

2013 No. 68

EDUCATION

**The Education (Student Loans) (Repayment) (Amendment)
Regulations (Northern Ireland) 2013**

Made - - - - - *13th March 2013*

Coming into operation - - - - - *6th April 2013*

The Department for Employment and Learning^(a) 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^(b) and now vested in it^(c).

Citation and Commencement

1. These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations (Northern Ireland) 2013 and come into operation on 6th April 2013.

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

2. The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009^(d) are amended as provided by regulations 3 to 12.

3. In regulation 9 (Penalties in relation to Parts 3 and 4), for paragraph (2) substitute—

“(2) Schedule 38 to the Finance Act 2012 (Tax Agents: Dishonest Conduct) applies for the purpose of repayments under Part 3 or 4 as it applies for the purposes of income tax.”.

4. In regulation 28 (Other returns and information), for paragraph (1) substitute—

“(1) Sections 20BA (orders for the delivery of documents) and 20BB (falsification etc of documents) of the 1970 Act, Schedule 23 to the Finance Act 2011^(e) and Schedule 38 to the Finance Act 2012^(f) apply for the purposes of establishing the amount of the repayment a borrower may be required to make under this Part as they apply for the purposes of establishing the amount in respect of which a person is chargeable to income tax.”.

5. In regulation 36A^(g) (Real Time Information employers), omit sub-paragraph (1)(c) (but not the “and” after it).

(a) 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.)
(b) 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.)
(c) S.R. 1999 No. 481 *see* Article 5(b) and Schedule 3 Part II
(d) S.R. 2009 No. 128, amended by S.R. 2010 No. 91, S.R. 2011 No. 137 and S.R. 2012 No.136
(e) 2011 c.11
(f) 2012 c.14
(g) Regulation 36A was inserted by S.R. 2012 No. 136, regulation 7

6. In regulation 54B(a) (Real time returns of information about payments of earnings), omit paragraphs (6) and (7).

7. After regulation 54B insert—

“Employees paid in specified circumstances

54BA.—(1) This regulation applies if an employer makes a payment to an employee and all of the circumstances in paragraph (2) apply.

(2) The circumstances are that—

- (a) the payment includes an amount which is a relevant payment for work undertaken by the employee on—
 - (i) the day the payment is made, or
 - (ii) provided that the payment is made before the employee leaves the place of work at the end of the employee’s period of work, the day before the payment is made,
- (b) in respect of the work mentioned in sub-paragraph (a), it was not reasonably practicable for the employer to calculate the payment due before the completion of the work, and
- (c) it is not reasonably practicable for the employer to deliver the information required by regulation 54B(1) on making the payment.

(3) The employer need not deliver the information required by regulation 54B(1) on or before making the payment.

(4) The employer must deliver that information no later than the end of the period of 7 days starting with the day following the day on which the payment is made.

(5) Where this regulation applies, the information required under regulation 54B(1) in respect of the relevant payment may be included in a return with the information for any other relevant payment.

Benefits and expenses – returns under regulations 85 to 87 of the PAYE Regulations

54BB.—(1) This paragraph applies if an employer makes a payment of general earnings to an employee which, for the purposes of tax falls to be included in a return under—

- (a) regulations 85 and 86 of the PAYE Regulations (employers: annual return of other earnings (Forms P11D and P9D) – information which must be provided for each employee)(b), or
- (b) regulations 85 and 87 of the PAYE Regulations (employers: annual return of other earnings (Forms P11D and P9D) – information which must also be provided for benefits code employees) or would do if the employee’s employment was subject to the benefits code for the purposes of regulation 85 of the PAYE Regulations.

(2) If the employer is unable to comply with the requirement in regulation 54B(1) to deliver the information required by that regulation on or before making the payment, the employer must instead deliver the information as soon as reasonably practicable after the payment is made and in any event no later than 14 days after the end of the income tax month the payment is made in.”

8. In regulation 54E (Exceptions to regulation 54B)—

- (a) in paragraph (1)—
 - (i) omit the “or” after sub-paragraph (c), and

(a) Regulations 54A to 54F were inserted by S.R. 2012 No. 136, regulation 16
(b) Regulation 36 of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009, S.R. 2009 No. 128, defines the PAYE Regulations as the Income Tax (Pay As You Earn) Regulations 2003, S.I. 2003/2682

- (ii) in paragraph (d), for “.” substitute—
 - “, or
 - (e) an employer to whom a direction has been given under regulation 67(11) of the PAYE Regulations.”;
 - (b) after paragraph (2) insert—
 - “(2A) Before 6 April 2014, a Real Time Information employer to whom this regulation applies may proceed as if the employer were a non-Real Time Information employer and the provisions of these Regulations apply accordingly to such employer.”;
 - (c) in paragraph (3), substitute “On and after 6 April 2014, the” for “An”; and
 - (d) omit paragraphs (7) and (8).
- 9.** In regulation 54F (Returns under regulations 54B and 54E: amendments)—
- (a) omit paragraph (6)(a)(ii); and
 - (b) in paragraph (6)(c), substitute “approved” for “appropriate”.
- 10.** After regulation 54F insert—

“Failure to make a return under regulation 54B or 54E

54G.—(1) This regulation applies where an employer does not make a return as required by regulation 54B (Real time returns of information about payments of earnings) or 54E (exceptions to regulation 54B).

(2) The employer must provide the information in the next return made under regulation 54B or 54E for the tax year in question.

(3) If the information has not been provided before 20 April following the end of the tax year in question, the employer must make a return under this paragraph before 20 May following the tax year in question.

(4) A return under paragraph (3)—

- (a) must include the information specified in Schedule 2;
- (b) must be made as soon as reasonably practicable after discovery of the failure to make the return, and
- (c) must be made by an approved method of electronic communications.

(5) Section 98A of the 1970 Act (special penalties in case of certain returns) applies to returns under paragraph (3).”.

11.—(1) In regulation 70 (Repayment by income-related instalments), after paragraph (2) insert—

“(2A) The Department must determine the amount of each instalment and must ensure that the total amount of all instalments paid in the period up to 12 months from the date of the first instalment referred to in paragraph (2) must not exceed the relevant amount.”

(2) For paragraph (4), substitute—

“(4) The amount of each instalment must be stated in the determination.”.

12. In regulation 71 (Calculation of fixed instalment and applicable threshold) in paragraph (3), for “the World Bank” substitute “the World Bank’s Development Indicators”.

Sealed with the Official Seal of the Department for Employment and Learning on 13th March 2013.



Dr Stephen Farry MLA
Minister for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (S.R. 2009, No. 128) (“the principal Regulations”). The principal Regulations govern the repayment of income-contingent student loans paid to students under Articles 3(2) to (5) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998.

Regulations 3 to 10 amend the principal Regulations.

Regulations 4 and 9 substitute new penalties, for dishonest conduct of tax agents, for those in the principal Regulations.

Regulation 5 amends the definition of Real Time Information employers to exclude certain employers from becoming Real Time Information employers from 6 April 2013.

Regulations 6 and 10 amend how penalties are imposed where there is a failure to make returns under regulations 54B or 54E of the principal Regulations.

Regulation 7 inserts new regulations 54BA and 54BB into the principal Regulations. New regulations 54BA and 54BB make provision for exceptions from the requirement in regulation 54B to deliver information on or before the making of a payment.

Regulation 8 amends regulation 54E to extend the time limit and the categories of employers who are not required to deliver information to Her Majesty’s Revenue and Customs regarding a payment on or before making the payment to employees. The employers specified in regulation 54E(1), which include those employers whom Her Majesty’s Revenue and Customs has directed are unable to file using an approved method of electronic communications, are for the tax year 2013-14 entitled to file in accordance with the provisions in the principal Regulations which do not relate to Real Time Information employers.

Regulation 9 removes the requirement to specify the tax year to which the return relates, as it is unnecessary.

Regulation 11 makes changes to how the value of income-related instalments is determined for loans where the borrower is not resident in the UK.

Regulation 12 amends a reference to the World Bank.

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