

---

STATUTORY INSTRUMENTS

---

**2008 No. 794**

**The Employment and Support Allowance Regulations 2008**

**PART 10**

**INCOME AND CAPITAL**

**CHAPTER 10**

**Students**

**Treatment of student loans**

**137.**—(1) A student loan is to be treated as income unless it is a specified loan or award in which case it is to be disregarded.

(2) For the purposes of paragraph (1), a “specified loan or award” means—

- (a) in relation to England, a loan made by the Higher Education Funding Council for England under section 65 of the Further and Higher Education Act 1992 <sup>F1</sup>;
- (b) in relation to Wales, a loan made by the Higher Education Funding Council for Wales under section 65 of the Further and Higher Education Act 1992;
- (c) in relation to Scotland, a loan made by an educational institution from funds it has received under the Education (Access Funds) (Scotland) Regulations 1990 <sup>F2</sup>;
- (d) in relation to Northern Ireland, an award made by the Department for Employment and Learning under article 51 of the Education and Libraries (Northern Ireland) Order 1986 <sup>F3</sup>.

(3) In calculating the weekly amount of the loan to be taken in account as income—

- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
  - (i) except in a case where paragraph (ii) applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
  - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the benefit week, the first day of which coincides with, or immediately follows, the first day of the course,

and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the course;

- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of that academic year and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of that academic year but excluding any benefit weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken;

---

*Status: Point in time view as at 27/10/2014. This version of this provision has been superseded.  
Changes to legislation: There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 137. (See end of Document for details)*

---

- (c) for the purposes of sub-paragraph (b), “quarter” is to have the same meaning as for the purposes of regulation 104(6) (calculation of income other than earnings);
  - (d) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—
    - (i) except in a case where paragraph (ii) applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of that academic year;
    - (ii) where the final academic year starts on 1st September, the benefit week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term,
 and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the course;
  - (e) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—
    - (i) the first day of the first benefit week in September; or
    - (ii) the benefit week, the first day of which coincides with, or immediately follows, the first day of the autumn term,
 and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of June,
- and, in all cases, from the weekly amount so apportioned there is to be disregarded £10.
- (4) A student is to be treated as possessing a student loan in respect of an academic year where—
    - (a) a student loan has been made to that student in respect of that year; or
    - (b) [<sup>F4</sup>subject to paragraph (4A)] the student could acquire such a loan in respect of that year by taking reasonable steps to do so.

[<sup>F5</sup>(4A) A student is not to be treated as possessing any part of a student loan which has not been paid to that student in respect of an academic year where the educational institution at which the student was attending a course has confirmed in writing that the student has suspended attendance at the course due to a health condition or disability that renders the student incapable of continuing that course.]
  - (5) Where a student is treated as possessing a student loan under paragraph (4), the amount of the student loan to be taken into account as income is to be, subject to paragraph (6)—
    - (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to the maximum student loan the student is able to acquire in respect of that year by taking reasonable steps to do so and either—
      - (i) in the case of a student other than one to whom paragraph (ii) refers, any contribution whether or not it has been paid to that student; or
      - (ii) in the case of a student who is entitled to an income-related allowance by virtue of being a student to whom regulation 18 (circumstances in which the condition that the claimant is not receiving education does not apply) applies;
    - (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
      - (i) the student took all reasonable steps to obtain the maximum student loan that student is able to acquire in respect of that year; and
      - (ii) no deduction in that loan was made by virtue of the application of a means test.
  - (6) There is to be deducted from the amount of income taken into account under paragraph (5)—

- (a) the sum of [<sup>F6</sup>£303] per academic year in respect of travel costs; and
- (b) the sum of [<sup>F7</sup>£390] per academic year towards the costs of books and equipment, whether or not any such costs are incurred.

#### **Textual Amendments**

- F1** 1992 c. 13.
- F2** S.I. 1990/1534 (S. 157).
- F3** S.I. 1986/594 (N.I. 3).
- F4** Words in reg. 137(4)(b) inserted (1.11.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2010 \(S.I. 2010/2429\)](#), regs. 1(2), **11(3)(a)**
- F5** Reg. 137(4A) inserted (1.11.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2010 \(S.I. 2010/2429\)](#), regs. 1(2), **11(3)(b)**
- F6** Word in reg. 137(6)(a) substituted (1.8.2009 for specified purposes and with effect in accordance with reg. 1(3)) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/1575\)](#), regs. 1(3), 2(2)(4)(e)
- F7** Word in reg. 137(6)(b) substituted (1.8.2009 for specified purposes and with effect in accordance with reg. 1(3)) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/1575\)](#), regs. 1(3), 2(3)(4)(e)

**Status:**

Point in time view as at 27/10/2014. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Employment and Support Allowance Regulations 2008, Section 137.