



TC05281

Appeal number: TC/2016/00274

STUDENT LOAN – whether Appellant had threshold income so as to trigger repayment – held, yes

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

MICHAEL OLUWASEUN BAMIDELE

Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S
REVENUE & CUSTOMS**

Respondents

**TRIBUNAL: JUDGE ANNE REDSTON
MR NIGEL COLLARD**

Sitting in public at the Tribunal Centre, Ashford, Kent on 22 June 2016

The Appellant in person

**Mr Stephen Goulding of HM Revenue & Customs Appeals and Reviews Unit,
for the Respondents**

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DECISION

1. This is Mr Bamidele’s appeal against the decision of HM Revenue & Customs (“HMRC”) that he was liable to make student loan repayments of £2,487 for the 2012-13 tax year. We dismissed his appeal and upheld HMRC’s decision.

The legislation

2. The main statutory provisions are the Education (Student Loans) (Repayment) Regulations 2009. As far as we are aware, this is the first case involving the Regulations to come before the Tribunal. In this decision, all references to “Regulations”, “Reg” or “Regs” are to those regulations, which were made under ss 22 and 42 of the Teaching and Higher Education Act 1998.

3. So far as relevant to this appeal, the Regulations are set out in the Appendix. The next following paragraphs are a summary of those provisions.

4. A borrower of a student loan whose income has reached “the repayment threshold” must make a repayment of that loan, see Reg 29(1) and (4). In the 2012-13 tax year, the repayment threshold was £15,795, calculated in accordance with Reg 29(7).

5. Reg 29(3) provides that the repayment must be 9% of the borrower’s “total income”. This is defined in Reg 29(4) as the borrower's total income calculated in accordance with Income Taxes Act 2007, s 23, step 1, but excluding certain prescribed amounts, one of which is the repayment threshold; another is “unearned income unless the amount of such income for that year exceeds £2,000”.

6. Unearned income is defined in Reg 29(5) as income other than that charged under either (a) the Income Tax (Earnings and Pensions) Act 2003 (“ITEPA”) or (b) Part 2 of the Income Tax (Trading and Other Income) Act 2005 (“ITTOIA”). ITEPA imposes tax on employment income, pension income and certain social security income, see s 1 of that Act. Part 2 of ITTOIA imposes tax on trading income and related income, see s 3 of that Act.

7. It was common ground that dividends are not chargeable under either ITEPA or Part 2 of ITTOIA, and so were unearned income to be taken into account as part of total income, providing they were more than the £2,000 disregard in Reg 29(4).

8. Reg 30 allows HMRC to require borrowers to include in their annual self-assessment (“SA”) returns “such information as may reasonably be required” so that HMRC can establish “the amount of the repayment a borrower is required to make for a tax year”. The 2012-13 SA return included boxes headed “income contingent student loan notification” and “student loan repayment deducted amount”.

9. Reg 31(1) provides that every SA return shall include a self-assessment of the “amount payable by the borrower by way of repayment”, and Reg 31(2) states that Taxes Management Act 1970 (“TMA”) s 9, which deals with self-assessment, and TMA s 9A, which gives HMRC power to enquire into SA returns, apply to a self-assessment under Reg 31 as they apply to a self-assessment under TMA s 9.

10. Reg 34 provides that TMA Part IV, which deals with assessment and claims, applies for the purpose of assessing the amount a borrower is required to make under the Regulations. It also provides that TMA Part V, which deals with appeals, has effect for the purpose of an appeal against any such assessment “as if any reference to an assessment or a self-assessment included a reference to an assessment or self-assessment for the purposes of this Part”.

11. TMA s 31(1)(a) is contained within TMA Part V. It gives a right of appeal against an HMRC amendment to a person’s SA return to prevent a loss of tax. Read with Reg 34, it gives Mr Bamidele the right to appeal against HMRC’s amendment to his SA return, which was made to collect a repayment of his student loan.

The evidence

12. HMRC provided the Tribunal and Mr Bamidele with a helpful Bundle of documents, which included relevant correspondence between the parties and between the parties and the Tribunal. It also contained:

- (1) Mr Bamidele’s SA return for 2012-13 and the related Tax Calculation;
- (2) the statutory accounts for Tamjo Solutions Limited (“TSL”), a company owned by Mr and Mrs Bamidele, for the year ended 31 May 2013; and
- (3) a P14 form submitted by TSL, setting out Mr Bamidele’s pay and income tax details for 2012-13.

13. Before the hearing Mr Bamidele sent the Tribunal a copy of his bank statements for the two months beginning 19 June 2012 and 19 December 2012. He told us he had also sent a copy to HMRC, but Mr Goulding had not received those documents. We make no finding as to whether they were in fact sent to HMRC: this was disputed. We granted a short adjournment to allow Mr Goulding to consider the bank statements.

14. Mr Bamidele also gave oral evidence, was cross-examined by Mr Goulding and answered questions from the Tribunal. As explained in more detail in the main body of this decision, we found him to be an unreliable witness, in particular in relation to the key issue in dispute, namely the amount of money he had received from TSL in 2012-13

The points in dispute

15. HMRC had amended Mr Bamidele’s SA return based on the information contained in it, taken together with TSL’s statutory accounts and the P14 submitted by TSL for Mr Bamidele.

16. Mr Bamidele’s grounds of appeal stated that:
- (1) his income was below the repayment threshold. TSL’s statutory accounts had not been approved by him and were incorrect, and he had not approved his submitted SA return, which was also incorrect; and
 - (2) he had had no income since April 2013, and the Tribunal should cancel his student loan liability in consequence.

17. At the hearing, Mr Bamidele added the further ground of appeal that, even if he was over the threshold, it was unfair of HMRC to seek a repayment, as his wife was in the same position and had not been subjected to an enquiry or asked to make a repayment.

5 *Matters not before the Tribunal*

18. HMRC had issued Mr Bamidele with a penalty of £484.96 for carelessly completing his SA return, and Mr Bamidele had appealed against that penalty. However, HMRC suspended the penalty and by the time of this hearing, the suspension conditions had been met. Mr Goulding and Mr Bamidele confirmed to the
10 Tribunal that the penalty was not now in issue between the parties. We say no more about it.

19. On 13 April 2015 HMRC issued Mr Bamidele with a penalty of £300 under Sch 36, Finance Act 2008 for failure to respond to an information notice. That penalty has not been appealed and was not before the Tribunal.

15 **The facts**

20. Based on the evidence provided, we make the findings of fact here set out. We make further findings of fact later in our decision.

21. It was common ground that Mr Bamidele was a borrower of a student loan taken out before 2012-13, when the rules changed. He did not seek to argue that there
20 had been any failure to issue him with a notice of a requirement to make repayments of the loan (see Regs 15(3) and 29(1)).

22. Mr Bamidele's 2012-13 SA return was submitted on 30 January 2014. It included salary from TSL of £7,488 and dividends of £35,944 (including the 10% tax credit). The boxes relating to student loans were blank.

25 23. On 8 January 2015, Mrs Murray, an Officer of HMRC, opened an enquiry into Mr Bamidele's 2012-13 return. Her letter says:

“I only intend to look at the student loan repayments. When I look at that aspect I may find that I need to extend my check. If this happens I will let you know.”

30 24. On 3 November 2015, Mrs Murray issued a closure notice and amended Mr Bamidele's SA return to include a student loan repayment of £2,487.

How TSL was operated and managed

25. Mr and Mrs Bamidele were joint shareholders and directors of TSL, which provided management consultancy services. Mr Bamidele gave oral evidence as to
35 how the company was operated and managed, and on the basis of that evidence, which we accept, we make the findings in the next two paragraphs.

26. Mr Bamidele took “a strategic role” in TSL and its day to day operations were managed by Mrs Bamidele. She has an accounting background, having completed some of the exams set by the Chartered Institute of Management Accountants

("CIMA"), so she is a part-qualified CIMA accountant. She has previously worked as an accountant, although at the relevant time she was providing management consultancy services through TSL.

5 27. Mrs Bamidele kept TSL's books and liaised as appropriate with Orchard Accountants UK Ltd ("Orchard"), a firm of Chartered Certified Accountants. After the end of each financial year, Orchard sent Mrs Bamidele a questionnaire, which she completed using the information in TSL's books and records. She then returned the questionnaire to Orchard, along with copies of receipts. Orchard used that information to complete TSL's statutory accounts.

10 *The salary and the dividends*

28. According to the statutory accounts for the year ended 31 May 2013:

- 15 (1) TSL's turnover was £168,393, from which administrative expenses of £79,240 were deducted and to which other operating income of £4,267 was added, giving an operating profit of £93,420;
- (2) after corporation tax, TSL's net profit was £74,010;
- (3) salaries totalling £14,976 were paid to the two directors, Mr and Mrs Bamidele;
- (4) a loan of £29,466 had been made by TSL to Mr and Mrs Bamidele jointly; this remained outstanding at the end of the year;
- 20 (5) Mr and Mrs Bamidele each owned one of TSL's two issued shares; and
- (6) dividends of £71,700 were distributed during the year.

29. Mr Bamidele told the Tribunal that he and his wife had the same salary.

30. Mr Bamidele's P14 for the 2012-13 tax year stated that he had received a salary of £7,488, the same figure as is included on Mr Bamidele's SA return.

25 31. Mr Goulding took Mr Bamidele through his SA return and the statutory accounts, and drew his attention to the P14 return. He pointed out that both the P14 and his SA return give a salary figure of £7,488; that this figure is exactly half the £14,976 shown as salary in the statutory accounts and that Mr Bamidele had told the Tribunal that he and his wife had received the same salary.

30 32. Mr Bamidele then accepted he had received a salary of £7,488 during the year 2012-13 and we so find.

35 33. However, Mr Bamidele did not accept that he had received the dividends of £35,327 shown in his SA return. Mr Goulding took him to the signature page of the SA return, and Mr Bamidele agreed that it was his signature, but said "I am surprised that I signed them because I hadn't approved the accounts".

34. We find as a fact, for the avoidance of any possible doubt, that Mr Bamidele signed his SA return, which included the dividends of £35,327.

35. Mr Bamidele said that he received income of £14,760 in the 2012-13 tax year, of which part was salary and part dividends. Since he now accepted that his salary was £7,488, this meant, he said, that he had received dividends of £7,272. He stated that the £14,760 had been paid to him on a monthly basis, being £1,230 per month.
- 5 He sought to support this by referring to the bank statements he had supplied, which included the following entries:

Date	Description	Paid in
22 June 2012	Tamjo Solutions	64
22 June 2012	Bamidele M&A	1,230
5 July 2012	Stangiersk AM	900
13 July 2012	Tamjo Solutions	48
13 July 2012	Bamidele M&A	1,000
13 July 2012	Bamidele M&A	230
20 December 2012	Bamidele M&A	1,000
20 December 2012	Bamidele M&A	230
2 January 2013	Tamjo Solutions	90
7 January 2013	Stangiersk AM	900

36. Mr Bamidele said that these statements showed that he had received £1,230 for the three months of June, July and December, each being a combination of salary and dividend. In answer to a question from Mr Goulding, he said that the three amounts shown as received from TSL were reimbursed expenses.
- 10

37. Mr Goulding asked why these receipts of £1,230 had not come from TSL's own bank account. Mr Bamidele said that the money had first been transferred by TSL from its own account to a joint account with Mrs Bamidele, and from there to his own account.

- 15 38. Mr Goulding also asked Mr Bamidele why he was receiving regular monthly payments from "Stangiersk AM". Mr Bamidele initially refused to answer, but then said that the sums were "loans to individuals which are being repaid".

39. Mr Goulding invited the Tribunal to place no reliance on the evidence of the bank statements when making findings of fact as to Mr Bamidele's dividends. We agree. There is no audit trail from TSL to Mr Bamidele's bank account: in other words, we do not know how much money was transferred from TSL to the joint account, out of which these sums of £1,230 were then paid. We have also been provided with only two months' worth of bank statements (albeit containing three amounts of £1,230), so we have no information as to how much was transferred from the joint account to Mr Bamidele's account in other months.
- 20
- 25

40. Mr Goulding said that the regular monthly receipts labelled “Stangiersk AM” looked like salary payments. However, he quite properly did not ask the Tribunal to make any findings about those payments, as:

(1) they were identified only in the course of this hearing;

5 (2) HMRC had not sought to amend Mr Bamidele’s SA return to include any such further sums;

(3) no discovery assessment was before the Tribunal; and

(4) our jurisdiction in this appeal did not extend to considering whether Mr Bamidele was taxable on those receipts.

10 41. We therefore make no findings about the payments received from Stangiersk.

42. Before making findings on the dividends, we first considered the statutory accounts, which Mr Bamidele said he had not approved. The copy provided to the Tribunal had been supplied to HMRC by Orchard, along with Mr Bamidele’s SA return and a covering letter.

15 43. That letter said that the package also included “copies of emails agreeing the Accounts and the Tax Returns”. In a letter to Mr Bamidele dated 8 October 2015, Mrs Murray also refers to an email, saying:

20 “for the 2013 tax year the company accounts have been agreed by the co-director as shown in the email dated 24 March 2014 (copy enclosed).”

44. However, there was no copy of this email in the Bundle; Mr Goulding had not noticed that it was missing and Mr Bamidele denied having received it.

25 45. The Tribunal asked Mr Bamidele whether his co-director, Mrs Bamidele, had signed the statutory accounts, and he said she “might have signed”, but he hadn’t asked her whether or not she had signed, because he “didn’t think it mattered”. He also said that he did not ask Mrs Bamidele (a) whether the copy of the statutory accounts provided to HMRC by Orchard was the same as that filed at Companies’ House or (b) whether there had been any amendment to, or replacement of, those filed accounts.

30 46. The Tribunal reminded Mr Bamidele that on 22 March 2013, he had been issued with formal Directions. By Direction 2(a) he was to tell the Tribunal whether he was to call any witnesses. We asked whether, given the issues in the case and the facts in dispute, he had considered calling his wife as a witness. Mr Bamidele said it was inappropriate for his wife to give evidence, as the hearing was “personal to me and the
35 enquiry into my return”.

47. However, it was Mrs Bamidele who provided the information on which the accounts were based, who completed the questionnaires provided by Orchard, and who liaised with Orchard about those accounts. A major part of Mr Bamidele’s case was that he had not approved the accounts, and had not received the dividends shown

as paid in TSL's accounts. We find it surprising that at no point during the eighteen months since HMRC opened the enquiry into his SA return, did he ask his wife whether she had approved the accounts or whether there were any differences between the version provided by Orchard to HMRC and that filed with Companies House.

Further findings of fact

48. On the basis of our assessment of the evidence provided, we find the following further facts, in italics below, together with our reasons:

10 (1) *The statutory accounts correctly show that a dividend of £71,700 was paid to the directors.* The accounts were prepared by a firm of qualified accountants based on figures provided by Mrs Bamidele, a part-qualified CIMA accountant, who had been keeping the company's books.

15 (2) *The accounts were signed by Mrs Bamidele.* In order for the accounts to have been accepted by Companies House, they would have had to be signed. Mr Bamidele denies having signed them and the only other person who could have done so is Mrs Bamidele.

(3) *The dividend was divided between Mr and Mrs Bamidele equally, so they each received £35,850.* This follows from the fact that both Mr and Mrs Bamidele owned one share in TSL.

20 (4) *Mr Bamidele's SA return correctly includes a dividend of £35,944 (including the 10% tax credit) for the 2012-13 tax year.* The statutory accounts show that in the year to 31 May 2013, dividends of £35,850 were paid to each shareholder. Mr Bamidele's SA return gives the figure of £35,944 for the tax year to 5 April 2013. We find, on the balance of probabilities, that the slight
25 difference between these figures is likely to have been caused by the fact that the two periods are not exactly coterminous.

49. It follows from the above that Mr Bamidele's total income is as stated on his SA return. It is above the repayment threshold.

Other points

30 50. The following submissions were made by Mr Bamidele as to why he should not have to make a repayment of his student loan, even were the Tribunal to find that his income was over the threshold.

Income after May 2013

35 51. Mr Bamidele said that in May 2013, shortly after the end of the relevant year, he stopped working for TSL and set up a new company, Direct Technologies Ltd. He said he had been working for that company without any reward since that date, and was entirely reliant on his wife's income.

52. Mr Goulding submitted that this was irrelevant: the Regulations provided that repayment was a statutory obligation if the conditions therein set out were met.

53. We make no finding on Mr Bamidele’s income for subsequent years. We agree with Mr Goulding that it is irrelevant to the issue we have to decide, for the reason he gives.

Cancellation of obligation?

5 54. Mr Bamidele asked the Tribunal to cancel his student loan obligations because he has no income. He accepted that, as at the date of the hearing, his student loan was still extant.

55. Mr Bamidele’s appeal to the Tribunal is against HMRC’s amendment to his SA return, not against a refusal to cancel the student loan in its entirety. The Tribunal has
10 no jurisdiction to decide whether his student loan should be cancelled.

56. However, we observe that Reg 15 provides that a student loan can be cancelled on death, permanent disability or 25 years after the loan was taken out. Mr Bamidele does not meet any of these conditions.

Unfairness

15 57. Mr Bamidele also submitted that it was unfair of HMRC to open an enquiry into his return and require him to repay part of his student loan, when his wife also had a student loan and had received the same salary and dividends, but had not been subject to an enquiry and had not made repayments of her student loan.

58. Mr Goulding said that he was unable to comment on Mrs Bamidele’s position, but it was in any event irrelevant to the issue before the Tribunal. If a person is liable
20 to make a repayment, that liability cannot be set aside simply because HMRC have, for whatever reason, failed to assess another person who has an undisclosed liability.

59. We make no findings about Mrs Bamidele’s position. But if Mr Bamidele were to be correct as to the facts, that does not assist him at this Tribunal. This is because
25 we have no general power to consider whether or not HMRC have acted unfairly. That is a matter of public law, over which the Administrative Court has jurisdiction; if Mr Bamidele wished to raise a challenge of this nature, he would need to do so by way of judicial review.

60. However, the Tribunal draws Mr Bamidele’s attention to the words of Lord
30 Wilberforce in the judicial review case of *Inland Revenue Commissioners v National Federation of Self-Employed and Small Businesses* [1981] STC 260 at p 266:

35 “I would hold that one taxpayer has no sufficient interest in asking the court to investigate the tax affairs of another taxpayer or to complain that the latter has been under assessed or over assessed; indeed there is a strong public interest that he should not.”

Decision and appeal rights

61. For the reasons set out in this decision notice, we dismiss Mr Bamidele’s appeal and uphold HMRC’s amendment to his 2012-13 tax return.

62. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009.

5 63. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

10

**ANNE REDSTON
TRIBUNAL JUDGE**

RELEASE DATE: 26 JULY 2016

15

APPENDIX

Education (Student Loans) (Repayment) Regulations 2009 (SI 2009/470)

3 Interpretation

(1) In these Regulations–

- 5 “the 1970 Act” means the Taxes Management Act 1970 as amended from time to time;
“the 1988 Act” means the Income and Corporation Taxes Act 1988 as amended from
time to time;
“the 1998 Act” means the Teaching and Higher Education Act 1998 as amended from
time to time;
10 “the 2003 Act” means the Income Tax (Earnings and Pensions) Act 2003 as amended
from time to time;
“the 2005 Act” means The Income Tax (Trading and Other Income) Act 2005 as
amended from time to time;
“the 2007 Act” means the Income Tax Act 2007 as amended from time to time;...
15 ...

15 Timing of repayments: general

(1)-(2) ...

(3) Subject to paragraphs (7), (8) and regulation 16, the Authority must notify the borrower
and HMRC of–

- 20 (a) the first or, as the case may be, next tax year in respect of which the borrower may be
required to make repayments under Part 3;...

19 Cancellation

(1) This regulation applies where a borrower is not in breach of any obligation to repay:

(a)-(b) ...

- 25 (c) any loan mentioned in paragraph (4).

(2) ...

(3) The Authority or loan purchaser must cancel the borrower's liability to repay the student
loan when one of the following occurs–

(a) the borrower dies;

- 30 (b) the borrower receives a disability-related benefit and because of the 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; . . .

- 35 (4) For the purposes of paragraph (1) the loans are loans made under the Education
(Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the
Education (Scotland) Act 1980 and Regulations made under it, and the Education (Student
Support) (Northern Ireland) Order 1998 and Regulations made under it.

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

5 (a) in the case of cancellation under paragraph (3)(a), during which the borrower was alive; and

(b) in any other case, preceding the tax year during which the student loan was cancelled.

Part 3

10 Repayments by Assessment to Income Tax

28 Repayments of student loans by persons required to submit a tax return

15 Repayments by a borrower who in respect of any tax year is required to make and deliver to HMRC a return under section 8 of the 1970 Act must be made, accounted for and recovered in the same manner as income tax payable under the Taxes Acts (whether or not any loan of the borrower is a transferred loan); and in such cases the provisions of this Part (which with extensions and modifications include provisions of the Taxes Acts) will apply to and for the purposes of such repayments.

29 Time for and amount of repayments

20 (1) Every borrower who has received a notice from the Authority of a requirement to make repayments of a student loan under regulation 15(3)(a) must make repayment in respect of any tax year—

(a) which is specified in a notice under regulation 15(3)(a) or which, subject to paragraph (2), is any subsequent year up to and including any year specified in a notice under regulation 15(3)(d); and

25 (b) for which the borrower has been required to make and deliver a return under section 8 of the 1970 Act.

(2) ...

(3) The repayment must be an amount equal to 9% of the borrower's total income for that year calculated in accordance with paragraph (4).

30 (4) A borrower's total income for the purposes of paragraph (3) will be calculated by identifying the borrower's total income in accordance with step 1 of section 23 of the 2007 Act and from that total income:

(a) excluding the repayment threshold;

(b) ...

35 (c) excluding unearned income unless the amount of such income for that year exceeds £2,000;

(d) ...

(e) excluding amounts chargeable to tax under Chapters 5, 6, 7 or 10 of Part 3 of the 2003 Act (benefits in kind);

40 (f)-(j) ...

(5) For the purposes of this regulation, unearned income is income other than—

- (a) income charged under the provisions of either the 2003 Act or Part 2 of the 2005 Act except jobseeker's allowance to which Chapter 3 of Part 10 of the 2003 Act applies; and
 - (b) the profits of a UK furnished holiday lettings business within the meaning of section 127(2) of the 2007 Act.
- 5
- (6) ...
 - (7) ... the repayment threshold is–
 - (a) ...;
 - (b) for any repayment threshold year ending after 6 April 2012, an amount equal to $X + (X \times Y\%)$ and rounded up to the nearest £5 where–
10

X is the repayment threshold for the previous repayment threshold year,
Y is the percentage increase between the retail prices all items index published by the Office for National Statistics for the two Marches immediately before the commencement of the previous repayment threshold year; ...

15 **30 Personal return**

For the purposes of establishing the amount of the repayment which a borrower is required to make for a tax year under regulation 29, HMRC may require the borrower–

- (a) to include such information as may reasonably be required, in a return required to be made and delivered under section 8 of the 1970 Act ; and
- 20 (b) to deliver with the return such accounts, statements and documents as may reasonably be required relating to information contained in the return as a result of paragraph (a).

31 Returns to include self-assessment

25 (1) Subject to paragraph (2), every return made and delivered by a borrower under section 8 of the 1970 Act must include a self-assessment, namely–

- (a) an assessment of the amount of the repayment which, on the basis of the information contained in the return and taking into account any relief or allowance mentioned in regulation 29 the borrower is required to make for the tax year under regulation 29; and
- 30 (b) an assessment of the amount payable by the borrower by way of repayment, being the difference between the amount of the repayment which the borrower is assessed to make for the tax year under sub-paragraph (a) and the aggregate amount of any repayments deducted from earnings under Part 4 during that year.

35 (2) Section 9(2) to (3A) (self-assessment) and section 9A (power to enquire into returns) of the 1970 Act apply to a self-assessment under this regulation as they apply to a self-assessment under section 9(1) of that Act, and any references in the Taxes Acts to those sections is to be construed as a reference to them as extended by this regulation.

...

33 Other returns and information

40 (2) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies in relation to checking a borrower's compliance with this Part as it applies in relation to checking a person's tax position (as defined in that Schedule) subject to the modifications in paragraph (3).

- (3) The modifications are—
- (a) any reference to any provision of the Taxes Acts is to be treated as a reference to this Part;
 - 5 (b) any reference to prejudice to the assessment or collection of tax is to be treated as a reference to prejudice to the assessment or collection of student loan repayments;
 - (c) the reference to information relating to the conduct of a pending appeal relating to tax is to be treated as a reference to information relating to the conduct of a pending appeal relating to compliance with this Part; and
 - 10 (d) in paragraph 21(6)—
 - (i) paragraphs (a) and (c) are omitted; and
 - (ii) in paragraph (b) the reference to relevant tax for the chargeable period is to be treated as a reference to the amount of the student loan repayment shown in the self-assessment under regulation 31.

34 Assessment, claims and appeals

- 15 (1) Subject to paragraph (2), Parts 4 (assessment and claims) and 5 (appeals and other proceedings) of the 1970 Act apply with any necessary modifications for the purposes of—
- (a) assessing the amount of the repayment a borrower is required to make under this Part;
 - (b) claims or other matters concerning such assessment; and
 - 20 (c) appeals against any such assessment,
- as if any reference to an assessment or a self-assessment included a reference to an assessment or self-assessment for the purposes of this Part...