
STATUTORY INSTRUMENTS

2006 No. 213

The Housing Benefit Regulations 2006

PART 7

Students

SECTION 2

Entitlement and payments in respect of a dwelling

Occupying a dwelling as a person's home

55.—(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.

Full-time students to be treated as not liable to make payments in respect of a dwelling

56.—(1) A full-time student shall be treated as if he were not liable to make payments in respect of a dwelling.

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

- (a) who is a person on income support or an income-based jobseeker's allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for paragraph (1), include the pensioner premium for persons under 75 or, as the case may be, persons 75 or over, higher pensioner premium, disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act⁽¹⁾;
- (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- (f) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
- (g) who is a single claimant with whom a child is—

⁽¹⁾ Section 171E was inserted by section 6 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

- (i) placed by a local authority or voluntary organisation under section 23(2)(a) or section 59(1)(a) of the Children Act 1989(2) (provision of accommodation and maintenance); or
 - (ii) in Scotland, boarded out by a local authority or voluntary organisation within the meaning of the Social Work (Scotland) Act 1968(3);
- (h) who is aged under 19 and whose course of study is not a course of higher education; or
- (i) in respect of whom—
- (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003(4); or
 - (ii) an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999(5) or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995(6), in respect of expenses incurred; or
 - (iii) a payment has been made under section 2 of the Education Act 1962(7) or under, or by virtue of regulations made under, the Teaching and Higher Education Act 1998(8); or
 - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005(9) or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000(10); or
 - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999(11) or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986(12),

on account of his disability by reason of deafness; or

- (j) who—
- (i) immediately before 1st September 1990 was in receipt of income support by virtue of paragraph 7 of Schedule 1 to the Income Support (General) Regulations 1987 as then in force; or
 - (ii) on or after that date makes a claim for income support or housing benefit (or both) and at any time during the period of 18 months immediately preceding the date of that claim was in receipt of income support either by virtue of that paragraph or regulation 13(2)(b) of those Regulations,

but this sub-paragraph shall cease to apply where the person has ceased to be in receipt of income support for a continuous period of 18 months or more.

(3) For the purposes of paragraph (2), once paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work,

(2) 1989 c. 41; sections 23(2)(a) and 59(1)(a) were amended by the Children Act 2004 (c. 31), section 116, Schedule 4, paragraph 14(1) and (3)(a).

(3) 1968 c. 49.

(4) S.I. 2003/1994; the relevant amending Instrument is S.I. 2005/2083.

(5) S.I. 1999/1131(S.91).

(6) S.I. 1995/1739(S.119).

(7) 1962 c. 12; *see also* Article 3 of the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order (S.I. 1998/3237).

(8) 1998 c. 30.

(9) S.I. 2005/52.

(10) S.R. 2000/213.

(11) S.I. 1999/351; the relevant amending Regulations are S.I. 1999/369.

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

that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.

(4) In paragraph (2)(h) reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988(13) refers.

(5) A full-time student to whom sub-paragraph (i) of paragraph (2) applies shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment, as the case may be.

(6) Paragraph (1) shall not apply to a full-time student for the period specified in paragraph (7) if—

- (a) at any time during an academic year, with the consent of the relevant education establishment, he ceases to attend or undertake a course because he is—
 - (i) engaged in caring for another person; or
 - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph (7).

(7) The period specified for the purposes of paragraph (6) is the period not exceeding one year beginning on the day on which he ceased to be engaged in caring for that other person or, as the case may be, the day on which he recovered from that illness and ending on the day before—

- (a) the day on which he resumes attending or undertaking the course; or
- (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,

whichever shall first occur.

Student's eligible housing costs

57.—(1) Subject to paragraphs (2) and (4), 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) Subject to paragraph (4), 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 relevant 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.

(4) Housing benefit shall be payable during the period of study in respect of payments made by a student to an educational establishment which the student is attending where the student—

- (a) is one who falls within a category specified in regulation 56(2); or
- (b) would fall within a category specified in regulation 56(2)(b) to (j) if he were a full-time student.

Student partners

58. Where a claimant is not, but his partner is, a student, the provisions of regulation 57 (student's eligible housing costs) shall apply as if the claimant were a student.