STATUTORY RULES OF NORTHERN IRELAND

2004 No. 444

EDUCATION

The Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2004

Made - - - -	*14th October 2004*
Coming into operation	*22nd November 2004*

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

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 22nd November 2004.

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

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000(**4**) shall be amended as provided by regulations 3 to 18.

3. In regulation 27 –

(a) the following definition shall be inserted as the first definition –

""the 2003 Act" means the Income Tax (Earnings and Pensions) Act 2003(**5**);"

(b) the definition of "the Income Tax Regulations" shall be omitted; and

(c) at the end there shall be inserted –

(**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, 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 and S.R. 2003 No. 166

(**5**) 2003 c. 1

""the PAYE Regulations" means the Income Tax (Pay As You Earn) Regulations 2003(**6**).".

4. For regulation 28 there shall be substituted –

"**28.** Subject to the provisions contained in this Part, repayments by a borrower who is an employee shall be made, accounted for and recovered in like manner as income tax deducted from the emoluments of an office or employment by virtue of regulations under section 684 of the 2003 Act."

5. In regulation 32, for paragraph (1) there shall be substituted –

"(1) Where –

(a) an employer has made an election under regulation 98(1) of the PAYE Regulations (Multiple PAYE schemes), and

(b) no improper purpose notice has been issued under regulation 99(1) of those Regulations (Multiple PAYE schemes: election made for improper purpose ineffective), or if one has been issued it has been withdrawn under regulation 99(5),

he shall be treated as having made an election for the purposes of these Regulations.".

6. In regulation 33(3) for the words "section 203E of the 1988 Act" there shall be substituted "section 691 of the 2003 Act".

7. In regulation 35 –

(a) in paragraph (1) for the words "regulation 25 of the Income Tax Regulations (Form P45), which contains a statement under regulation 50 of those Regulations" there shall be substituted "regulation 40 of the PAYE Regulations, which contains a statement under regulation 50 of those Regulations"; and

(b) in paragraph (2)(b) for the words "regulation 25 of the Income Tax Regulations" there shall be substituted "regulation 40 of the PAYE Regulations".

8. In regulation 38(1) for the words "regulation 39 of the Income Tax Regulations" there shall be substituted "regulation 67 of the PAYE Regulations".

9. In regulation 39 –

(a) in paragraph (1) for the words "paragraphs (2) and (3)" there shall be substituted "paragraphs (1A), (2), (2A) and (3)";

(b) after paragraph (1) there shall be inserted –

"(1A) Where the employer makes a payment in accordance with paragraph (1) by an approved method of electronic communications, he shall make the payment within 17 days of the end of the income tax month.";

(c) in paragraph (2) for the words "paragraph (3)" there shall be substituted "paragraphs (2A) and (3)"; and

(d) after paragraph (2) there shall be inserted –

"(2A) Where an employer makes a payment in accordance with paragraph (2) by an approved method of electronic communications, he shall make the payment within 17 days of the end of the income tax quarter.".

10. In regulation 39A(1)(**7**) for the figure "14" there shall be substituted "17".

(**6**) S.I. 2003/2682
(**7**) Regulation 39A was inserted by S.R. 2001 No. 162

11. In regulation 39B(1)(**8**) for the figure "14" there shall be substituted "17".

12. In regulation 40(**9**) –

(a) in paragraph (1) for the words "section 203 of the 1988 Act" there shall be substituted "section 684 of the 2003 Act"; and

(b) in paragraph (1A) for the words "paragraphs (1) to (5) of regulation 54 of the Income Tax (Employments) Regulations 1993 (being regulations made under section 203 of the 1988 Act)" there shall be substituted "regulation 84 of the PAYE Regulations".

13. In regulation 41 –

(a) at the start of paragraph (1) there shall be inserted "Subject to paragraph (1A)"; and

(b) after paragraph (1) there shall be inserted –

"(1A) Where payment is made by an approved method of electronic communications, the interest payable under paragraph (1) shall be calculated as if the date in paragraph (1) was the 17th day after the year of assessment.".

14. In regulation 42(**10**) –

(a) in paragraph (4) for the figure "14" there shall be substituted "17";

(b) in paragraph (5)(b) for the words "19th April" there shall be substituted "22nd April"; and

(c) in paragraph (7) for the words "section 203(2) (PAYE) or" there shall be substituted "section 684 of the 2003 Act or section".

15. In regulation 43(5) for the words "regulation 21 of the Income Tax Regulations" there shall be substituted "regulation 26 of the PAYE Regulations".

16. In regulation 50 for the words "regulation 23(1) of the Income Tax Regulations" there shall be substituted "regulation 36(2)(a) of the PAYE Regulations".

17. In regulation 51 –

(a) at the start of paragraph (1) there shall be inserted "Subject to paragraph (3),"; and

(b) after paragraph (2) there shall be added –

"(3) This regulation shall not apply where an employer has paid an electronic payment default surcharge to the Board in respect of an incorrect payment.".

18. After regulation 52 there shall be included the following regulations –

"**52A.** In the application of regulation 202 of the PAYE Regulations (default notice and appeal) for the purposes of these Regulations the only ground for appeal shall be that the employer is not in default.

52B. In the application of regulation 203 of the PAYE Regulations (default surcharge) for the purposes of these Regulations –

"A" is the total amount of repayments payable for the year of assessment in which were made the relevant deductions to which the specified payment relates; and

"B" is the total of the amounts deducted from A under regulations 39(3) and 39(4) of these Regulations.

52C. In the application of regulation 210 of the PAYE Regulations (penalties and appeals) for the purposes of these Regulations an employer shall not be liable to a penalty as a result of this regulation if the employer has been liable to a penalty for failing to comply

(**8**) Regulation 39B was inserted by S.R. 2001 No. 162
(**9**) Regulation 40 was amended by S.R. 2001 No. 162
(**10**) Regulation 42 was amended by S.R. 2001 No. 162