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STATUTORY INSTRUMENTS

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**1987 No. 1971**

**The Housing Benefit (General) Regulations 1987**

**PART VII**

**STUDENTS**

**CHAPTER II**

entitlement and payments in respect of a dwelling

**Occupying a dwelling as a person's home**

**48.**—(1) Subject to paragraph (2), a full-time student shall not be treated as occupying a dwelling as his home during any benefit week outside the period of study if he is absent from it for the whole of that week and if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(2) The provisions of paragraph (1) shall not apply to any absence occasioned by the need to enter hospital for treatment.

**Circumstances in which certain students are to be treated as not liable to make payments in respect of a dwelling**

**49.**—(1) Except in the case of a student who is a person on income support, a student with limited leave or without leave to enter or remain in the United Kingdom shall, for the purposes of these Regulations, be treated as if he were not liable to make payments in respect of a dwelling.

(2) For the purpose of paragraph (1) “student with limited leave or without leave to enter or remain in the United Kingdom” means a person who is present in the United Kingdom for the purpose of attending a course of education, whether or not he is for the time being engaged in a programme of studies, and who—

- (a) is a person other than a national of a member State or a person to whom the European Convention on Social and Medical Assistance done in Paris on 11th December 1953(1) applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971(2)) to enter or remain in the United Kingdom which has been given in accordance with any provision of immigration rules (as defined in section 33(1) of that Act) which refers to there being, or to there needing to be, no recourse to public funds, or to there being no charge on public funds, during that limited leave; or
- (b) having a limited leave (as defined in section 33(1) of the Immigration Act 1971) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or

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(1) Cmnd. 9512.

(2) 1971 c. 77, as amended by section 39 and Schedule 4 of the British Nationality Act 1981 (c. 61).

- (c) is the subject of a deportation order, that is to say an order within section 5(1) of the Immigration Act 1971 (procedure relating to deportation) requiring him to leave and prohibiting him from entering the United Kingdom; or
- (d) is adjudged by the immigration authorities to be an illegal entrant (as defined in section 33(1) of the Immigration Act 1971) who has not subsequently been given leave under that Act to enter or remain in the United Kingdom.

### **Eligible housing costs**

**50.**—(1) Subject to paragraphs (2) and (3), housing benefit shall not be payable during the period of study in respect of payments made by a student to an educational establishment which the student is attending.

(2) Where the educational establishment itself pays rent for the dwelling occupied by the student as his home to a third party (other than to another educational establishment) the provisions of paragraph (1) shall only apply if rent is payable under the terms of a long tenancy or to an education authority which has provided the dwelling in exercise of its functions as an education authority.

(3) Where it appears to the appropriate authority that an educational establishment has arranged for accommodation to be provided by a person or body other than itself in order to take advantage of the housing benefit scheme, housing benefit shall not be payable during the period of study in respect of payments made to that person or body by a student.

### **Eligible rent**

**51.**—(1) In the case of a full-time student, for the purpose of calculating his eligible rent during the period of study, the amount of rent he is liable to pay shall be reduced (in addition to any other deductions which may be appropriate) by the following weekly amounts—

- (a) in the case of a full-time student attending a course at the University of London or at an establishment within the area comprising the City of London and the Metropolitan Police District, £17.80; and
- (b) in the case of any other full-time student, £13.60.

(2) Paragraph (1) shall not apply to a student—

- (a) who is a person on income support; or
- (b) who is receiving an allowance payable by or on behalf of the Manpower Services Commission to a person for his maintenance or in respect of any child or young person; or
- (c) whose income is less than the aggregate of his applicable amount and the amount of the deduction under paragraph (1) which would otherwise be applicable and either—
  - (i) his applicable amount includes the lone parent premium or the disability premium, or
  - (ii) he has a partner who is not also a full-time student; or
- (d) who is a student on a sandwich course during one of his periods of experience.

### **Student partners**

**52.** Where a claimant is not, but his partner is, a student, the provisions of regulations 50 and 51 (eligible housing costs and eligible rent) shall apply as if the claimant were a student.