
STATUTORY INSTRUMENTS

1992 No. 1814

The Council Tax Benefit (General) Regulations 1992

PART V

Students

CHAPTER I

General

Interpretation

38. 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 as defined in regulation 46 of the Housing Benefit (General) Regulations 1987(1) takes into account in assessing the amount of the student’s grant and by which the 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;

“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 but does not include a payment derived from funds made available by the Secretary of State for the purpose of assisting students in financial difficulties under section 100 of the Education Act 1944(2), sections 131 and 132 of the Education Reform Act 1988(3) or section 73 of the Education (Scotland) Act 1980(4);

“grant income” means—

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

“last day of the course” means the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“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 and ending with the last day of the course;

(1) S.I.1987/1971; relevant amending instruments are S.I. 1988/1971, 1990/1549, 1991/1599 and 1992/432.

(2) 1944 c. 31.

(3) 1988 c. 40.

(4) 1980 c. 44.

- (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 other than the final 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;
- (c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

“periods of experience” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1991⁽⁵⁾;

“sandwich course” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1991;

“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 1991 for such a student; and
- (b) in any other case the amount specified in paragraph 2(2) of Schedule 2 other than in subparagraph (a) or (b) thereof;

“student” means a person, other than a person in receipt of a training allowance, 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 last day of the course or such earlier date as he abandons it or is dismissed from it;

“year” in relation to a course means the period of 12 months beginning on 1st January, 1st April or 1st September according to whether the academic year of the course in question begins in the spring, the summer or the autumn respectively.

Treatment of students

39. These Regulations shall have effect in relation to students subject to the following provisions of this Part.

Students who are excluded from entitlement to council tax benefit

40.—(1) Except to the extent that a student may be entitled to an alternative maximum council tax benefit by virtue of section 131(3) and (6) of the Contributions and Benefits Act 1992, a student to whom paragraph (2) applies is a person of a prescribed class for the purposes of section 131(3) (b) of that Act (persons excluded from entitlement to council tax benefit).

(2) Subject to paragraph (3), this paragraph applies to a full-time student and students to whom regulation 41(1) refers (students from abroad).

(3) Except with respect to students to whom regulation 41(2) refers, paragraph (2) shall not apply to a student—

- (a) who is a person on income support;

(5) S.I. 1991/1838.

- (b) whose applicable amount would, but for this regulation, include the lone parent premium, 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;
- (c) 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;
- (d) who is a single claimant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989(6) or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968(7);
- (e) who is aged under 19 and whose course of study is not a course of higher education;
- (f) in respect of whom—
 - (i) a supplementary requirement has been determined under paragraph 15 of Schedule 2 to the Education (Mandatory Awards) Regulations 1987(8) or the Education (Mandatory Awards) Regulations 1988(9), paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1989(10), paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1990(11) or paragraph 12 of Schedule 2 to the Education (Mandatory Awards) Regulations 1991(12); or
 - (ii) an allowance or, as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 6 of the Students' Allowances (Scotland) Regulations 1987(13) or, as the case may be, the Education Authority Bursaries (Scotland) Regulations 1988(14) in respect of expenses incurred; or
 - (iii) a payment has been made under section 2 of the Education Act 1962(15); or
 - (iv) a supplementary requirement has been determined under paragraph 15 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1987(16), paragraph 15 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1988(17), paragraph 12 of Schedule 7 to the Students Awards Regulations (Northern Ireland) 1990(18) or paragraph 12 of Schedule 7 to the Students Awards (No. 2) Regulations (Northern Ireland) 1990(19) or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986(20),

on account of his disability by reason of deafness.

(4) In paragraph (3)(e) 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(21) or any course to which Schedule 1 to the Education (Student Loans) Act 1990(22) refers.

(5) A full-time student to whom sub-paragraph (f) of paragraph (3) 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) 1989 c. 41.
(7) 1968 c. 49.
(8) S.I. 1987/1261; revoked by S.I. 1988/1360.
(9) S.I. 1988/1360; revoked by S.I. 1989/1458.
(10) S.I. 1989/1458; revoked by S.I. 1990/1628.
(11) S.I. 1990/1628; revoked by S.I. 1991/1838.
(12) S.I. 1991/1838.
(13) S.I. 1987/864.
(14) S.I. 1988/1042.
(15) 1962 c. 12.
(16) S.R. 1987 No. 420; revoked by S.R. 1988 No. 445.
(17) S.R. 1988 No. 445; revoked by S.R. 1990 No. 23.
(18) S.R. 1990 No. 23; revoked by S.R. 1990 No. 427.
(19) S.R. 1990 No. 427.
(20) S.I. 1986/594 (N.I. 3).
(21) 1988 c. 40.
(22) 1990 c. 6.

Further provision with respect to students entering the United Kingdom from abroad

41.—(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 is a prescribed person for the purposes of section 131(6) of the Contributions and Benefits Act 1992 (persons not entitled to council tax benefit).

(2) For the purposes 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⁽²³⁾ applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971⁽²⁴⁾) 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.

CHAPTER II

Income

Calculation of grant income

42.—(1) The amount of a student’s grant income to be taken into account shall, subject to paragraphs (2) and (3), 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;

(23) Cmnd 9512.

(24) 1971 c. 77, as amended by section 39 and Schedule 4 of the British Nationality Act 1981 (c. 61).

- (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 £257 towards such costs;
- (h) intended to meet travel expenses incurred as a result of his attendance on the course.

(3) Where in pursuance of an award a student is in receipt of a grant in respect of maintenance under regulation 17(b) of the Education (Mandatory Awards) Regulations 1991 (payments), there shall be excluded from his grant income a sum equal to the amount specified in paragraph 7(4) of Schedule 2 to those Regulations (disregard of travel costs) being the amount to be disregarded in respect of travel costs in the particular circumstances of his case.

(4) 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.

(5) 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

43.—(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 42(2)(h) (calculation of grant income) falls short of the amount specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1991 (travel expenditure).

Covenant income where no grant income or no contribution is assessed

44.—(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 42(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 42(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 subparagraphs (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 42(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 42(2)(g) and (h) and (3).

Relationship with amounts to be disregarded under Schedule 4

45. 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 to the extent that the amount disregarded under regulation 43(2)(b) (calculation of covenant income where a contribution is assessed) or, as the case may be, 44(1)(e) (covenant income where no grant income or no contribution is assessed) is less than £10.

Other amounts to be disregarded

46. For the purposes of ascertaining income other than grant income and covenant income, any amounts intended for any expenditure specified in regulation 42(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 42(2), 43(3) or 44(1)(a) or (c) (calculation of grant and covenant income) on like expenditure.

Treatment of student loans

47.—(1) A loan which is made to a student pursuant to arrangements made under section 1 of the Education (Student Loans) Act 1990⁽²⁵⁾ or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990⁽²⁶⁾ shall be treated as income.

- (2) In calculating the weekly amount of the loan to be taken into account as income—
- (a) except where sub-paragraph (b) applies, the loan shall be apportioned equally between the weeks in the academic year in respect of which the loan is payable;
 - (b) in the case of a loan which is payable in respect of the final academic year of the course or, if the course is only of one academic year's duration, in respect of that year, the loan shall be apportioned equally between the weeks in the period beginning with the start of the final academic year or, as the case may be, the single academic year and ending with the last day of the course,

and from the weekly amount so apportioned there shall be disregarded £10.

(3) Any loan for which a student is eligible in respect of an academic year under the arrangements mentioned in paragraph (1) but which has not been acquired by him shall be treated as possessed by him and paragraphs (1) and (2) shall apply accordingly; and for the purposes of this paragraph the loan for which a student is eligible is the maximum amount payable to him under those arrangements.

⁽²⁵⁾ 1990 c. 6.

⁽²⁶⁾ S.I. 1990/1506 (N.I. 11).

Disregard of contribution

48. 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.

Income treated as capital

49. 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

50. 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.