STATUTORY INSTRUMENTS

1985 No. 1120 (S. 89)

EDUCATION, SCOTLAND

The Education Authority Bursaries (Scotland) Regulations 1985

Made - - - -	18*th July* 1985
Laid before Parliament	23*rd July* 1985
Coming into Operation	13*th August* 1985

In exercise of the powers conferred upon me by section 49 of the Education (Scotland) Act 1980 (a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Education Authority Bursaries (Scotland) Regulations 1985 and shall come into operation on 13th August 1985.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

(a) "1980 Act" means the Education (Scotland) Act 1980;

(b) "bursary" means a bursary, scholarship or other allowance granted under section 49 of the Act and "holder" shall be construed accordingly;

(c) "course of study" includes a series of periods of related study which are separated by periods of employment;

(d) "employment" means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and "employed" shall be construed accordingly; and for the purposes hereof references to employment include references to the holding of any office and to any occupation for gain;

(e) "European Community" means the area comprised by the member states of the European Economic Community (including the United Kingdom) as constituted from time to time;

(f) "income" for the purposes of the Schedules has the same meaning as in the Income Tax Acts;

(g) "national of a member state of the European Community" means a person who is a national for the purposes of the Community Treaties of any member state of the European Economic Community (including the United Kingdom) as constituted from time to time;

(h) "payment period" means a period in respect of which a sum is payable to or for behoof of the holder and shall be a period of 12 months except where a bursary is granted in respect of a period of study of less than 3 academic terms, in which case the payment period may be less than 12 months;

(a) 1980 c.44.

(i) "Regulations of 1978" mean the Education Authority Bursaries (Scotland) Regulations 1978(**a**);

(j) "Regulations of 1978 to 1984" mean the Education Authority Bursaries (Scotland) Regulations 1978, the Education Authority Bursaries (Scotland) Amendment Regulations 1979(**b**), the Education Authority Bursaries (Scotland) Amendment Regulations1980(**c**), the Education Authority Bursaries (Scotland) Amendment Regulations 1981(**d**), the Education Authority Bursaries (Scotland) Amendment Regulations 1982(**e**), the Education Authority Bursaries (Scotland) Amendment Regulations 1983(**f**), the Education Authority Bursaries (Scotland) Amendment (No. 2) Regulations 1983(**g**) and the Education Authority Bursaries (Scotland) Amendment Regulations 1984(**h**).

(k) "relevant power" means any of the powers conferred on an education authority by section 49(1) or as the case may be section 49(2) of the 1980 Act.

(2) In these regulations a reference to a person's child includes a reference to a person adopted in pursuance of adoption proceedings, a step-child and an illegitimate child of whom the person concerned is the mother or in whose case he has admitted paternity or been adjudged the putative father.

(3) References in these regulations to a regulation or to a Schedule or to a Part shall, unless the context otherwise requires, be construed as references to a regulation of these regulations or to a Schedule or to a Part of a Schedule annexed to these regulations, as the case may be.

(4) A reference in a regulation or Schedule to a paragraph or a reference in a paragraph to a sub-paragraph, shall, unless the context otherwise requires, be construed as a reference to a paragraph of that regulation or Schedule or sub-paragraph of that paragraph as the case may be.

Revocation

3. The Regulations of 1978 to 1984 shall cease to have effect.

Requirements and other provisions for granting of bursaries

4.—(1) Subject to the provisions of this regulation and Schedule 1 (further requirements regarding eligibility for bursaries) a relevant power shall not be exercised by an education authority in relation to a person who is mentioned in section 49(1) or section 49(2) of the 1980 Act if he does not fulfil such of the requirements for eligibility for a bursary as are relevant to him (other than matters as to residence in the area of an education authority) specified for the purposes of this paragraph in Schedule 1.

(2) Notwithstanding that a person may fulfil such of the requirements for eligibility for a bursary as are relevant to him specified in Schedule 1, a relevant power shall not be exercised by an education authority as respects such a person, if he does not fulfil at least one of the requirements specified for the purposes of this paragraph in paragraph (3), (requirements as to residence in the area of an education authority).

(3) Subject to the provisions of paragraphs (4) to (7), the requirements specified for the purposes of paragraph (2) above are that a person—

(**a**) S.I. 1978/998.
(**b**) S.I. 1979/840.
(**c**) S.I. 1980/988.
(**d**) S.I. 1981/966.
(**e**) S.I. 1982/936.
(**f**) S.I. 1983/1051.
(**g**) S.I. 1983/1535.
(**h**) S.I. 1984/990.

(a) shall be or shall have been ordinarily resident in the area of the education authority proposing to exercise the relevant power, on the relevant day; or

(b) shall be or have been the child of a parent or maintained by a guardian who shall be or shall have been so ordinarily resident as mentioned in sub-paragraph *(a)*; or

(c) being a person whose parent or guardian is a national of a member state of the European Community and whose parent or guardian—

(i) where he is employed on the relevant day, is then in employment in the United Kingdom; or

(ii) where he is not employed on that day (by reason of retirement or otherwise), was last employed in such employment; or

(iii) whether or not he is employed on that day, has, during the period of three years ending therewith, been in such employment for an aggregate period of not less than a year;

shall himself be or have been resident in the area of the education authority proposing to exercise the relevant power, on the relevant day; or

(d) being a national of a member state of the European Community who has entered the United Kingdom wholly or mainly for the purpose of taking up or seeking employment; shall be or have been resident in the area of the education authority proposing to exercise the relevant power on the relevant day and—

(i) during the year preceding that relevant day, shall have been in employment in the United Kingdom for an aggregate period of not less than 9 months; and

(ii) shall be seeking a bursary in respect of a course provided by a vocational training establishment being a course leading to a qualification which is needed for or is designed to fit a person for engagement in a specific profession or trade; or

(e) shall be a person whom, or a member of a family which, the authority proposing to exercise the relevant power are satisfied has or has had on the relevant day a residential connection with their area other than one of a temporary nature.

(4) In paragraph (3) references to the relevant day are references to the relevant day in relation to the payment period to which the proposed exercise of the relevant power relates and in paragraph (3)*(d)*(ii)—

"qualification" includes authorisation, recognition, registration, enrolment, approval and certification; and

"vocational training establishment" means a further educational establishment being a vocational school within the meaning of Article 7 of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community (**a**) .

(5) Where—

(a) any residence on the relevant day in the area of an authority referred to in paragraph (3)*(a)* to *(d)* is or was residence of the person thereby required to be resident wholly or mainly for the purpose of that person attending a course of study, undertaking postgraduate research or being temporarily employed in that area;

(**a**) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (II) p. 475).

(b) that person would, but for that purpose, have been ordinarily resident on that day in the area of another education authority or a local education authority;

that person, shall for the purposes of this regulation be treated as if he had been ordinarily resident on that day in the area of that other authority; and in this paragraph "local education authority" has the meaning assigned to it in section 114 of the Education Act 1944 (**a**) .

(6) A person who is required by any of sub-paragraphs *(a)* to *(d)* of paragraph (3) to be ordinarily resident or resident on the relevant day in the area of an education authority shall be treated for the purposes of the sub-paragraph as being so resident if the education authority are satisfied that he was not so resident in their area on that day only because he, his spouse, his parent or guardian was temporarily attending a course of study, or undertaking postgraduate research outside that area.

(7) Where a person who is mentioned in section 49(1) or section 49(2) of the 1980 Act is or was on the relevant day in relation to any payment period in the care of a local authority under section 15 of the Social Work (Scotland) Act 1968 (**b**) that person or as the case may be his parent or guardian shall be deemed to be ordinarily resident in the area of the education authority which includes the area of that local authority, or if that local authority are or were entitled to recover expenses incurred by them in respect of that person from another local authority, in the area of the education authority which includes the area of the other local authority.

(8) For the purposes of this regulation—

(a) a reference to a relevant day shall be construed—

(i) in relation to a payment period commencing on any date during the period from 1st August to 31st December (both dates inclusive), as a reference to 30th June preceding that date;

(ii) in relation to a payment period commencing on any date during the period from 1st January to 31st March (both dates inclusive), as a reference to 31st October preceding that date;

(iii) in relation to a payment period commencing on any date during the period from 1st April to 31st July (both dates inclusive), as a reference to the last day of February preceding that date;

(b) "guardian" means any person, other than a parent, who is legally liable to maintain a person mentioned in section 49(1) or as the case may be section 49(2) of the 1980 Act (**c**) .

Period of tenure of bursaries

5. Subject to the conditions of tenure specified in the next following regulation, any bursary granted shall be tenable for the payment period in respect of which the bursary was granted.

Conditions of tenure of bursaries

6.—(1) Every bursary granted shall be subject to the following conditions—

(a) the holder shall attend regularly the course of study in respect of which the bursary was granted;

(**a**) 1944 c.31; section 114 was amended by S.I. 1977/293.
(**b**) 1968 c.49.
(**c**) 1980 c.44.

(b) the holder or any person acting on his behalf shall, at such times as the education authority who granted the bursary require, provide to that education authority such information and such documents as they may require to enable them to exercise their functions for the purposes of these regulations; and

(c) the education authority shall be satisfied as to the holder's conduct and progress.

(2) When intimating the granting of the bursary to the holder or to a person acting on his behalf, the education authority shall give notice to him of these conditions and shall inform him that, if the holder or any person acting on his behalf does not comply with these conditions or if the education authority are not satisfied as to the holder's conduct or progress, either payment of the bursary may be suspended for a period to be fixed by them or the bursary may be withdrawn, without further warning.

(3) If, after such intimation and notice has been given, the holder or any person acting on his behalf does not comply with these conditions or if the education authority are not satisfied as to the holder's conduct or progress, the education authority may warn the holder or the person acting on his behalf, or may suspend payment for a period to be fixed by them, or may withdraw the bursary.

(4) Nothing in this regulation shall prevent the education authority from granting another bursary in respect of the same or another course of study to a person whose bursary has been withdrawn.

Assessment of higher school bursaries

7. The sum to be paid in any payment period in respect of a bursary granted under section 49(2)*(c)* of the 1980 Act shall be the sum, if any, assessed in accordance with the provisions of Schedule 2.

Assessment of full-time further education bursaries

8.—(1) Subject to the provisions of regulations 9 and 10 and this regulation, the sum to be paid in any payment period in respect of a bursary granted under section 49(1) of the 1980 Act for a course of full-time further education shall be the sum, if any, by which estimated expenditure assessed in relation to the holder in accordance with the provisions of Schedule 3, Part 1 exceeds the aggregate of—

(a) the contribution of the parent of the holder or, if both parents are dead or are unable to maintain the holder, of any person legally liable to maintain the holder, ascertained in accordance with Schedule 3, Part 2, paragraph 6;

(b) the sum which may be made available from any property which is held in trust for the education or maintenance of the holder or of persons of whom the holder is one; and

(c) the sum which the education authority are satisfied is the amount of income available or likely to be available to a holder in any payment period disregarding—

(i) income from employment;

(ii) income not exceeding in total £1,280 in respect of a payment period of 12 months in respect of any sponsorship payment by an employer or payment in pursuance of a scholarship or other award of a similar description in respect of the course to which the bursary relates;

(iii) the first £425 in respect of a payment period of 12 months of any other income of the holder;

but in relation to any payment period of less than 12 months, the provisions of sub-paragraphs *(c)*(ii) and (iii) above shall apply respectively as if for the sums of £1,280 and £425 there mentioned there were substituted those sums reduced proportionately.

(2) In relation to a holder who is married and who has attained the age of 25 years, or is married and has supported himself during any period totalling not less than 36 months prior to the commencement of the course, the education authority shall assess a contribution upon the income of the holder's spouse and the contribution to be assessed in accordance with Schedule 3, Part 2, paragraph 6*(c)* shall be aggregated in place of the contribution specified in paragraph (1)*(a)* of this regulation.

(3) Notwithstanding the provisions of regulations 9 and 10 and this regulation the sum to be paid, in relation to any payment period of 12 months, shall not be less than the amount of the fees and expenses required to be taken into account by an education authority under Schedule 3, Part I, paragraph 1(1) and (3) and, in relation to any payment period of less than 12 months, shall not be less than that amount, reduced proportionately.

Re-assessment of sums to be paid

9.—(1) The holder of a bursary or any person acting on his behalf may at any time during, or within one month following the end of, a payment period submit to the education authority an application for the re-assessment of the sum to be paid in relation to that payment period.

(2) If the education authority are satisfied that a change has occurred in the financial or other circumstances of the holder or of any person whose income was taken into account, or in any of the sums taken into account, in assessing the sum to be paid, and that the holder or any person whose income was taken into account has suffered or is likely to suffer hardship by reason of the said change, they shall re-assess the sum to be paid in accordance with the provisions of these regulations.

Suspension of bursaries where other awards are held

10. If at any time the holder is in receipt of any other scholarship or other similar allowance for education which is paid out of monies provided by Parliament or out of any funds aided by grants from the said monies, payments on account of any bursary granted under these regulations shall be suspended while the holder continues to hold the said scholarship or other allowance.

Method of payment

11.—(1) The sum to be paid in respect of any bursary granted under these regulations may be paid to the holder of the bursary or to another person for his behoof, or in part to the holder and in part to the said other person, and, where the estimated expenditure assessed in accordance with the provisions of Part 1 of Schedule 3 includes fees payable by the holder to an educational institution, the amount of the said fees may be paid to the institution on his behalf.

(2) Any payment under these regulations may be made in a lump sum or by instalments as the education authority may think fit:

Provided that—

(i) no payment shall be made before the holder has been accepted for admission to the course of study in respect of which the bursary was granted; and

(ii) the education authority shall make payments at such time as will enable expenditure to be met by or on behalf of the holder as and when necessary.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
18th July 1985.

SCHEDULE 1 Regulation 4

FURTHER REQUIREMENTS REGARDING ELIGIBILITY FOR BURSARY

1.—(1) In this Schedule—

"refugee" means a person who is recognised by Her Majesty's Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 (**a**) as extended by the Protocol thereto which entered into force on 4th October 1967 (**b**) or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty's Government though not so recognised.

(2) In this Schedule any reference to a relevant date in relation to a person attending or proposing to attend a course of study being a course of study which is or may be first commenced by the person—

(a) in the autmn term of any year, is a reference to the earlier of 31st August in that year or the first day of that term;

(b) in the spring term of any year, is a reference to the earlier of 31st December in the year preceding that year or the first day of that term; and

(c) in the summer term of any year, is a reference to the earlier of 31st March in that year or the first day of that term.

(3) A person shall be treated for the purposes of paragraph 2(1)*(a)* or *(b)* as ordinarily resident in the British Islands or in the European Community ("the relevant area") for the period therein stated if the education authority proposing to exercise the relevant power is satisfied that he was only not so resident for that period in the relevant area because—

(a) he, his spouse, his parent or his guardian was temporarily employed outside the relevant area; or

(**a**) Cmd. 9171.
(**b**) Cmd. 3906. (Out of print: photocopies of the English texts are available, free of charge, from Scottish Education Department, Room 4/10, New St Andrew's House, Edinburgh EH1 3SY.)

(b) he, his spouse, his parent or his guardian was temporarily attending a course of study or undertaking postgraduate research, outside the relevant area.

(4) Subject to sub-paragraph (3) a person may be treated for the purposes of paragraph 2(1)*(a)* or *(b)* as ordinarily resident in the British Islands or in the European Community for the period therein stated if the education authority proposing to exercise the relevant power is satisfied that he was born and has spent the greater part of his life in the British Islands or as the case may be, the European Community; and either—

(a) his parents or either of them have been ordinarily resident in the British Islands or the European Community for that period and he himself is not an independent student; or

(b) he has been ordinarily resident for at least one year of that period in the British Islands or the European Community and has not been so ordinarily resident for any part of that year for the purpose of receiving full-time education.

(5) In sub-paragraph (4)*(a)* an "independent student" means a student who either—

(a) has attained the age of 25 years before the relevant date relative to the course of study to which the allowance applied for relates; or

(b) has supported himself out of his earnings for periods preceding the relevant date aggregating not less than three years.

(6) For the purposes of sub-paragraph (5) a student shall be treated as having supported himself out of his earnings for any period or periods, not exceeding twelve months in the aggregate, for which—

(a) the student was in receipt of training in pursuance of the Manpower Services Commission's Training Opportunities Programme, Youth Opportunities Programme or Youth Training Scheme; or

(b) the student was in receipt of unemployment benefit under section 14(1)*(a)* of the Social Security Act 1975 **(a)** ; or

(c) before 24th November 1980 (when Schedule 2 to the Social Security Act 1980 **(b)** came into force), the student was registered for employment; or

(d) on and after that date but before 18th October 1982, the student was registered and available for employment; or

(e) on and after 18th October 1982, the student was available for employment and, if under the age of 18 years, registered for employment.

(7) For the purposes aforesaid a student shall also be treated as having supported himself out of his earnings for any period—

(a) for which the student held a Scottish Studentship or comparable award;

(b) for which the student received sickness benefit, invalidity pension or maternity allowance under section 14(1)*(b)*, 15(1)*(b)*, 22(1) or 36(1) of the Social Security Act 1975; or

(c) for which the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.

(a) 1975 c.14.
(b) 1980 c.30.

(8) In sub-paragraph (6) any reference to a person registered or available for employment is a reference to his being so registered or available for the purposes of section 5 of the Supplementary Benefits Act 1976 (**a**) .

(9) In sub-paragraphs (6), (7) and (8) any reference to an enactment contained in the Supplementary Benefits Act 1976 or the Social Security Act 1975 is a reference to that enactment as from time to time in force.

2.—(1) Subject to the provisions of sub-paragraphs (2) and (3) the requirement for eligibility for bursary specified for the purposes of regulation 4(1) are—

(a) in the case of any person other than a person mentioned in paragraphs *(b)*, *(c)* and *(d)*, that he shall have been ordinarily resident in accordance with sub-paragraph (2) throughout the period of three years preceding the relevant date in the British Islands;

(b) in the case of a person mentioned in regulation 4(3)*(c)* or *(d)*, that he shall have been ordinarily resident in accordance with sub-paragraph (2) throughout the period of 3 years preceding the relevant date in the European Community;

(c) in the case of a refugee, that he shall have been ordinarily resident in the British Islands and shall not have ceased to be so ordinarily resident since he was recognised as a refugee or was accorded asylum;

(d) in the case of a spouse or child of a refugee, that the refugee is such a refugee as is mentioned in paragraph *(c)*.

(2) For the purposes of sub-paragraphs (1)*(a)* and *(b)* a person shall have been ordinarily resident in accordance with this sub-paragraph if his period of residence shall not as respects any part thereof have been wholly or mainly for the purposes of receiving full-time education.

(3) The requirement specified in sub-paragraph (1)*(a)* and *(b)* that a person shall have been ordinarily resident in accordance with sub-paragraph (2) shall not apply in the case of a person who in pursuance of paragraph 1(3) or (4) is treated as ordinarily resident in the British Islands or as the case may be the European Community throughout the period mentioned in sub-paragraph (1)*(a)* or *(b)*.

(**a**) 1976 c.71, as amended by section 6 of and Schedule 2 to the Social Security Act 1980.

Regulation 7

SCHEDULE 2

HIGHER SCHOOL BURSARIES

The sum to be paid

1. The sum to be paid in respect of any bursary granted under section 49(2)*(c)* of the Act shall be ascertained by applying the balance of income, determined in accordance with the provisions of this Schedule and set out in column (1) of the following Table, to the scale which is set out in column (2) of the said Table—

Balance of income *Column (1)*	Rate of sum to be paid *Column (2)*
£4,060 and under	£565 per payment period of 12 months
£4,061 – £4,110	£550 per payment period of 12 months
£4,111 – £4,160	£535 per payment period of 12 months
£4,161 – £4,210	£520 per payment period of 12 months
£4,211 – £4,260	£505 per payment period of 12 months
£4,261 – £4,310	£490 per payment period of 12 months
£4,311 – £4,360	£475 per payment period of 12 months
£4,361 – £4,410	£460 per payment period of 12 months
£4,411 – £4,460	£445 per payment period of 12 months
£4,461 – £4,510	£430 per payment period of 12 months
£4,511 – £4,560	£415 per payment period of 12 months
£4,561 – £4,610	£400 per payment period of 12 months
£4,611 – £4,660	£385 per payment period of 12 months
£4,661 – £4,710	£370 per payment period of 12 months
£4,711 – £4,760	£355 per payment period of 12 months
£4,761 – £4,810	£340 per payment period of 12 months
£4,811 – £4,860	£325 per payment period of 12 months
£4,861 – £4,910	£310 per payment period of 12 months
£4,911 – £4,960	£295 per payment period of 12 months
£4,961 – £5,010	£280 per payment period of 12 months
£5,011 – £5,060	£265 per payment period of 12 months
£5,061 – £5,110	£250 per payment period of 12 months
£5,111 – £5,160	£235 per payment period of 12 months
£5,161 – £5,210	£220 per payment period of 12 months
£5,211 – £5,260	£205 per payment period of 12 months
£5,261 – £5,310	£190 per payment period of 12 months
£5,311 – £5,360	£175 per payment period of 12 months
£5,361 – £5,410	£160 per payment period of 12 months
£5,411 – £5,460	£145 per payment period of 12 months
£5,461 – £5,510	£130 per payment period of 12 months
£5,511 – £5,560	£115 per payment period of 12 months
£5,561 – £5,610	£100 per payment period of 12 months
£5,611 – £5,660	£85 per payment period of 12 months
£5,661 – £5,710	£70 per payment period of 12 months
£5,711 – £5,760	£55 per payment period of 12 months
£5,761 – £5,810	£40 per payment period of 12 months
£5,811 – £5,860	£25 per payment period of 12 months
£5,861 – £5,910	£10 per payment period of 12 months
£5,911 and over	NIL

Provided that—

(i) in relation to any bursary in respect of which the payment period is less than 12 months, the rate of the sum to be paid shall be the scale set out in column (2) of the Table above, reduced proportionately at each point;

(ii) where the education authority accommodate the holder at a boarding school or in a hostel, home or other institution under section 50(2)*(b)* of the 1980 Act (**a**) or make other provision of board and lodging for him under section 50(2)*(c)* of that Act the sum to be awarded shall be one half of the appropriate rate of the sum to be paid in accordance with the Table.

Persons whose balance of income is assessable

2. The education authority shall assess the balance of income of the parents of the holder or, if both parents are dead or the parents are unable to maintain the holder, of any person legally liable to maintain the holder.

Assessment of total income

3.—(1) The total income of any person the balance of whose income is to be assessed under the last foregoing paragraph shall be assessed by the education authority in relation to a period of 12 months ending on a date to be fixed by the education authority being, save in exceptional circumstances, a date not later than the beginning of the payment period.

(2) Where the total income of a husband and wife in their capacity as parents is being assessed under the last foregoing sub-paragraph, their income shall be aggregated and the total aggregated income shall be taken into account for the purposes of this Schedule:

Provided that where the husband and wife have been divorced or are living apart the education authority shall have regard to any financial arrangements subsisting between the parties and to the whole circumstances.

(3) Where the total income of a person, other than a parent of the holder, legally liable to maintain the holder is being assessed under sub-paragraph (1) and the said person is married, the income of the spouse of the said person shall not be taken into account.

Assessment of charges upon income

4. The education authority shall assess in relation to a period of 12 months being the same period of 12 months as is used for the purposes of the last foregoing paragraph the aggregate of the following charges upon the income of any person whose total income is assessed under the said paragraph, that is to say—

(1) the amount of any sums paid by way of interest allowed for income tax purposes and, as the case may be, paid by way of interest on any loan in respect of a repayment contract under any scheme made under Part II of the Housing Subsidies Act 1967 (**b**) ;

(2) the amount of an allowance of £487 each towards the maintenance of any dependants of the said person other than the holder and the spouse of the said person:

Provided that—

(i) the said allowance shall be reduced by the amount of the estimated income during the said period of the dependant in respect of whom it is allowed;

(ii) where the dependant is also the holder of a scholarship or other similar allowance in respect of full-time further education which is paid out of monies provided by Parliament or out of any fund aided by grants from the said monies, the allowance under this

(**a**) 1980 c.44.
(**b**) 1967 c.29.

sub-paragraph shall be the amount of any parental contribution taken into account in the assessment of the said scholarship or other allowance or £487 whichever is the less;

(iii) where there are in the same family 2 or more holders of bursaries granted under section 49(2)*(c)* of the 1980 Act, no allowance under this sub-paragraph shall be taken into account in respect of any of these holders but the balance of income shall be reduced by 25%, in respect of each such holder other than the holder in respect of whom a bursary is being assessed;

(3) the amount of any expenditure upon contributions under superannuation schemes (subject to the condition that the amount assessed shall not exceed 15% of the said total income), the amount of premiums under retirement annuity contracts (subject to the condition that the amount assessed shall not exceed 17½% of the said total income) and 50% of the gross amount of any expenditure on life insurance premiums, provided the policies were taken out on or before 13th March 1984 (subject to the condition that the amount assessed shall not exceed 50% of £1,500 or 50% of one-sixth of the said total income whichever is the greater);

(4) the amount of any other items of expenditure in respect of which relief is given under the Income Tax Acts.

The balance of income

5.—(1) For the purposes of this Schedule the balance of income shall be—

(a) in any case other than a case mentioned in paragraphs *(b)* or *(c)* the sum, if any, by which the total income assessed under paragraphs 2 and 3 above exceeds the charges assessed under paragraph 4 above;

(b) in any case where in the opinion of the education authority insufficient information is available to enable them for the time being to ascertain the sum mentioned in paragraph *(a)* such sum (including nil) as may be provisionally assessed by the authority as being reasonable in the circumstances of the given case as then known to them; or

(c) in any case where the authority, after due inquiry, are satisfied that the parents of or other person legally liable to maintain the holder cannot be ascertained, nil.

(2) If, in any case in which the balance of income has been ascertained by virtue of sub-paragraph (1)*(b)* an authority are not satisfied—

(a) where the payment period in relation to that case comprises 3 academic terms, before the beginning of the third academic term in that period; or

(b) where the payment period in relation to that case comprises 2 academic terms, before the beginning of the second academic term in that period,

that sufficient information is available to them to enable them to ascertain the balance of income in that case by virtue of sub-paragraph (1)*(a)* they may withold the payment of any further bursary instalments which otherwise might have been payable to the holder.

(3) Where, in any case in which the balance of income has been ascertained by virtue of sub-paragraph (1)*(b)* an education authority are subsequently furnished with sufficient information to enable them to ascertain the balance

of income in relation to that case by virtue of sub-paragraph (1)*(a)* and the balance of income so ascertained exceeds the sum provisionally assessed under sub-paragraph (1)*(b)*, they shall be entitled on that account—

(a) to adjust the payment of any further bursary instalments payable to the holder in such case so that the total sums paid in respect of bursary in relation to the holder in respect of a payment period do not exceed the total sums which would have been so payable had the balance of income been ascertained by virtue of sub-paragraph (1)*(a)*, and applied initially in ascertaining those total sums; or

(b) otherwise to recover any sums overpaid to the holder in that respect.

SCHEDULE 3 Regulation 8

FULL-TIME FURTHER EDUCATION BURSARIES

PART 1 – ESTIMATED EXPENDITURE

1. In assessing the estimated expenditure in relation to bursaries for full-time further education granted under section 49(1) of the 1980 Act, the education authority shall take into account the sums required for—

(1) the payment of tuition, examination and other course fees necessarily incurred by the holder (whether such fees are included in a comprehensive fee or are charged as separate fees);

(2) the acquisition of books, instruments, tools and materials and of any special clothing which, in the opinion of the education authority, are necessary to the holder's course of study;

(3) the payment of expenses arising out of the membership of clubs or societies connected with the educational insitution at which the bursary is tenable, where in the opinion of the education authority such membership is necessary to enable the holder to take a proper part in the corporate life of the institution;

(4) the payment of travelling expenses which, in the opinion of the education authority are necessarily incurred by the holder in connection with his attendance at his course of study, except in so far as allowances or facilities are provided under section 51(1) of the 1980 Act **(a)** ;

(5) an allowance towards the cost of maintaining the holder (during periods other than vacations) of—

(a) £14.15 per week until the holder has attained the age of 18 years where he is—

a single student living in his parental home;

a married student, living in either parental home, with his spouse (who is also a full-time student);

a married student, living in the student's parental home, with his spouse (who is not a full-time student);

a widowed or separated student living in his parental home;

but the allowance of £32.56 per week shall be paid instead of the allowance of £14.15 per week—

(i) in the case of a student living in a parental home where the authority are satisfied that the student would otherwise suffer undue hardship because of the low level of income of the parents in that parental home; and

(a) 1980 c.44.

(ii) in the case of a student whose parental home is, in the opinion of the education authority, within reasonable daily travelling distance of the institution attended, where the student is living outwith the parental home and the authority are satisfied that his studies would be adversely affected if he lived in the parental home;

(b) £32.56 per week until the holder has attained the age of 18 years where he is—

a single student living outwith his parental home, provided that the parental home is, in the opinion of the education authority, outwith reasonable daily travelling distance of the institution attended;

a married student living with his spouse in the marital home;

a married student living with his spouse (who is not a full-time student) in the spouse's parental home; or

a widowed or separated student living outwith his parental home;

and where the holder resides in a college hostel or college residence the allowance shall be the actual charge for such residence.

(c) in any other case an amount determined by the education authority to be the amount of the allowance payable to the holder (during periods other than vacations) having regard to his financial and other circumstances, subject to a maximum allowance of £32.56 per week;

(6) an allowance towards the cost of maintaining the holder (during periods other than vacations) of—

(a) £19.76 per week after the holder has attained the age of 18 years where he is—

a single student, whether or not an independent student, living in his parental home;

a married student living in either parental home with his spouse (who is also a full-time student);

a married student living in the student's parental home with his spouse (who is not a full-time student);

a widowed or divorced or separated student living in his parental home;

but the allowance of £32.56 per week shall be paid instead of the allowance of £19.76 per week—

(i) in the case of a student living in a parental home where the authority are satisfied that the student would otherwise suffer undue hardship because of the low level of income of the parents in that parental home; and

(ii) in the case of a student who is not independent and whose parental home is, in the opinion of the education authority, within reasonable daily travelling distance of the institution attended, where the student is living outwith the parental home and the authority are satisfied that his studies would be adversely affected if he lived in the parental home;

(b) £32.56 per week after the holder has attained the age of 18 years where he is—

a single student, who is not independent, living outwith his parental home, if the parental home is, in the opinion of the education authority, outwith reasonable daily travelling distance of the institution attended;

a single student, who is independent, living outwith his parental home;

a married student living with his spouse in the marital home;

a married student living with his spouse (who is not a full-time student) in the spouse's parental home; or

a widowed or divorced or separated student living outwith his parental home;

and where the holder resides in a college hostel or college residence the allowance shall be the actual charge for such residence.

(c) in any other case an amount determined by the education authority to be the amount of the allowance payable to the holder (during periods other than vacations) having regard to his financial and other circumstances, subject to a maximum allowance of £32.56 per week;

(7) an allowance at the rate of £26.35 per week towards the cost of maintaining the holder, after he has attained the age of 18 years, during vacations other than the summer vacation;

(8) an allowance of £10.61 per week towards the personal expenses of the holder, after he has attained the age of 18 years, during periods other than vacations;

(9) an allowance of such sum as may in the opinion of the education authority be reasonable in respect of each person who is dependent on the holder having regard to the net income of that person;

(10) an allowance to be made by the education authority to any holder who has attained the age of 26 years before the start of the course of study for which the bursary is granted and who can satisfy the education authority that he was in full-time employment for a total of three years of the six years immediately preceding the start of the course. The allowance is—

Age	Amount
26	£170
27	£340
28	£520
29 and over	£685

and, where the holder is in attendance for less than 3 terms, the amount shall be reduced proportionately. Entitlement to this allowance, once established, shall continue at the same age rate for the duration of the course of study for which the bursary is granted.

2. For the purposes of sub-paragraphs (5) and (6) of the foregoing paragraph, the holder shall be deemed to be residing in the parental home if he is residing in the same household as the person or one of the persons whose balance of income is assessed under paragraph 2 of Part 2 of this Schedule; and an "independent student" shall have the same meaning as in sub-paragraph (5) of paragraph 1 of Schedule 1.

PART 2 – THE CONTRIBUTION

Classification of bursaries

1. For the purpose of this Part, bursaries granted under section 49(1) of the 1980 Act to persons until they have attained the age of 18 years shall be classed as category A bursaries; and bursaries granted under section 49(1) of the 1980 Act to persons after they have attained the age of 18 years shall be classed as category B bursaries.

Persons whose balance of income is assessable

2. The education authority shall assess the balance of income of the parents of the holder or, if both parents are dead or the parents are unable to maintain the holder, of any person legally liable to maintain the holder.

Assessment of total income

3.—(1) The total income of any person the balance of whose income is to be assessed under the last foregoing paragraph shall be assessed by the education authority in relation to a period of 12 months ending on a date to be fixed by the education authority being, save in exceptional circumstances, a date not later than the beginning of the payment period.

(2) Where the total income of a husband and wife in their capacity as parents is being assessed under the last foregoing sub-paragraph, their incomes shall be aggregated and the total aggregated income shall be taken into account for the purposes of this Part:

Provided that where the husband and wife have been divorced or are living apart the education authority shall have regard to any financial arrangements subsisting between the parties and to the whole circumstances.

(3) Where the total income of a person, other than a parent of the holder, legally liable to maintain the holder is being assessed under sub-paragraph (1) and the said person is married, the income of the spouse of the said person shall not be taken into account.

Assessment of charges upon income

4. The education authority shall assess in relation to a period of 12 months being the same period of 12 months as is used for the purposes of the last foregoing paragraph the aggregate of the following charges upon the income of any person whose total income is assessed under the said paragraph, that is to say—

(1) the amount of any sums paid by way of interest, allowed for income tax purposes and, as the case may be, paid by way of interest on any loan in respect of a repayment contract under any scheme made under Part II of the Housing Subsidies Act 1967 (**a**) ;

(2) the amount of an allowance towards the maintenance of each dependant of the said person other than—

(a) the holder;

(b) any dependant of the said person who is the holder of a scholarship or other similar allowance for education which is paid out of monies provided by Parliament or out of any fund aided by grants from the said monies; and

(**a**) 1967 c.29.

(c) the spouse of the said person; and this amount shall be—

(i) in the case of the assessment of a category A bursary, £487 in respect of each dependant;

(ii) in the case of a category B bursary, £1,045 in respect of any person, other than a spouse, child or holder of a statutory award, dependent on the parent:

but the said amount in either case shall be reduced by the amount of the income during the said period of the dependant in respect of whom it is allowed;

(3) the amount of any expenditure upon contributions under superannuation schemes (subject to the condition that the amount assessed shall not exceed 15% of the said total income), the amount of premiums under retirement annuity contracts (subject to the condition that the amount assessed shall not exceed 17½% of the said total income) and 50% of the gross amount of any expenditure on life insurance premiums, provided the policies were taken out on or before 13th March 1984 (subject to the condition that the amount assessed shall not exceed 50% of £1,500 or 50% of one-sixth of the said total income whichever is the greater);

(4) the amount of any other items of expenditure in respect of which relief is given under the Income Tax Acts.

Balance of income

5.—(1) For the purposes of this Schedule the balance of income shall be—

(a) in any case other than a case mentioned in sub-paragraphs *(b)* or *(c)* the sum, if any, by which the total income assessed under paragraphs 2 and 3 exceeds the charges assessed under paragraph 4;

(b) in any case where in the opinion of the education authority insufficient information is available to enable them for the time being to ascertain the sum mentioned in sub-paragraph *(a)* such sum (including nil) as may be provisionally assessed by the authority as being reasonable in the circumstances of the given case as then known to them; or

(c) in any case where the authority, after due inquiry, are satisfied that the parents of or other person legally liable to maintain the holder cannot be ascertained, nil.

(2) If, in any case in which the balance of income has been ascertained by virtue of sub-paragraph (1)*(b)* an authority are not satisfied—

(a) where the payment period in relation to that case comprises 3 academic terms, before the beginning of the third academic term in that period; or

(b) where the payment period in relation to that case comprises 2 academic terms, before the beginning of the second academic term in that period,

that sufficient information is available to them to enable them to ascertain the balance of income in that case by virtue of sub-paragraph (1)*(a)* they may withhold the payment of any further bursary instalments which otherwise might have been payable to the holder.

(3) Where, in any case in which the balance of income has been ascertained by virtue of sub-paragraph (1)*(b)* an education authority are subsequently furnished with sufficient information to enable them to ascertain the balance

of income in relation to that case by virtue of sub-paragraph (1)*(a)* and the balance of income so ascertained exceeds the sum provisionally assessed under sub-paragraph (1)*(b)*, they shall be entitled on that account—

(a) to adjust the payment of any further bursary instalments payable to the holder in such case so that the total sums paid in respect of bursary in relation to the holder in respect of a payment period do not exceed the total sums which would have been so payable had the balance of income been ascertained by virtue of sub-paragraph (1)*(a)*, and applied initially in ascertaining those total sums; or

(b) otherwise to recover any sums overpaid to the holder in that respect.

The contribution

6. Subject to the provisions of paragraphs 7 and 8 the contribution to be taken into account shall be as follows—

(a) in the assessment of a category A bursary, if the balance of income is not less than £4,061 the contribution shall be £15 with the addition of £15 for every complete £50 by which the balance of income exceeds £4,061;

(b) in the assessment of a category B bursary—

(i) if the balance of the income of the parents or, as the case may be, the person legally liable to maintain the holder is not less than £8,100 and not more than £10,300, the contribution shall be £20 with the addition of £1 for every complete £7 by which the balance of income exceeds £8,100;

(ii) if the balance of that income is more than £10,300 and not more than £15,000, the contribution shall be £334 with the addition of £1 for every complete £5 by which the balance of income exceeds £10,300;

(iii) if the balance of that income is more than £15,000, the contribution shall be £1,274 with the addition of £1 for every complete £4 by which the balance of income exceeds £15,000 up to a maximum contribution of £4,000;

reduced in each case, in respect of each child of the parent (other than the student) who is wholly or mainly dependent on him, by £85 or, if such child holds a category B bursary or a grant for a degree or equivalent level course, by £240;

(c) in the assessment of a category B bursary—

(i) if the balance of the income of the spouse is not less than £6,300 and not more than £10,200 the contribution shall be £10 with the addition of £1 for every complete £5 by which the balance of income exceeds £6,300; and

(ii) if the balance of that income is more than £10,200 the contribution shall be £790 with the addition of £1 for every complete £10 by which the balance of income exceeds £10,200;

reduced in each case, in respect of each child of the spouse who is wholly or mainly dependent on him, by £85.

Reduced contributions

7.—(1) The contribution or the sum of the contributions ascertained under this Part shall be reduced by the amount of any contribution by the same person which has been taken into account in the assessment of the amount of any allowance granted by the Secretary of State under section 75*(f)* of the 1980 Act (**a**).

(2) If in any payment period the holder is required for the purposes of his course of study to attend regularly at the educational institution for less than three academic terms, the contribution so ascertained shall be reduced proportionately.

(3) Where in any particular case the education authority are satisfied that it would be unreasonable to expect the parents of the holder or the person legally liable to maintain him to make the contribution so ascertained, no contribution shall be taken into account.

Combined assessments

8. Where there are in the same family two or more holders, the foregoing provisions of this Part shall be modified as the case may be, as follows—

(a) where the bursaries are all of category A, or are all of category B, the reference in paragraph 4(2) to "the holder" where second occurring shall be construed as references to the said two or more holders, and the contribution shall be attributed to each of the bursaries in such proportion as the education authority consider reasonable;

(b) where one or more of the bursaries is of category A and one or more of the bursaries is of category B, the contributions to be assessed for the purpose of regulation 8*(a)* shall be assessed as follows—

(i) the contribution in respect of the category B bursary or bursaries shall be assessed in accordance with the foregoing paragraphs of this Part, the reference in paragraph 4(2) to "the holders" where second occurring being construed as references to the holders of category B bursaries and holders of allowances under section 75*(f)* of the 1980 Act, as the case may be; and where more than one of the bursaries is of category B, the contribution shall be attributed to each of the category B bursaries in such proportion as the education authority consider reasonable;

(ii) the contribution in respect of category A bursary or bursaries shall be assessed in accordance with the foregoing paragraphs of this Part, the reference in paragraph 4(2) to "the holder" where second occurring being construed as references to the holders of category A bursaries, category B bursaries and holders of allowances under section 75*(f)* of the 1980 Act, as the case may be, and shall be reduced by the amount of the contribution in respect of the category B bursary or bursaries ascertained as in the immediately foregoing sub-paragraph; and where more than one of the bursaries is of category A, the contribution shall be attributed to each of the category A bursaries, in such proportion as the education authority consider reasonable.

(**a**) 1980 c.44.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations are made in replacement and consolidation of the Education Authority Bursaries (Scotland) Regulations 1978 to 1984. They prescribe the conditions subject to which bursaries may be made and make provision with regard to requirements to be fulfilled by persons in relation to whom the powers of an education authority under section 49 of the Education (Scotland) Act 1980 may be exercised.

The assessment of higher school bursaries is dealt with in Schedule 2 and the assessment of bursaries for full-time further education is dealt with in Schedule 3. The scale for further education students who have not yet attained the age of 18 years is comparable to that for higher school bursaries. There is a different scale for students of 18 years and over.

The bursary rates and the parental and spouse contribution scales to be effected in session 1985–86 for higher school bursaries and further education bursaries are laid down in Schedules 2 and 3. The 1985–86 rates and scales for holders of higher school bursaries and for further education students under the age of 18 have been increased by 5.1% over the rates and scales which obtained in session 1984–85. In the case of further education students aged 18 and over, the 1985–86 rates and scales have been increased by 3% in line with a similar increase awarded to students undertaking full-time university degree level courses.

In addition, regulation 8 prescribes that any income of the holder from employment should be disregarded in the assessment of full-time further education bursaries, regulations 1(5) and 1(6) of Schedule 3 Part 1 prescribe the weekly rate of maintenance allowance (during periods other than vacations) payable to students who have been categorised according to whether they are residing in a parental home or a marital home or elsewhere, and regulation 1(10) of Schedule 3 Part 1 prescribes that a Mature Student Allowance payable to an eligible full-time further education student aged 26 or over, who is in attendance for less than 3 terms during the session, must be reduced proportionately.

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