STATUTORY RULES OF NORTHERN IRELAND

2000 No. 121

EDUCATION

The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000

Made - - - -	*31st March 2000*
Coming into operation	*1st April 2000*

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

Part I

General

Citation and commencement

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

Interpretation

2. In these Regulations—

"the 1970 Act" means the Taxes Management Act 1970(**2**) 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(**3**) as amended from time to time both before and after the date of these Regulations;

"the Board" means the Commissioners of Inland Revenue;

"the Order" means the Education (Student Support) (Northern Ireland) Order 1998;

(**1**) 1998/1760 (N.I.14); the powers were transferred to the Department of Higher and Further Education, Training and Employment by S.R. 1999 No. 481, Articles 5(*b*) and Schedule 3 Part II
(**2**) 1970 c. 9
(**3**) 1988 c. 1

"borrower" means a person to whom the Department has lent money pursuant to regulations made under Article 3 of the Order and who has not received a notice from it that it has been repaid in full or cancelled;

"collector" means a Collector of Taxes;

"Department" means the Department of Higher and Further Education, Training and Employment and includes any person exercising functions on its behalf pursuant to Article 4 of the Order;

"inspector" means an Inspector of Taxes;

"repayment" means a repayment of a student loan;

"student loan" means the total outstanding principal, interest, penalties and charges owed by a borrower to the Department pursuant to these or any other regulations made under Article 3 of the Order, excluding any interest, penalties or charges payable under Part III or IV;

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

Application

3. These Regulations apply to repayments of student loans made under the Order.

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 and the Department of Finance and Personnel (acting concurrently) direct, account to the Department for, and pay to it, 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 sums in respect of 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 in such a manner as the Treasury may direct, into the Consolidated Fund of the United Kingdom.

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. Without prejudice to section 24(1) of the Interpretation Act (Northern Ireland) 1954(**4**) any notice or other document which is authorised or required to be given, served or issued under these Regulations may be sent by ordinary 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.

(**4**) 1954 c. 33 (N.I.)

(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 (Northern Ireland) 1999(**5**) 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 paragraph (2);

"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 (Northern Ireland) Act 1992(**6**), 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 (Northern Ireland) 1987(**7**).

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

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

(**5**) S.R. 1999 No. 192
(**6**) 1992 C. 7, amended by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 S.I.1994/1898 (N.I. 12), Articles 3 to 5, 7 to 8, 10 to 12 and Schedules 1 and 2.
(**7**) S.R. 1987 No. 459 (*see* Parts III and IV of Schedule 2); relevant amending Regulations are S.R. 1988 Nos. 146 and 431, S.R. 1989 No. 395, S.R. 1990 No. 387, S.R. 1991 No. 338, S.R. 1992 No. 6, S.R. 1993 Nos. 218 and 373, S.R. 1994 Nos. 327 and 474, S.R. 1995 Nos. 67, 301 and 434 and S.R. 1997 No. 435

(b) where the Board has notified the Department 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 it 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 Department 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 Department has given notice — under regulation 11(5)(*b*) that payment should be deducted, and

(iii) days before the date on which it 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 Part 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.

(2) Any repayment received by the Department shall be applied by it 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 Department 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 (Northern Ireland) 1999 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 Department 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) (Northern Ireland) Order 1990(**8**) or the Education (Student Loans) Act 1990(**9**);

shall not be required to repay any of his student loan during any such period.

(5) Subject to paragraph (7) the Department shall notify the borrower and the Board of—

(**8**) S.I. 1990/1506 (N.I. 11); as amended by S.I. 1996/274 (N.I.), Article 43 and Schedule 5 Part II, S.I. 1996/18 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I), Articles 3 to 6

(**9**) 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 9 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), sessions 1 to 3.

(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 Department 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 Department in full, or

(ii) an amount sufficient to repay the balance owing to the Department in full is likely to be received by the Board under Part IV and by the Department 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—

(i) the loan has been repaid to the Department in full, or

(ii) an amount sufficient to repay the balance owing to the Department in full is likely to be received by the Board under Parts III and IV and by the Department under Part V by that date, or

(iii) the loan has been cancelled; or

(iv) the borrower has given the Department notification in accordance with paragraph (4).

(6) The Department shall not issue a notice under paragraph (5)(*d*) after the end of the calendar year during which the final year of assessment specified in the notice ends.

(7) Where the Department has notified a borrower and the Board that repayments under Parts III and IV shall no longer be made but at a later date it appears to him that the student loan has not been fully repaid he may give further notices in accordance with paragraph (5).

(8) The Department shall not be required to give notices under paragraph (5)(*a*) or (*b*) where the borrower's student loan does not exceed £120.

(9) Where under paragraph (8) the Department is not required to give notices under paragraph (5)(*a*) or (*b*) he may require the borrower to repay his student loan in such manner and over such period of time as in all the circumstances seems appropriate.

Cancellation

12.—(1) Subject to paragraph (4) where a borrower is not in breach of any obligation to repay his loan in accordance with Part V or in breach of any obligation to repay any other loan mentioned in paragraph (2) and the Department is satisfied that he —

(a) has died;

(b) has attained the age of 65; or

(c) receives a disability related benefit and because of his disability he is permanently unfit for work

the Department shall cancel his liability to repay his student loan.