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STATUTORY INSTRUMENTS

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**1987 No. 1971**

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

PART VII

STUDENTS

CHAPTER I

general

**Interpretation**

**46.** In this Part, unless the context otherwise requires: –

“contribution” means any contribution in respect of the income of any other person which a Minister of the Crown or an education authority takes into account in assessing the amount of the student’s grant and by which that amount is, as a consequence, reduced;

“course of study” means any full-time or part-time course of study or sandwich course whether or not a grant is made for attending it;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent including any sum deducted from the gross amount for tax;

“education authority” means a government department, a local education authority as defined in section 114(1) of the Education Act 1944<sup>(1)</sup> (interpretation), an education authority as defined in section 135(1) of the Education (Scotland) Act<sup>(2)</sup> (interpretation), an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986<sup>(3)</sup>, any body which is a research council for the purposes of the Science and Technology Act 1965<sup>(4)</sup> or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“full-time student” includes a student on a sandwich course;

“grant” means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary;

“grant income” means–

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

“period of study” means–

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course to the end,

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(1) 1944 c. 31, as amended by S.I.1974/595 article 3(22) Schedule 1 Part I and by S.I. 1977/293, article 4(1).

(2) 1980 c. 44.

(3) S.I. 1986/594 (N.I. 3).

(4) 1965 c. 4.

- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—
- (i) in a case where the student's grant is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant, where it would have been assessed at such a rate had he had one, the day before the start of the next year of the course, or
- (ii) in any other case, the day before the start of the recognised summer vacation appropriate to his course;

“periods of experience” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1987(5);

“sandwich course” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1987;

“standard maintenance grant” means—

- (a) in the case of a student attending a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 1987 for such a student; and
- (b) in any other case, the amount specified in paragraph 2(2) other than in sub-paragraph (a) or (b) thereof;

“student” means a person who is attending a course of study at an educational establishment; and a person who has started on such a course shall be treated as attending it throughout any period of term or vacation within it, until the end of the course or such earlier date as he abandons it or is dismissed from it.

### **Treatment of students**

47. The provisions of Parts II, III and IV (entitlement to housing benefit, payments in respect of a dwelling, membership of a family) shall have effect in relation to students subject to the following provisions of this Part.

## **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<sup>(6)</sup> applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971<sup>(7)</sup>) 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
- (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—

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(6) Cmnd. 9512.

(7) 1971 c. 77, as amended by section 39 and Schedule 4 of the British Nationality Act 1981 (c. 61).

- (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.

## **CHAPTER III**

### income

### **Calculation of grant income**

**53.—(1)** The amount of a student's grant income to be taken into account shall, subject to paragraph (2), be the whole of his grant income.

- (2) There shall be excluded from a student's grant income any payment—
- (a) intended to meet tuition fees or examination fees;
  - (b) intended to meet the cost of special equipment for a student on a course which began before 1st September 1986 in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, orthoptics, physical education, physiotherapy, radiography, occupational therapy, dental hygiene, dental therapy, remedial gymnastics, town and country planning and veterinary science or medicine;
  - (c) in respect of the student's disability;
  - (d) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (e) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (f) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
  - (g) intended to meet the cost of books and equipment (other than special equipment) or, in the case of a full-time student, if not so intended an amount equal to £210 towards such costs;
  - (h) intended to meet travel expenses incurred as a result of his attendance on the course.
- (3) A student's grant income shall be apportioned—
- (a) subject to paragraph (4), in a case where it is attributable to the period of study, equally between the weeks in that period,

(b) in any other case, equally between the weeks in the period in respect of which it is payable.

(4) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the remaining weeks in that period.

#### **Calculation of covenant income where a contribution is assessed**

**54.**—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of the covenant income less, subject to paragraph (3), the amount of the contribution and the amount deducted by way of tax in respect of that income.

(2) The weekly amount of the student's covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding from the resulting amount, £5.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount (if any) by which the amount excluded under regulation 53(2)(h) (calculation of grant income) falls short of the amount included in the standard maintenance grant to meet travel expenses.

#### **Covenant income where no grant income or no contribution is assessed**

**55.**—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 53(2)(a) to (f) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
- (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under regulation 53(2)(g) and (h) (calculation of grant income) had the student been in receipt of the standard maintenance grant;
- (d) there shall be deducted from any amount in excess of the sums in sub-paragraphs (a) and (b) the amount deducted by way of tax in respect of the covenanted income; and
- (e) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 shall be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income shall be calculated in accordance with sub-paragraphs (a) to (e) of paragraph (1), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under regulation 53(2) (a) to (f); and
- (b) the amount to be disregarded under paragraph (1)(c) shall be abated by an amount equal to the amount of any sums disregarded under regulation 53(2)(g) and (h).

#### **Relationship with amounts to be disregarded under Schedule 4**

**56.** No part of a student's covenant income or grant income shall be disregarded under paragraph 13 of Schedule 4 and any other income shall be disregarded thereunder only if, and to the extent that, the amount disregarded under regulation 54(2)(b) (calculation of covenant income where a

contribution is assessed) or, as the case may be, 55(1)(e) (covenant income where no grant income or no contribution is assessed) is less than £5.

### **Other amounts to be disregarded**

57. For the purposes of ascertaining income other than grant income and covenant income, any amounts intended for any expenditure specified in regulation 53(2) (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 53(2), 54(3) or 55(1)(a) or (c) (calculation of grant and covenant income) on like expenditure.

### **Disregard of contribution and rent**

58.—(1) Where the claimant or his partner is a student and the income of one is taken into account for the purposes of assessing a contribution to the student's grant, an amount equal to the contribution shall be disregarded for the purposes of calculating the income of the one liable to make that contribution.

(2) In ascertaining the weekly income of a student during the period of study there shall be disregarded an amount equal to the amount by which his rent is reduced under regulation 51(1) (eligible rent) or if he has no income or his income is less than the amount to be so disregarded a deduction shall be made from the income of his partner (if any) but only to the extent of the difference.

### **Income treated as capital**

59. Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.

### **Disregard of changes occurring during summer vacation**

60. In calculating a student's income the appropriate authority shall disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.