
STATUTORY INSTRUMENTS

2023 No. 1184

EDUCATION, ENGLAND AND WALES

The Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2023

Made - - - - *7th November 2023*
Laid before Parliament *9th November 2023*
Laid before Senedd Cymru *9th November 2023*
Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes these Regulations in relation to England in exercise of the powers conferred by sections 22(2)(g), (3) and (4)(a) and 42(6) of the Teaching and Higher Education Act 1998(a).

The Welsh Ministers make these Regulations in relation to Wales in exercise of the powers conferred by sections 22(2)(g), (3) and (4)(a) and 42(6) of that Act(b).

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2023.

(2) This regulation and regulations 2 and 3 come into force on 1st December 2023.

(3) Regulation 4 comes into force on 6th April 2024.

(4) These Regulations extend to England and Wales.

(5) In these Regulations, the “2009 Regulations” means the Education (Student Loans) (Repayment) Regulations 2009(c).

New provision capping interest rate on certain student loans

2. In the 2009 Regulations—

(a) omit regulation 20B(a) (interest rate not to exceed prevailing market rate);

(a) 1998 c. 30. Section 22(2)(g) will be amended by the Higher Education and Research Act 2017 (c. 29), section 86(1) and (3)(b). Section 22(3) was amended by the Higher Education Act 2004 (c. 8), section 42(1), the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257(1) and (2) and the Higher Education and Research Act 2017, section 88(1) and (5). Section 22(4)(a) was substituted by the Education Act 2011, section 76(1). See section 43(1) for the definitions of “prescribed” and “regulations”.

(b) The functions of the Secretary of State under section 22(2)(g), (3)(a) and (4)(a) in relation to Wales were transferred to the National Assembly for Wales by section 44(1) of the Higher Education Act 2004 (c. 8). The functions of the Secretary of State under section 42(6) as regards Wales were transferred to the National Assembly for Wales by S.I. 1999/672. These functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). The National Assembly for Wales was renamed Senedd Cymru or the Welsh Parliament by section 2 of the Senedd and Elections (Wales) Act 2020 (anaw 1).

(c) S.I. 2009/470.

(b) insert before regulation 21—

“Interest rate cap: plan 2, plan 3 and plan 5 loans

20BA.—(1) In this regulation—

- (a) “relevant interest rate”, in relation to a month, means—
 - (i) in relation to a plan 2 loan, the rate at which the loan bears interest as determined in accordance with regulation 21A;
 - (ii) in relation to a plan 3 loan, the rate at which the loan bears interest under regulation 21B;
 - (iii) in relation to a plan 5 loan, the rate at which the loan bears interest under regulation 21C;
- (b) the “interest rate cap”, in relation to a month, means the interest rate determined in accordance with paragraph (4).

(2) Paragraph (3) applies where the relevant interest rate in relation to a particular plan 2 loan, plan 3 loan or plan 5 loan exceeds by 0.1 per cent or more, in relation to any month, the interest rate cap.

(3) In relation to each day of the month concerned, the loan concerned bears interest at the interest rate cap, and regulation 21A, 21B or 21C (as the case may be) must be read accordingly.

(4) The “interest rate cap”, in relation to a month (“month A”), is the lower of the following—

- (a) the interest rate calculated by—
 - (i) taking the sum of the interest rates published in data set 1 in relation to the month (“month B”) that is the third month before month A and the 11 months preceding month B,
 - (ii) dividing by 12, and
 - (iii) rounding to the first decimal point;
- (b) the interest rate calculated by—
 - (i) taking the sum of the interest rates published in data set 2 in relation to month B and the 11 months preceding month B,
 - (ii) dividing by 12, and
 - (iii) rounding to the first decimal point.

(5) In paragraph (4)—

“data set 1” means data set CFMZ6LI(b) as published by the Bank of England (monthly average of UK resident banks’ sterling weighted average interest rate - other loans with a fixed rate to individuals and individual trusts (in per cent) not seasonally adjusted);

“data set 2” means data set CFMZ6K9(c) as published by the Bank of England (monthly average of UK resident banks’ sterling weighted average interest rate - other loans, new advances, on a fixed rate to individuals and individual trusts (in per cent) not seasonally adjusted).

(a) Regulation 20B was inserted by S.I. 2022/1335 and amended by S.I. 2023/129, 2023/521 and 2023/898.

(b) Available at: <https://www.bankofengland.co.uk/boeapps/database/fromshowcolumns.asp?Travel=NIxAZxSUx&FromSeries=1&ToSeries=50&DAT=RNG&FD=1&FM=Jan&FY=2010&TD=11&TM=May&TY=2025&FNY=Y&CSVF=TT&html.x=66&html.y=26&SeriesCodes=CFMZ6LI&UsingCodes=Y&Filter=N&title=CFMZ6LI&VPD=Y>

(c) Available at: <https://www.bankofengland.co.uk/boeapps/database/fromshowcolumns.asp?Travel=NIxAZxSUx&FromSeries=1&ToSeries=50&DAT=RNG&FD=1&FM=Jan&FY=2010&TD=11&TM=May&TY=2025&FNY=Y&CSVF=TT&html.x=66&html.y=26&SeriesCodes=CFMZ6K9&UsingCodes=Y&Filter=N&title=CFMZ6K9&VPD=Y>

(6) The Authority must publish the interest rate cap in relation to every month, as soon as practicable and by whatever means and in whatever media the Authority thinks fit.”

Interest rate cap: consequential amendments

3.—(1) The 2009 Regulations are amended as follows.

(2) In regulation 16(a) (deferral of repayment: initial training of teachers)—

(a) in paragraph (3A)—

(i) at the beginning of sub-paragraph (a), insert “if paragraph (3AA) does not apply,”;

(ii) for sub-paragraph (b), substitute—

“(b) if paragraph (3AA) applies, the interest rate cap within the meaning of regulation 20BA(4).”;

(b) after paragraph (3A), insert—

“(3AA) This paragraph applies if, in relation to a month, the standard interest rate exceeds by 0.1 per cent or more the interest rate cap within the meaning of regulation 20BA(4).”.

(3) In regulation 21A(11A)(b) (interest rate on plan 2 loans), for paragraph (b), substitute—

“(b) regulation 20BA (interest rate cap: plan 2, plan 3 and plan 5 loans).”.

(4) In regulation 21B(c) (interest rate on plan 3 loans), for paragraph (4ZA), substitute—

“(4ZA) This regulation is subject to regulation 20BA (interest rate cap: plan 2, plan 3 and plan 5 loans).”.

(5) In regulation 21C(d) (interest rate on plan 5 loans), for paragraph (4), substitute—

“(4) This regulation is subject to regulation 20BA (interest rate cap: plan 2, plan 3 and plan 5 loans).”.

Repayments by overseas borrowers: new fixed instalment rate for plan 1 loans

4.—(1) The 2009 Regulations are amended as follows.

(2) For regulation 74(3)(e) (fixed instalment rate), substitute—

“(3) The fixed instalment rate for a plan 1, 2, 3 or 5 loan is calculated in accordance with regulation 74A.”.

(3) In regulation 74A(f) (how to calculate fixed instalment rate)—

(a) in paragraph (1) for “plan 2” substitute “plan 1, 2”;

(b) in paragraph (2) for “plan 2” substitute “plan 1, 2”;

(c) after paragraph (3), in the Example, for “applicable to plan 2” substitute “applicable to plan 1, 2”.

7th November 2023

Barran
Parliamentary Under-Secretary of State
Department for Education

7th November 2023

Jeremy Miles
Minister for Education and Welsh Language, one of the Welsh Ministers

(a) Regulation 16 was amended by S.I. 2011/784 and 2022/1335.

(b) Regulation 21A was inserted by S.I. 2012/1309 and amended by S.I. 2013/607; 2013/1881; 2018/284; 2019/189; 2022/1151; 2022/1335.

(c) Regulation 21B was inserted by S.I. 2017/831 and amended by S.I. 2022/1151; 2022/1335.

(d) Regulation 21C was inserted by S.I. 2022/1335.

(e) Regulation 74(3) was inserted by S.I. 2022/1335.

(f) Regulation 74A was inserted by S.I. 2022/1335 and amended by S.I. 2023/521.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470) (“the 2009 Regulations”), which make provision for the repayment of income-contingent student loans in England and Wales.

Regulation 2 amends the 2009 Regulations to cap the interest that would otherwise be payable on certain undergraduate and postgraduate student loans (under regulations 21A, 21B and 21C). It puts in place a long-term interest rate cap, assessed on a monthly basis (replacing the existing regulation 20B, which was calculated on a quarterly basis and required quarterly amending Regulations to be made). The cap is calculated in relation to a month, first, by calculating the 12 month rolling average in two data sets published by the Bank of England (for further details, see below) and, then, by taking the lower of the two. The Authority is required to publish the interest rate cap for each month.

Regulation 3 makes amendments to the 2009 Regulations consequential on the change made by regulation 2.

Regulation 4 concerns the scope of the fixed instalment rate, which is relevant to the repayment of student loans by overseas borrowers. It provides for the fixed instalment rate for plan 1 student loans to be calculated in the same way as for plan 2, plan 3 and plan 5 student loans.

The data sets mentioned in relation to regulation 2, CFMZ6LI and CFMZ6K9, are available at:

<https://www.bankofengland.co.uk/boeapps/database/fromshowcolumns.asp?Travel=NIxAZxSUx&FromSeries=1&ToSeries=50&DAT=RNG&FD=1&FM=Jan&FY=2010&TD=11&TM=May&TY=2025&FNY=Y&CSVF=TT&html.x=66&html.y=26&SeriesCodes=CFMZ6LI&UsingCodes=Y&Filter=N&title=CFMZ6LI&VPD=Y>

<https://www.bankofengland.co.uk/boeapps/database/fromshowcolumns.asp?Travel=NIxAZxSUx&FromSeries=1&ToSeries=50&DAT=RNG&FD=1&FM=Jan&FY=2010&TD=11&TM=May&TY=2025&FNY=Y&CSVF=TT&html.x=66&html.y=26&SeriesCodes=CFMZ6K9&UsingCodes=Y&Filter=N&title=CFMZ6K9&VPD=Y>

A copy of the data sets in hard copy can be requested by writing to the Department for Education, Funding Policy Unit, Repayments Team, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to the exercise of the Welsh Ministers’ functions under these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff CF10 3NQ.