Learning Act (Northern Ireland) 2001 c.15
(**2**) S.I. 1998/1760 (N.I. 14)
(**3**) S.R. 1999 No. 481*see* Article 5(b) and Schedule 3 Part II transferred functions from the Department of Education to the Department of Higher and Further Education, Training and Employment which is now renamed the Department for Employment and Learning
(**4**) S.R. 2000 No. 121, as amended by S.R. 2001 No. 162, S.R. 2003 No. 166, S.R. 2004 Nos. 444 and 478 and S.R. 2006 No. 28
(**5**) S.R. 1998 No. 298
(**6**) S.R. 1999 No. 192, as amended by S.R. 1999 No. 370
(**7**) S.R. 2000 No. 213, as amended by S.R. 2000 No. 254 and S.R. 2000 No. 296

Regulations (Northern Ireland) 2001(**8**), the Education (Student Support) Regulations (Northern Ireland) 2002(**9**), the Education (Student Support) Regulations (Northern Ireland) 2003(**10**), the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2004(**11**), the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2004(**12**), the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2005(**13**), the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2005(**14**), the Education (Student Support) Regulations (Northern Ireland) 2005(**15**), the Education (Student Support) (2005) Regulations (Amendment) Regulations (Northern Ireland) 2005(**16**) and the Education (Student Support) (2005 Regulations) (Amendment) Regulations (Northern Ireland) 2006(**17**);

"the 2006 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2006(**18**);

"end-on course" means —

(a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time course mentioned in paragraph (3) for which the student received or was entitled to receive an award made under the Students Awards Regulations (Northern Ireland) 1998(**19**) (other than an award within the meaning of the Students Awards Regulations (Northern Ireland) 2003(**20**)), or financial support under the 1998 to 2005 Regulations; and

(b) a full-time honours degree course beginning on or after 1st September 2006 which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time foundation degree course and for which the student received or was entitled to receive any of the financial support mentioned in paragraph (a);"

(b) after paragraph (2) there shall be inserted—

"(3) The courses mentioned in this paragraph are a course for the Diploma of Higher Education; and a course for the Higher National Diploma or Higher National Certificate of—

(a) the Business & Technician Education Council; or

(b) the Scottish Qualifications Authority."

4. For regulation 12 there shall be substituted—

(**8**) S.R. 2001 No. 277
(**9**) S.R. 2002 No. 224, as amended by S.R. 2003 No. 121
(**10**) S.R. 2003 No. 298, as amended by S.R. 2003 No. 239
(**11**) S.R. 2004 No. 254
(**12**) S.R. 2004 No. 517
(**13**) S.R. 2005 No. 298
(**14**) S.R. 2005 No. 323
(**15**) S.R. 2005 No. 340
(**16**) S.R. 2005 No. 445
(**17**) S.R. 2006 No. 252
(**18**) S. R. 2006 No. 312
(**19**) S.R. 1998 No. 273
(**20**) S.R. 2003 No.459, as amended by S.R. 2004 No. 395 and S.R. 2005 No. 466

"**12.**—(1) This regulation shall apply where a borrower is not in breach of any obligation to repay his student loan under Part 5 or any obligation to repay any loan mentioned in paragraph (4).

(2) In this regulation "post-2006 student loan" means any student loan paid under the 2006 Regulations or any subsequent Regulations made under Article 3 of the Order 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 1st 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 1st September 2006;

(ii) it is not an end-on course following on from a course which he began before 1st September 2006; and

(iii) it is not one to which he had his status as a student eligible for support under Regulations made under Article 3 of the Order transferred from another course which he began before 1st September 2006.

(3) The Department shall cancel the borrower's liability to repay his student loan when one of the following occurs—

(a) the borrower dies;

(b) the borrower receives a disability related benefit and because of his 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

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

(4) The loans mentioned in this paragraph are loans made under the Education (Student Loans) (Northern Ireland) Order 1990(**21**), the Education (Student Loans) Act 1990(**22**), the Education (Scotland) Act 1980(**23**) and Regulations made under it and the Teaching and Higher Education Act(**24**) and Regulations made under it.

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

(a) in the case of cancellation under paragraph (3)(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.

(6) The cancellation of a borrower's liability to repay his student loan under paragraph (3) shall not affect his 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."

(**21**) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I.1996/1918 (N.I. 15), Article 3 and Schedule and S.I. 1998/258 (N.I 1), Articles 3 to 6.

(**22**) 1990 c.6: repealed by the Teaching and Higher Education Act 1998 (c.30), Schedule 4.

(**23**) 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.

(**24**) 1998. c.30

5. In regulation 13C(**25**)—

(a) after paragraph (3) there shall be inserted—

"(3A) Where a borrower has been liable to a penalty under paragraph (2) in respect of an Information Notice and has paid it, but does not comply with the Information Notice within a period of 28 days from the date of payment, the Department may require the borrower to pay one additional penalty of £100 in respect of that Information Notice;"

(b) in paragraph (4) for "or (3)" there shall be substituted "(3) or (3A)"; and

(c) in paragraph (5) for "or (3)" there shall be substituted "(3) or (3A)".

6. In regulation 13E after "13B(4)" there shall be inserted ", 13C(3A)".

7. After regulation 13E there shall be inserted—

"**13F.** Where a borrower has failed to comply with a Penalty Notice or an Information Notice or both the Department may require him to repay his loan in full immediately.

8. For Part 5 there shall be substituted—

"PART 5

Repayment by Overseas Borrowers

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 shall notify the Department of any period of residence outside the United Kingdom which exceeds three months.

(2) A borrower shall provide such information about his income during any such period of residence as the Department may require.

Notice of liability to make repayments

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

(2) In a notice served under paragraph (1) the Department 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 Department under regulation 54(2)

(**25**) Regulations 13A to 13E were inserted by S.R. 2004 No. 478, regulation 4