
STATUTORY INSTRUMENTS

1988 No. 1890

The Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988

PART V

STUDENTS

CHAPTER I

general

Interpretation

36. 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 that 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;

“grant” means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary;

“grant income” means—

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

“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 to the end;
- (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, 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;

“periods of experience” has the same meaning as is prescribed for England and Wales in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1988(2);

“sandwich course” has the same meaning as is prescribed for England and Wales in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1988;

“standard maintenance grant” means the amount specified in paragraph 2(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 1988 other than in sub-paragraph (a) or (b) thereof;

“student” means a person who is attending a course of study at an educational establishment including a registered student 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 end of the course or such earlier date as he abandons it or is dismissed from it.

Treatment of students

37. These Regulations shall have effect in relation to students and their partners subject to the following provisions of this Part.

CHAPTER II

income

Calculation of grant income

38.—(1) The amount of a student’s grant income to be taken into account shall, subject to paragraph (2), 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;
- (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 £220 towards such costs;
- (h) intended to meet travel expenses incurred as a result of his attendance on the course.

(3) 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.

(4) 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

39.—(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 38(2)(h) (calculation of grant income) falls short of the amount included in the standard maintenance grant to meet travel expenses.

Covenant income where no grant income or no contribution is assessed

40.—(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 38(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 38(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 sub-paragraphs (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 38(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 38(2)(g) and (h).

Relationship with amounts to be disregarded under Schedule 3

41. No part of a student's covenant income or grant income shall be disregarded under paragraph 13 of Schedule 3 and any other income shall be disregarded thereunder only if, and to the extent that, the amount disregarded under regulation 39(2)(b) (calculation of covenant income where a contribution is assessed) or, as the case may be, 40(1)(e) (covenant income where no grant income or no contribution is assessed) is less than £5.

Other amounts to be disregarded

42. For the purposes of ascertaining income other than grant income and covenant income, any amounts intended for any expenditure specified in regulation 38(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 38(2), 39(3) or 40(1)(a) or (c) (calculation of grant and covenant income) on like expenditure.

Disregard of contribution and rent

43.—(1) 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.

(2) In ascertaining the weekly income of a student during the period of study there shall be disregarded an amount equal to any amount by which his rent is reduced for the purposes of regulation 51(1) of the Housing Benefit (General) Regulations 1987⁽³⁾ (eligible rent) or if he has no income or his income is less than the amount to be so disregarded a deduction shall be made from the income of his partner (if any) but only to the extent of the difference.

Income treated as capital

44. 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

45. 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.

(3) S.I. 1987/1971.