
STATUTORY INSTRUMENTS

1991 No. 2887

The Disability Working Allowance (General) Regulations 1991

PART V

INCOME AND CAPITAL

CHAPTER VII

STUDENTS

Interpretation

41. In this Chapter, unless the context otherwise requires—

“a course of advanced education” means

- (a) a full-time course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, 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 Business & Technician Education Council or a national certificate of the Scottish Vocational Education Council, a general certificate of education (advanced level), a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies;

“contribution” means any contribution in respect of the income of any other person which a Minister of the Crown or an education authority 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 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 student under a Deed of Covenant by a person whose income is, or is likely to be, taken into account in assessing the student’s grant or award;

“education authority” means a government department, a local education authority as defined in section 114(1) of the Education Act 1944⁽¹⁾ (interpretation), an education authority as defined in section 135(1) of the Education (Scotland) Act 1980⁽²⁾ (interpretation), an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986⁽³⁾, any body which is a research council for the purposes of the Science and Technology Act 1965⁽⁴⁾ or any analogous government department, authority, board or body of the Channel Islands, Isle of Man or any other country outside Great Britain;

(1) 1944 c. 31, as amended by S.I. 1974/595, article 3(22), Schedule 1, Part I and S.I. 1977/293, article 4(1).

(2) 1980 c. 44.

(3) S.I. 1986/594 (N.I. 3).

(4) 1965 c. 4.

“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, sections 131 and 132 of the Education Reform Act 1988⁽⁵⁾ or section 73 of the Education (Scotland) Act 1980;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution which has been assessed whether or not it has been paid,

and any such contribution which is paid by way of a covenant shall be treated as part of the student’s grant income;

“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;
- (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) the day before the start of the next year of the course 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; or
 - (ii) in any other case the day before the start of the normal 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⁽⁶⁾ ;

“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) except where paragraph (b) applies, 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;
- (b) in the case of a student residing at his parent’s home, the amount specified in paragraph 3(2) thereof; and
- (c) in any other case, the amount specified in paragraph 2(2) other than in sub-paragraph (a) or (b) thereof;

“student” means a person aged less than 19 who is attending a full-time course of advanced education or, as the case may be, a person aged 19 or over who is attending a full-time course of study at an educational establishment; and for the purposes of this definition—

⁽⁵⁾ 1988 c. 40.

⁽⁶⁾ S.I. 1991/1838.

- (a) 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;
 - (b) a person on a sandwich course shall be treated as attending a full-time course of advanced education or, as the case may be, of study;
- “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.

Calculation of grant income

42.—(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 disregarded from a student’s grant income any payment—
 - (a) intended to meet tuition fees or examination fees;
 - (b) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
 - (c) intended to meet additional expenditure connected with term time residential study away from the student’s educational establishment;
 - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
 - (e) intended to meet the cost of books and equipment or, if not so intended, an amount equal to £257;
 - (f) intended to meet travel expenses incurred as a result of his attendance on the course.

(3) A student’s grant income, except any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 1991(7) or intended for an older student under Part 4 of that Schedule, shall be apportioned—

- (a) subject to paragraph (5), 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) Any amount intended for the maintenance of dependants or for an older student under the provisions referred to in paragraph (3) shall be apportioned equally over a period of 52 weeks commencing with the week in which the period of study begins.

(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 shall be the whole amount of his covenant income less, subject to paragraph (3), the amount of the contribution.

- (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; 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)(f) (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

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 (d) (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 and there shall be disregarded from the covenant income to be so apportioned the amount which would have been disregarded under regulation 42(2)(e) had the student been in receipt of the standard maintenance grant; and
- (c) the balance, if any, shall be divided by 52 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 covenant income shall be calculated in accordance with sub-paragraphs (a) to (c) of paragraph (1), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of his grant income less an amount equal to the amount of any sums disregarded under regulation 42(2)(a) to (d); and
- (b) the amount to be disregarded under paragraph (1)(b) shall be abated by an amount equal to the amount of any sums disregarded under regulation 42(2)(e).

Relationship with amounts to be disregarded under Schedule 3

45. No part of a student's covenant income or grant income shall be disregarded under paragraph 12 of Schedule 3 and any other income to which sub-paragraph (1) of that paragraph applies shall be disregarded thereunder only 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, regulation 44(1)(c) (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) and 44(1)(a) or (b) (calculation of grant income 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⁽⁸⁾ or article 3 of the Education (Student Loans) (Northern Ireland) Order 1990⁽⁹⁾ 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.

Disregard of contribution

48. Where the claimant or his partner is a student and the income of one has been taken into account for the purpose of assessing a contribution to the student's grant, an amount equal to the amount of the contribution shall be disregarded for the purpose of calculating the income of the one liable to make that contribution.

Disregard of tax refund

49. Any amount by way of a refund of tax deducted from a student's covenant income shall be disregarded in calculating the student's income or capital.

Disregard of changes occurring during summer vacation

50. In calculating a student's income there shall be disregarded 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.

⁽⁸⁾ 1990 c. 6.

⁽⁹⁾ S.I. 1990/1506 (N.I. 11).