

1986 No. 1293**SOCIAL SECURITY****The Supplementary Benefit (Requirements and Resources)
Miscellaneous Amendment Regulations 1986**

Made - - - - - *23rd July 1986*

Coming into operation in accordance with regulation 1

The Secretary of State for Social Services, with the consent of the Treasury (a), in exercise of the powers conferred upon him by sections 2(2) and 34(1) (b) of, and paragraphs 1 and 2 of Schedule 1 to, the Supplementary Benefits Act 1976(c) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee other than the proposals as to regulation 3(7) which that Committee agreed should not be referred to it (d), hereby makes the following regulations of which a draft has, in accordance with section 33(3) of that Act been laid before Parliament and approved by resolution of each House of Parliament:—

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Requirements and Resources) Miscellaneous Amendment Regulations 1986 and shall come into operation as follows:—

- (a) regulations 2(1), 2(3) and 3(7) on 28th July 1986;
- (b) regulation 2(2) on 1st September 1986;
- (c) regulations 3(1) to 3(6) and 3(8) on 3rd November 1986.

(a) See section 33(3) of the Supplementary Benefits Act 1976 (c.71).
(b) See definitions of “prescribed” and “regulations”.
(c) 1976 c.71, as amended by section 6(1) of and Part I of Schedule 2 to the Social Security Act 1980 (c.30).
(d) See sections 9 and 10 of the Social Security Act 1980 (c.30).

Amendment of the Supplementary Benefit (Requirements) Regulations 1983

2.— (1) The Supplementary Benefit (Requirements) Regulations 1983(a) shall be amended in accordance with the following provisions of this regulation.

(2) Regulation 19 (housing benefit supplement) shall be amended by—

(a) substituting in paragraph (1) for the words “paragraphs (3) and (4)” the words “paragraphs (3) to (4)”;

(b) inserting after paragraph (3) the following paragraph—

“(3A) Where for the purposes of ascertaining the eligible rent under the Housing Benefits Regulations 1985(b) a person’s eligible rent is reduced in the circumstances prescribed in paragraph 10 of Schedule 1A to those Regulations, there shall for the purposes of paragraph (2)(a) be added to the eligible rent otherwise ascertained under those Regulations—

(a) the amount of that reduction under sub-paragraph (a) or (b), as the case may be, of that paragraph 10; or

(b) where the amount of that reduction is greater than the eligible rent, the amount which would be but for that reduction that person’s eligible rent as so ascertained.”

(3) There shall be substituted for sub-paragraph (e) of paragraph (5) of regulation 22 (reduction in amounts applicable for certain occupants of the home) the following sub-paragraph—

“(e) except during the normal summer vacation, for a non-dependant who is a student and does not pay to the claimant or his partner an amount in respect of his accommodation and at least some cooked or prepared meals at a commercial rate, or for a group of non-dependants where the head of that group is such a student;”.

Amendment of the Supplementary Benefit (Resources) Regulations 1981

3.— (1) The Supplementary Benefit (Resources) Regulations 1981(c) shall be amended in accordance with the following provisions of this regulation.

(2) Regulation 2(1) (interpretation) shall be amended by—

(a) inserting before the definition “the Act” the following definitions—

““a course of advanced education” means—

(a) a full time course in preparation for a degree, a diploma of higher education, a higher national diploma, a higher national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council or a teaching qualification; or

(b) any other full-time course which is a course of a standard above ordinary national diploma, a national diploma of the

(a) S.I. 1983/1399; the relevant amending instruments are S.I. 1984/282, 1102, 1985/1247.

(b) S.I. 1985/677; the relevant amending instrument is S.I. 1986/1009.

(c) S.I. 1981/1527; the relevant amending instruments are S.I. 1982/1125, 1126, 1983/503, 505, 1240, 1984/1102, 1985/614, 1246.

Business & Technician Education Council or the Scottish Vocational Education Council, a general certificate of education (advanced level), a Scottish certificate of education (higher grade) or a Scottish certificate of sixth year studies;

“a person in relevant education” means a person to whom regulation 10 of the Conditions of Entitlement Regulations applies;” and

- (b) inserting after the definition “allowance” the following definition—
 ““Allowances Regulations” means the Students’ Allowances (Scotland) Regulations 1971(a);” and
- (c) inserting after the definition “assessment unit” the following definition—
 ““Awards Regulations” means the Education (Mandatory Awards) Regulations 1985(b);” and
- (d) inserting after the definition of “claimant” the following definition—
 ““Conditions of Entitlement Regulations” means the Supplementary Benefit (Conditions of Entitlement) Regulations 1981(c);” and
- (e) adding in the definition of “education authority” after the words “Science and Technology Act 1965” the words “a Minister of the Crown, or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;” and
- (f) substituting for the definition of “student” the following definition—
 ““student” means a person aged less than 19 who is attending a course of advanced education or, as the case may be, a person aged 19 or over but under pensionable age, not being a person to whom regulation 3(5) of the Aggregation Regulations applies, who is attending a course of full-time education; and for the purposes of this definition a person shall be treated as attending a course of advanced education or, as the case may be, full-time education—
 (a) during the period for which his maintenance grant or award is, or if he were in receipt of such a grant or award would be, payable under—
 (i) Part 2 of Schedule 2 to the Awards Regulations; or
 (ii) the Allowances Regulations; and
 (b) during the Christmas, Easter or any other vacation, other than the normal summer vacation as recognised in relation to him by the institution at which he is attending his course, falling within the period of that course;”.

(a) S.I. 1971/124; the relevant amending instruments are S.I. 1974/1187, 1983/798, 1536.

(b) S.I. 1985/1126; there are no amending instruments.

(c) S.I. 1981/1526; the relevant amending instruments are S.I. 1982/907, 1983/463, 1000, 1984/458, 518, 938, 1986/1010.

(3) In sub-paragraph (e) of paragraph (2) of regulation 3 (calculation of resources) after the words “applies)” there shall be added the words “but in the case of a student or a person who was a student immediately preceding the first day of his normal summer vacation and a claim is made in respect of any period constituting that normal summer vacation, any such repayment shall be treated as a capital resource”.

(4) There shall be substituted for paragraph (4) of regulation 4 (parental or spouse’s contribution to student maintenance grant) the following paragraph—

“(4) Whether or not a student is in receipt in respect of his course of a grant or award or any part thereof from an Education Authority he shall be treated as possessing an income resource of an amount equal to—

- (a) the aggregate of the requirements specified in Schedule 2 to the Awards Regulations as modified by the provisions of regulations 18(2), 20, 21 or 22 of those regulations, as the case may be, appropriate to his case, the place where and course which he is attending; or
- (b) where the grant or award falls to be made by the Secretary of State for Scotland the aggregate of the standard maintenance allowance and any additional allowance payable by virtue of sections 73 and 74 of the Education (Scotland) Act 1980(a) and the Allowances Regulations, appropriate to his case, the place where and course which he is attending; or
- (c) where no such provision is appropriate, that amount which is specified in, or payable by virtue of, the provisions or enactments referred to in sub-paragraphs (a) or (b), which is most appropriate to his case, the place where and course which he is attending;

unless the student is a person to whom regulation 6(a), (i) or (j) of the Conditions of Entitlement Regulations applies.”.

(5) Regulation 4(12) (assumed income of mandatory grant aided student during Christmas and Easter vacation) shall be deleted.

(6) Regulation 9 (calculation of income resources) shall be amended by:—

- (a) inserting in paragraph (1)(b) after the word “regulations” the word “4,”;
- (b) inserting in paragraph (2) after the words “so far as” the words “paragraphs (3), (4) and”;
- (c) adding after paragraph (2) the following paragraphs—

“(3) Where a person’s income consists of a student grant or award each component part of the aggregate amount shall be treated as payable in respect of the period specified in respect of that component part in the Awards Regulations or, as the case may be, by virtue of sections 73 and 74 of the Education (Scotland) Act 1980(a) and the Allowances Regulations;

(4) The weekly amount of any income payable under a Deed of Covenant to which regulation 11(2)(t) or (u) applies shall be

determined by dividing the sum to be taken into account under that regulation by 52, and each weekly amount so determined shall be treated as payable on the first day of the benefit week.”.

(7) In sub-paragraph (g) of paragraph (3) of regulation 10 (calculation of earnings) after the words “United Kingdom” where they first appear there shall be inserted the words “(including any such earnings spent in that country)”.

(8) Regulation 11 (calculation of other income) shall be amended by—

- (a) adding in paragraph (1) after the word “(2)” the words “to (4)”;
- (b) substituting for sub-paragraph (l) of paragraph (2) the following sub-paragraph—

“(l) any income which consists of a grant or award, including any part which is paid in respect of a partner or a dependant pursuant to section 3 of the Education Act 1973(a) or sections 73(f) and 74(1) of the Education (Scotland) Act 1980 in excess of the amount that the student is treated as possessing by virtue of regulation 4(4) or, in the case of a student to whom regulation 6(a), (i) or (j) of the Conditions of Entitlement Regulations applies, subject to paragraph (4)(d) any such grant or award including any part paid in respect of a partner or dependant pursuant to the enactments referred to in this sub-paragraph only in so far as it exceeds the sum of £2;”;

- (c) adding after sub-paragraph (s) of paragraph (2) the following sub-paragraphs—

“(t) the annual income net of income tax at the basic rate payable to the claimant or his partner, who is a student, under a Deed of Covenant executed by a person who is or would be liable to have their income taken into account by an education authority in assessing that student’s grant or award, but only to the extent that the amount of that income is in excess of the aggregate of—

- (i) where the student is in receipt of a grant or award from the Secretary of State for Scotland, the amount which the person executing that covenant has been assessed to contribute to that student’s grant or award by an education authority but not exceeding the amount of the standard maintenance and additional allowance payable by virtue of sections 73 and 74 of the Education (Scotland) Act 1980 and the Allowances Regulations; or
- (ii) in any other case where the student is in receipt of a grant or award, the amount which the person executing that covenant has been assessed to contribute towards that student’s grant or award by an education authority but not exceeding the amount of the requirements specified in Schedule 2 to the Awards Regulations as

(a) 1973 c.16.

modified by regulations 18(2), 20, 21 or 22, as the case may be, of those regulations; or

- (iii) where the student is not in receipt of a grant or award, the standard maintenance and additional allowance payable by virtue of, or the requirements specified in, the enactments and provisions referred to in heads (i) or (ii) as is appropriate;

which are appropriate to or most appropriate to his case, the place where and course which he is attending;

- (u) the annual income net of income tax at the basic rate payable to a person who was a student immediately preceding the first day of his normal summer vacation where a claim is made in respect of any period constituting that normal summer vacation, under a Deed of Covenant extant on the first day of that summer vacation and executed by a person who is or would be liable to have their income taken into account by an education authority in assessing that first mentioned person's grant or award, but only to the extent that the amount of that income is in excess of the aggregate of—

- (i) where the first mentioned person was in receipt of a grant or award from the Secretary of State for Scotland, the amount which the person executing that covenant had been assessed to contribute to that first mentioned person's grant or award by an education authority but not exceeding the amount of the standard maintenance and additional allowance payable by virtue of sections 73 and 74 of the Education (Scotland) Act 1980 and the Allowances Regulations; or

- (ii) in any other case where the first mentioned person was in receipt of a grant or award, the amount which the person executing that covenant had been assessed to contribute towards that first mentioned person's grant or award by an education authority but not exceeding the amount of the requirements specified in Schedule 2 to the Awards Regulations as modified by regulations 18(2), 20, 21 or 22, as the case may be, of those regulations; or

- (iii) where the first mentioned person was not in receipt of a grant or award, the standard maintenance and additional allowance payable by virtue of, or the requirements specified in, the enactments and provisions referred to in heads (i) or (ii) as is appropriate;

which were appropriate to or most appropriate to his case, the place where and course which he is or was attending;

- (v) subject to paragraph (4)(d) any income treated as possessed by virtue of regulation 4(4);”;

- (d) adding after head (iii) of sub-paragraph (d) of paragraph (4) the following heads—

- “(iv) to a student in respect of travelling or special equipment expenses as defined in paragraph 13 of Schedule 2 to the Awards Regulations;

- (v) to a student, being an amount equal to £187 (representing the cost of books and equipment other than special equipment);”;
- (e) adding after sub-paragraph (m) of paragraph (4) the following sub-paragraph—
- “(n) any income net of income tax at the basic rate payable under a Deed of Covenant to a person who was a student immediately preceding the first day of his normal summer vacation where a claim has been made in respect of any period constituting that normal summer vacation; and that Deed of Covenant—
- (i) has been executed by a person who is or would be liable to have his income taken into account by an education authority in assessing that first mentioned person’s grant or award; and
- (ii) commences or takes effect after the first day of that vacation.”.
- (f) inserting after sub-paragraph (d) of paragraph (5) the following sub-paragraph—
- “(dd) the amount of any income to be taken into account by virtue of paragraph (2)(t) or (u);”.

Signed by authority of the Secretary of State for Social Services.

Tony Newton,
Minister of State,
Department of Health and Social Security.

22nd July 1986.

We consent,

T. Garel-Jones,
Tim Sainsbury,
Two of the Lords Commissioners of
Her Majesty’s Treasury,

23rd July 1986.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations further amend the Supplementary Benefit (Requirements) Regulations 1983 and the Supplementary Benefit (Resources) Regulations 1981 to make provision for students.

Regulation 2 amends the Supplementary Benefit (Requirements) Regulations 1983 by—

- (a) taking into account in the calculation of a housing benefit supplement requirement any reduction made under the Housing Benefits Regulations because the claimant or his partner is a student; and
- (b) providing that no non-dependant deduction be made in respect of a student who is maintained in whole or part by the claimant or his partner except during the normal summer vacation.

Regulation 3 amends the Supplementary Benefit (Resources) Regulations 1981 in the following respects—

- (a) it substitutes a new definition of student so as to treat a person as a student during any period in respect of which his maintenance grant or allowance is or would be payable and during any vacation (other than the summer) falling within the period of his course and makes consequential changes to other definitions;
- (b) it provides for the treatment of an income tax refund to a student other than under Schedule E of the Taxes Act as capital;
- (c) it provides for a student to be treated as possessed of an income resource equal to the maximum maintenance grant or award appropriate to his case, place of study and course unless he is a single parent, a disabled person or one of an unmarried couple in certain circumstances (exempted students); and deletes the provision hitherto in force which treated students in receipt of a mandatory grant or award as possessed of an income resource during the Christmas and Easter vacations;
- (d) it makes provision for treating each component part of a student's grant or award as payable for the period specified in respect of that part in the relevant awards legislation; and for the weekly amount of net income payable under a Deed of Covenant executed by a person liable to contribute to the student's maintenance and in excess of the amount that person was liable to contribute to the student's maintenance, or where there has been no such assessment, the amount of grant or award which the student is treated as possessing, to be determined by dividing that sum by 52;
- (e) it provides that the amount of income to be taken into account—
 - in the case of a student in receipt of a grant or award (other than an exempted student), is that in excess of the amount he is treated as possessing;
 - in the case of an exempted student, is his actual grant or award subject to a £2 weekly disregard;
 - under the Deed of Covenant as aforesaid, in the case of a person who was a student immediately prior to their summer vacation,

during that vacation, is that in excess of the maximum grant or allowance payable subject to a £4 weekly disregard;

- (f) provides for the disregard of that part of the student grant which the student is treated as possessing or actually possesses, paid in respect of travelling and special equipment and of £187 for the cost of books and equipment, and the disregard of any income payable under a Deed of Covenant as aforesaid which comes into operation during the summer vacation.

The report of the Social Security Advisory Committee dated June 1986 on the proposals to make these regulations and a statement dated June 1986 showing the extent to which the regulations give effect to the Committee's recommendations are contained in Command Papers Nos. 9813 and 9814 published by Her Majesty's Stationery Office.

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