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STATUTORY INSTRUMENTS

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**2006 No. 215**

**The Council Tax Benefit Regulations 2006**

**PART 5**

Students

*SECTION 1*

*General*

**Interpretation**

**43.**—(1) In this Part—

“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;

“access funds” means—

- (a) grants made under section 68 of the Further and Higher Education Act 1992 <sup>M1</sup> for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980 <sup>M2</sup>;
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 <sup>M3</sup> or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 <sup>M4</sup> in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Learning and Skills Council for England under sections 5, 6 and 9 of the Learning and Skills Act 2000 <sup>M5</sup>; or
- (e) Financial Contingency Funds made available by the National Assembly for Wales;

“college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992 <sup>M6</sup>;

“contribution” means any contribution in respect of the income of a student or of any other person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of the student's grant or student loan; or any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Further and Higher Education (Scotland) Act 1992 Scottish Ministers or the education authority takes into account being sums which Scottish Ministers or the education authority consider that the

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holder of the allowance or bursary, the holder's parents and the holder's spouse or civil partner can reasonably be expected to contribute towards the holder's expenses;

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent;

“education authority” means a government department, a local education authority as defined in section 12 of the Education Act 1996 <sup>M7</sup> (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973 <sup>M8</sup>, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986 <sup>M9</sup>, any body which is a research council for the purposes of the Science and Technology Act 1965 <sup>M10</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 course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Learning and Skills Council for England or by the [F<sup>1</sup>National Assembly for Wales]<sup>M11</sup> or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (b) is funded in whole or in part by the Learning and Skills Council for England or by the [F<sup>1</sup>National Assembly for Wales] if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
  - (i) in the case of a course funded by the Learning and Skills Council for England, in his learning agreement signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
  - (ii) in the case of a course funded by the [F<sup>1</sup>National Assembly for Wales], in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;

“grant income” means—

- (a) any income by way of a grant;

(b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

(a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;

(b) in any other case, 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;

(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 or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan 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” means periods of work experience which form part of a sandwich course;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations;

“sandwich course” has the meaning prescribed in regulation 2(6) of the Education (Student Support) Regulations 2005 <sup>M12</sup>, regulation 5(2) of the Education (Student Loans)(Scotland) Regulations 2000 <sup>M13</sup> or regulation 5(2) of the Education (Student Support) Regulations (Northern Ireland)2001 <sup>M14</sup>, as the case may be;

“standard maintenance grant” means—

(a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking 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 2003 <sup>M15</sup> (“the 2003 Regulations”) for such a student;

(b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;

(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980 <sup>M16</sup>, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland <sup>M17</sup>, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority and paid under the Further and Higher Education (Scotland) Act 1992 <sup>M18</sup>;

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(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

“student loan” means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998 <sup>M19</sup>, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 <sup>M20</sup> and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations 1999 <sup>M21</sup>.

(2) For the purposes of the definition of “full-time student” in paragraph (1), a person shall be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—

- (a) subject to paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
  - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
  - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(3) For the purposes of sub-paragraph (a) of paragraph (2), the period referred to in that sub-paragraph shall include—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(4) In paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

#### Textual Amendments

- F1** Words in [reg. 43\(1\)](#) substituted by SI 2005/3238 Sch. 2 para. 3 (as substituted) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), [reg. 1\(1\)](#), [Sch. 2 para. 31](#) (with [regs. 2, 3](#), [Sch. 3](#), [Sch. 4](#))

#### Marginal Citations

- M1** [1992 c. 13](#).
- M2** [1980 c. 44](#); the functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the [Scotland Act 1998 \(c. 46\)](#).

- M3 S.I. 1993/2810 (N.I.12).
- M4 S.I. 1997/1772 (N.I.15).
- M5 2000 c. 21.
- M6 1992 c. 37.
- M7 1996 c. 56.
- M8 1973 c. 65.
- M9 S.I. 1986/594 (N.I.3).
- M10 1965 c. 4.
- M11 The Council was established by section 30 of the Learning and Skills Act 2000(c. 21).
- M12 S.I. 2005/52.
- M13 S.S.I. 2000/200.
- M14 S.R. 2001/.277.
- M15 S.I. 2003/1994; the relevant amending Instrument is S.I. 2005/2083.
- M16 1980 c. 44.
- M17 The relevant leaflets are SAS2, SAS4 and SAS6.
- M18 1992 c. 37.
- M19 1998 c. 30.
- M20 S.I. 1998/1760 (N.I. 14).
- M21 S.I. 1999/1131.

### Treatment of students

44. 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

45.—(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 Act, a student to whom paragraph (2) applies is a person of a prescribed class for the purposes of section 131(3)(b) of the Act (persons excluded from entitlement to council tax benefit).

(2) Subject to paragraph (3) and (7), this paragraph applies to a full-time student and students who are persons from abroad within the meaning of regulation 7 (persons from abroad).

(3) Paragraph (2) shall not apply to a 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 this regulation, include the 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;
- (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;

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- (g) 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 <sup>M22</sup> or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968 <sup>M23</sup>;
- [<sup>F2</sup>(h) who is—
- (i) aged under 19 and whose course of study is not a course of higher education, or
  - (ii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);]
- (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;
  - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
  - (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
  - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
  - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

(4) For the purposes of paragraph (3), once paragraph (3)(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, 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.

(5) In paragraph (3)(h) the 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 <sup>M24</sup>.

(6) A full-time student to whom sub-paragraph (i) 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.

(7) Paragraph (2) shall not apply to a full-time student for the period specified in paragraph (8) if—

- (a) at any time during an academic year, with the consent of the relevant educational 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 (8).

(8) The period specified for the purposes of paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that 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.

#### **Textual Amendments**

**F2** Reg. 45(3)(h) substituted (10.4.2006) by [Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **5(3)**

#### **Marginal Citations**

**M22** 1989 c. 41.

**M23** 1968 c. 49.

**M24** 1998. c. 40.

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