STATUTORY INSTRUMENTS

1986 No. 1009

HOUSING ENGLAND AND WALES
HOUSING, SCOTLAND
RATING AND VALUATION

The Housing Benefits Amendment (No. 3) Regulations 1986

Made - - - -	16*th June* 1986
Laid before Parliament	18*th June* 1986
Coming into operation in accordance with regulation 1	

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 28(1) of the Social Security and Housing Benefits Act 1982(**a**) ("the 1982 Act") and section 166(2) and (3) of the Social Security Act 1975(**b**) (as applied by section 45(1) of the 1982 Act), with the consent of the Treasury, after consultation with organisations appearing to him to be representative of authorities concerned(**c**) and after reference to the Social Security Advisory Committee (**d**), hereby makes the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the Housing Benefits Amendment (No. 3) Regulations 1986 and, except as provided in paragraph (2), shall come into operation on 28th July 1986.

(2) The following provisions shall come into operation on 1st September 1986—

regulation 2(1);

regulation 2(4) as it applies to paragraphs 3 to 14 inclusive of Schedule 1A;

regulation 5.

Eligibility and entitlement of students

2. The Housing Benefits Regulations 1985(**e**) shall be amended in accordance with the following paragraphs—

(1) There shall be deleted—

(a) the definition in regulation 2(1) of "grant-aided student" except for the purposes of regulation 5(1) (transitional provisions);

(b) paragraphs (2)*(e)* and (5) of regulation 18 and, from paragraph (8) of that regulation, the words "other than that referred to in sub-paragraph *(e)* thereof" and all the words following "rent paid by each such person";

(c) Schedule 1, except for the purposes of regulation 5(1);

(**a**) 1982 c.24. (**b**) 1975 c.14.
(**c**) *See* section 36(1)(*a*) Social Security and Housing Benefits Act 1982 (c.24).
(**d**) *See* sections 9 and 10 of the Social Security Act 1980 (c.30).
(**e**) S.I. 1985/677; relevant amending instruments are S.I. 1985/1100, 1445 and 1986/852.

(d) paragraph 13 of Schedule 2.

(2) After the definition of "shared ownership tenancy" in regulation 2(1) there shall be inserted the following:—

' "student" has the meaning ascribed to it in paragraph 1 of Schedule 1A;'.

(3) For the existing regulation 12 (students from abroad) there shall be substituted a new Part IIA as follows:—

"PART IIA

ELIGIBILITY AND ENTITLEMENT OF STUDENTS

Modification of Parts II to IV and VI in relation to students

12. The provisions of Parts II to IV and VI (eligibility, amount of housing benefit, benefit period and payment) shall have effect in relation to students and their partners subject to the modifications set out in Schedule 1A hereto."

(4) There shall be inserted, after Schedule 1, a Schedule 1A, the terms of which are set out in the Schedule to these regulations.

Deductions for students who are members of the eligible person's household

3. Regulation 20(13) of the Housing Benefits Regulations 1985 shall be amended by substituting for the words " 'relevant student' means a person who is receiving full-time education at an educational establishment and whose requirements are provided for, in whole or in part, by the eligible person" the following words—

" 'relevant student' means a student in full-time education who is a member of the household of the eligible person but does not include such a person during any period which is not a period of study as defined in paragraph 1 of Schedule 1A".

Disregard of income

4. Paragraph 5 of Schedule 2 to the Housing Benefits Regulations 1985 shall be amended by inserting, after the words "Any sums", where they first appear, the words "in respect of a course of study attended by a dependent child" and by deleting the words "any sums" where they appear for a second time.

Transitional provisions

5.—(1) Until 1st April 1988, paragraph 10 of Schedule 1A (student deduction) shall not have effect in the case of a student who is attending a course which he was attending immediately before 1st September 1986, except where he is attending as a grant-aided student.

(2) Paragraph 3 of Schedule 1A (eligibility of students outside the period of study) and Parts III to VI inclusive (amount of housing benefit for students, benefit period, payment and partners) shall not have effect in relation to any period of a student's summer vacation in 1986.

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

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

13th June 1986.

We consent,

T. Garel-Jones,
A. G. Hamilton,
Two of the Lords Commissioners
of Her Majesty's Treasury.

16th June 1986.

SCHEDULE Regulation 2(4)

"SCHEDULE 1A Regulation 12

MODIFICATION OF PARTS II TO IV AND VI OF THE REGULATIONS IN RELATION TO STUDENTS

PART I

INTERPRETATION

1. In this Schedule, 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 takes into account in assessing the amount of the student's grant and by which the 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 student under a covenant by his parent including any sum deducted from the gross amount for tax;

"education authority" means a government department, a local education authority as defined in section 114(1) of the Education Act 1944(**a**), an education authority, as defined in section 135(1) of the Education (Scotland) Act(**b**), an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1972(**c**), any body which is a research council for the purposes of the Science and Technology Act 1965(**d**) or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

"full-time student" includes a student on a sandwich course;

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

(**a**) 1944 c.31, amended by S.I. 1977/293, article 4(1).
(**b**) 1980 c.44.
(**c**) S.I. 1972/1263 (N.I. 12).
(**d**) 1965 c.4.

"grant income" means—

(a) any income by way of a grant,

(b) any contribution, whether paid or not;

"periods of experience" has the meaning ascribed to it by paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1985(**a**);

"period of study" means—

(a) in the case of a course of study for one year or less, the period from the beginning of the course to the end,

(b) in the first and any subsequent year of a course of study for more than one year, the period beginning with the start of the course 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 summer vacation,

provided that, in the case of a student who is on a sandwich course, the period of study shall not include any periods of experience;

"sandwich course" has the meaning ascribed to it by paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1985;

"standard maintenance grant" means—

(a) in the case of a student attending a course of study at the University of London or at an establishment within the area comprising the City of London and the Metropolitan Police District, £2,246, and

(b) in any other case, £1,901;

"student" means a person who is attending a course of study at an educational establishment; 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.

PART II

ELIGIBILITY

Eligibility of students from abroad

2.—(1) Except in a certificated case, a student with limited leave or without leave to enter or remain in the United Kingdom shall not be eligible for housing benefit.

(2) In this paragraph "student with limited leave or without leave to enter or remain in the United Kingdom" means a person who is present in the United Kingdom for the purpose of attending a course of education, whether or not he is for the time being engaged in a programme of studies, and who—

(a) is a person, other than a national of a member State or a person to whom the European Convention on Social and Medical Assistance

(**a**) S.I. 1985/1126; there are no relevant amending instruments.

done in Paris on 11th December 1953(**a**) applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971(**b**)) to enter or remain in the United Kingdom which was given in accordance with any provision of immigration rules (as defined in section 33(1) of that Act) which refers to there being, or to there needing to be, no recourse to public funds, or to there being no charge on public funds, during that limited leave; or

(b) having a limited leave (as defined in section 33(1) of the Immigration Act 1971) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave; or

(c) is the subject of a deportation order, that is to say an order within section 5(1) of the Immigration Act 1971 requiring him to leave and prohibiting him from entering the United Kingdom; or

(d) is an illegal entrant (as defined in section 33(1) of the Immigration Act 1971) who is not given leave under that Act to enter or remain in the United Kingdom.

Eligibility of students outside the period of study

3.—(1) Subject to sub-paragraphs (2) and (3), a full-time student shall not be eligible for housing benefit for a dwelling during any week of absence from it outside the period of study, if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(2) The provisions of sub-paragraph (1) shall not apply to any absence occasioned by the need to enter hospital for treatment.

(3) A student shall be regarded as absent for any week, beginning with his benefit day, if he is absent on his benefit day and either remains absent for the rest of that week or was absent for the whole of the preceding week.

Eligibility of students in accommodation provided by an educational establishment

4.—(1) Subject to sub-paragraph (2), a student shall not be eligible, during the period of study, for a rent allowance in respect of a dwelling for which he is liable to pay rent to an educational establishment and, in such a case, he shall not be eligible for a rate rebate either, except where he is liable to pay rates direct to the rating authority.

(2) Where the educational establishment itself pays rent for the dwelling to a third party, the provisions of sub-paragraph (1) shall only apply if rent is payable under the terms of a long tenancy or to an education authority which has provided the dwelling in exercise of its functions as an education authority.

PART III

AMOUNT OF HOUSING BENEFIT

Grant income

5.—(1) For the purpose of ascertaining income, there shall be disregarded any grant income in connection with—

(a) any grant for tuition fees or examination fees;

(**a**) Cmnd. 9512. (**b**) 1971 c.77.

(b) any grant for special equipment for a student on a course in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, physical education, physiotherapy, remedial gymnastics, town and country planning and veterinary science or medicine;

(c) any grant for a disabled student on account of his disability;

(d) any grant in respect of additional expenditure connected with term-time residential study away from the student's educational establishment;

(e) any amount by which a grant is increased on account of the student maintaining a home at a place other than that at which he resides during his course.

(2) Grant income which is outside sub-paragraph (1) and which is attributable to the period of study shall be apportioned equally between the weeks of the period of study.

Covenant income in addition to a contribution

6.—(1) Where a student's grant income in respect of a period of study includes a contribution, any covenant income for such period and for any vacation following such period shall be taken into account in the manner provided in sub-paragraph (2).

(2) First, the amount of the contribution shall be disregarded, then the amount of tax deducted in respect of the covenanted payment; finally, the balance, if any, shall be divided by 52 or 53, whichever the appropriate authority considers reasonable in the circumstances, and treated as weekly income of the resulting amount, of which the first £4 shall be disregarded.

Covenant income where there is either no grant income or no contribution

7.—(1) Where no grant income within paragraph 5(2) is payable to a student, his covenant income for the period of study and for any vacation following such period shall be assessed as follows:—

(a) any sums which are intended and used for tuition fees or examination fees shall be disregarded;

(b) any covenant income, up to the value of the standard maintenance grant, which is not disregarded under *(a)*, shall be apportioned equally between the weeks of the period of study;

(c) any covenant income which is not disregarded under *(a)* and which is not apportioned between the weeks of the period of study under *(b)* shall be reduced by the amount of tax deducted in respect of the covenanted payment; and the balance, if any, shall be divided by 52 or 53, whichever the appropriate authority considers reasonable in the circumstances, and treated as weekly income, of which the first £4 shall be disregarded.

(2) Where grant income within paragraph 5(2) is payable to a student but without a contribution, his covenant income shall be assessed in accordance with sub-paragraph (1), except that the value of the standard maintenance grant shall be abated by the amount of such grant income.

Relationship with amounts to be disregarded under Schedule 2

8. No part of a student's covenant income or grant income shall be disregarded under paragraph 12 of Schedule 2, but paragraph 21 of that Schedule shall apply to the disregard of £4.00 under paragraph 6(2) or, as the

case may be, paragraph 7*(c)* of this Schedule in the same way as it applies to the disregard of £4.00 under paragraph 12 of Schedule 2.

Other amounts to be disregarded

9.—(1) For the purpose of ascertaining income other than grant income and covenant income, any amounts which are intended for and used for tuition fees or examination fees shall be disregarded.

(2) For the purpose of ascertaining a full-time student's weekly income, of any kind, during the period of study, there shall be disregarded an amount equal to the amount by which his eligible rent is reduced pursuant to paragraph 10.

Student deduction

10. For the purposes of regulation 18(2) (ascertainment of eligible rent), a full-time student's eligible rent during the period of study shall, except in a certificated case, be reduced by the following weekly amounts—

(a) in the case of a full-time student attending a course at the University of London or at an establishment within the area comprising the City of London and the Metropolitan Police District, £17.70, and

(b) in the case of any other full-time student, £13.60.

PART IV
BENEFIT PERIOD

Benefit period and the period of study

11. The appropriate authority may determine that a student's benefit period is to end at the conclusion of a period of study.

PART V
PAYMENT

Termly payment

12. Subject to regulation 42(2) (payment of rent allowance to be two weeks before the end of the period) and paragraph (3) of the same regulation (right to require fortnightly payments where entitlement is more than £2 a week), payments of housing benefit may be made to a student once a term.

PART VI
PARTNERS

Partner's income

13. Where a student's partner's income has been taken into account for the purpose of assessing a contribution to the student's grant, the amount of the contribution shall be disregarded for the purpose of assessing the amount of the partner's income.

Joint occupation

14. Where a dwelling is occupied jointly by a student and his partner, who is not a student, the provisions of this Schedule, except those in paragraphs 2 and 3, shall apply to the partner in respect of that dwelling as if the partner were the student.".

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Housing Benefits Regulations 1985 (the "1985 Regulations") in relation to students.

The changes made by amendments which are to come into operation, in accordance with regulation 1(1), on 28th July 1986 concern—

(a) a new definition in regulation 20 (deductions for non-dependants) of "relevant student" (regulations 2(2) and 3 and paragraph 1 of the new Schedule 1A inserted by regulation 2(4) of the present regulations);

(b) the disregard, by the amended paragraph 5 of Schedule 2 to the 1985 Regulations, of financial assistance to an eligible parent in respect of the studies of his dependent child (regulation 4).

The changes made by amendments which are to come into operation, in accordance with regulation 1(2), on 1st September 1986 or on the first day of term thereafter, apply to those parts of the new Schedule 1A which are not already in force and the associated amendments made by regulation 2(1). They are as follows:—

(a) paragraph 3 of the new Schedule 1A excludes from eligibility, subject to exceptions, students who are absent from their accommodation in the summer vacation;

(b) paragraph 4 excludes from eligibility, subject to exceptions, students in accommodation provided by educational establishments;

(c) paragraphs 5 to 9 provide for the assessment of the student's income, with particular reference to grant income and covenant income;

(d) paragraph 10, when taken with the amendments made by regulation 2(1), replaces the deduction from the eligible rent of the grant-aided student with a similar deduction for all full-time students, whether grant-aided or not;

(e) paragraphs 11 to 14 provide for benefit periods to coincide with periods of study, for payments to be made termly and for provisions applicable to students to apply, as a general rule, to their partners as well.

Regulation 5(1) postpones until 1st April 1988 the application of paragraph 10 of the new Schedule 1A to any student who is not a grant-aided student and who is on a course which he was attending immediately before 1st September 1986.

The report of the Social Security Advisory Committee dated 30th March 1986 on the draft of these regulations together with a statement showing the extent to which the regulations give effect to the Committee's recommendations is contained in Command Papers Nos. 9813 and 9814, published by Her Majesty's Stationery Office.

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