

Sections 33-42 & Schedule 5

Definition and the treatment of capital for Council tax support purposes

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### **33.0 Capital limit**

33.1 For the purposes of this scheme, the prescribed amount is £16,000 and no support shall be granted when the applicant has an amount greater than this level

### **34.0 Calculation of capital**

34.1 For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to paragraph (34.2), be the whole of his capital calculated in accordance with this scheme and any income treated as capital under section 36 (income treated as capital).

34.2 There shall be disregarded from the calculation of an applicant's capital under paragraph (34.1), any capital, where applicable, specified in Schedule 5.

### **35.0 Disregard of capital of child and young person**

35.1 The capital of a child or young person who is a member of the applicant's family shall not be treated as capital of the applicant.

### **36.0 Income treated as capital**

36.1 Any bounty derived from employment to which paragraph 8 of Schedule 3 applies and paid at intervals of at least one year shall be treated as capital.

36.2 Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

36.3 Any holiday pay which is not earnings under section 25(1)(d) (earnings of employed earners) shall be treated as capital.

36.4 Except any income derived from capital disregarded under paragraphs 1, 2, 4, 8, 14 or 25 to 28, 47 or 48 of Schedule 5, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.

36.5 In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer shall be treated as capital.

36.6 Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, shall be treated as capital.

36.7 There shall be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.

36.8 Any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.

36.9 Any arrears of working tax credit or child tax credit shall be treated as capital.

### **37.0 Calculation of capital in the United Kingdom**

37.1 Capital which an applicant possesses in the United Kingdom shall be calculated at its current market or surrender value less-

- a. where there would be expenses attributable to the sale, 10 per cent.; and
- the amount of any encumbrance secured on it,

### **38.0 Calculation of capital outside the United Kingdom**

38.1 Capital which an applicant possesses in a country outside the United Kingdom shall be calculated

- a. in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value.
- b. in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer, less, where there would be expenses attributable to sale, 10 per cent. and the amount of any encumbrances secured on it.

### **39.0 Notional capital**

39.1 1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax support or increasing the amount of that support except to the extent that that capital is reduced in accordance with section 40 (diminishing notional capital rule).

39.2 Except in the case of

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a); or
- (f) any sum to which paragraph 48(a) of Schedule 5 refers; or

- (g) child tax credit; or
  - (h) working tax credit,
- any capital which would become available to the applicant upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

39.3 Any payment of capital, other than a payment of capital specified in paragraph (39.4), made

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

39.4 Paragraph 39.3 shall not apply in respect of a payment of capital made

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act in respect of a person's participation
  - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
  - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
  - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
  - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
  - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (bb) in respect of a person's participation in the Mandatory Work Activity Scheme;  
Enterprise Scheme;
- (be) in respect of an applicant's participation in the Employment, Skills

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and Enterprise Scheme;

- (c) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where-
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

39.5 Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case

- a. the value of his holding in that company shall, notwithstanding section 34 (calculation of capital) be disregarded; and
- b. he shall, subject to paragraph 39.6, be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

39.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which, he is treated as possessing under paragraph 39.5 shall be disregarded.

39.7 Where an applicant is treated as possessing capital under any of paragraphs 39.1 to 39.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital, which he does possess.

#### **40.0 Diminishing notional capital rule**

40.1 Where an applicant is treated as possessing capital under section 39.1 (notional capital), the amount which he is treated as possessing;

- a. in the case of a week that is subsequent to
  - (i) the relevant week in respect of which the conditions set out in paragraph 40.2 are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph 40.3;
- b. in the case of a week in respect of which paragraph 40.1(a) does not apply but where
  - (i) that week is a week subsequent to the relevant week; and
  - (ii) that relevant week is a week in which the condition in paragraph

- 40.4 is satisfied, shall be reduced by the amount determined under paragraph 40.4.
- 40.2 This paragraph applies to a support week or part-week where the applicant satisfies the conditions that
- a. he is in receipt of council tax support; and
  - b. but for paragraph 39.1, he would have received an additional amount of council tax support in that week.
- 40.3 In a case to which paragraph 40.2 applies, the amount of the support for the purposes of paragraph 40.1(a) shall be equal to the aggregate of
- a. the additional amount to which sub-paragraph 40.2 (b) refers;
  - b. where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the support week to which paragraph 40.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
  - c. . where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the support week to which paragraph 40.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
  - d. where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the support week to which paragraph 40.2 refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital) and
  - e. where the applicant has also claimed an employment and support allowance , the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of support week to which paragraph 40.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- 40.4 Subject to paragraph 40.5, for the purposes of paragraph 40.1(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for paragraph 39.1, and in such a case the amount of the support shall be equal to the aggregate of
- a. . the amount of council tax support to which the applicant would have been entitled in the relevant week but for paragraph 39.1; and for the purposes of this sub-paragraph is the amount is in respect of a part-week, that amount shall be determined by dividing the amount of council tax support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
  - b. if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the support week which includes the last day of the relevant week, the amount which is equal to-

- (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
  - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to that number of days in the part-week and multiplying the quotient so obtained by 7;
- c. if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the support week, within the meaning of regulation 2(1) of those Regulations, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7
- d. if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the support week, within the meaning of this scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and
- e. if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the support week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.

40.5 The amount determined under paragraph 40.4 shall be re-determined under that paragraph if the applicant makes a further claim for council tax support and the conditions in paragraph 40.6 are satisfied, and in such a case-

- a. sub-paragraphs (a) to (d) of paragraph 40.4 shall apply as if for the words 'relevant week' there were substituted the words 'relevant subsequent week'; and

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b. subject to paragraph 40.7, the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

40.6 The conditions are that

- a. a further claim is made 26 or more weeks after
  - (i) the date on which the applicant made a claim for council tax support in respect of which he was first treated as possessing the capital in question under paragraph 39.1;
  - (ii) in a case where there has been at least one re-determination in accordance with paragraph 40.5, the date on which he last made a claim for council tax support which resulted in the weekly amount being re-determined, or
  - (iii) the date on which he last ceased to be entitled to council tax support, whichever last occurred; and
- b. the applicant would have been entitled to council tax support but for paragraph 39.1.

40.7 7 The amount as re-determined pursuant to paragraph 40.5 shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

40.8 For the purposes of this section

- a. 'part-week'
  - (i) in paragraph 40.4(a) means a period of less than a week for which council tax support is allowed;
  - (ii) in paragraph 40.4(b) means a period of less than a week for which housing benefit is payable;
  - (iii) in paragraph 40.4 (c), (d) and (e) means-
- aa. a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
- bb. any other period of less than a week for which it is payable;
- b. 'relevant week' means the support week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of section 39.1
  - (i) was first taken into account for the purpose of determining his entitlement to council tax support; or
  - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to council tax support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax support;and where more than one support week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such support week or, as the case may be, the later or latest such part-week;
- c. 'relevant subsequent week' means the support week or part-week



which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

#### **41.0 Capital jointly held**

41.1 Except where an applicant possesses capital which is disregarded under paragraph 39(5) (notional capital) where an applicant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Section shall apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess

#### **42.0 Calculation of tariff Income from capital**

42.1 Where the applicant's capital calculated in accordance with this scheme exceeds £6,000 it shall be treated as equivalent to a weekly income of £ 1 for each complete £250 of in excess of £6,000 but not exceeding £ 16,000

42.2 Notwithstanding paragraph 42.1 where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £ 1.

42.3 For the purposes of paragraph 42.1, capital includes any income treated as capital under section 36 (income treated as capital).

**Sections 43 - 56**

**Definition and the treatment of students for Council tax support purposes**

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<sup>18</sup> Amounts shown in sections 43 to 56 will be updated in line with the Housing Benefit Regulations 2006 (as amended)

## 43.0 Student related definitions

43.1 1 In this scheme the following definitions apply;

**'academic year'** means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;

**'access funds'** means;

- a. grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;
- b. grants made under section 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;
- c. grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- d. discretionary payments, known as "learner support funds", which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009; or
- e. Financial Contingency Funds made available by the Welsh Ministers;

**'college of further education'** means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

**'contribution'** means;

- a. any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or
- b. any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following person to contribute towards the holder's expenses;
  - (i) the holder of the allowance or bursary;
  - (ii) the holder's parents;
  - (iii) the holder's parent's spouse, civil partner or a person

ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or

(iv) the holder's spouse or civil partner;

**'course of study'** means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

**'covenant income'** means the gross income payable to a full-time student under a Deed of Covenant by his parent;

**'education authority'** means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, anybody which is a research council for the purposes of the Science and Technology Act 1965 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 course of study'** means a full time course of study which;

- a. is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;;
- b. is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out-
  - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
  - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- c. is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves-
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

(ii) 16 hours or less per week of classroom-based or workshop-based programmed

learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

**'full-time student'** means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

**'grant'** (except in the definition of 'access funds') means any kind of educational grant or award and includes any scholarship, studentship, exhibition allowance or bursary but does not include a payment from access funds or any payment to which paragraph 12 of Schedule 4 or paragraph 53 of Schedule 5 applies;

**'grant income'** means

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

**'higher education'** means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

**'last day of the course'** means;

- a. in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- b. in any other case, 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, the 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 or loan is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant or loan, where a loan 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'** means periods of work experience which form part of a sandwich course;

**'qualifying course'** means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker's Allowance Regulations;

**'modular course'** means a course of study which consists of two or

more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

**'sandwich course'** has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans), (Scotland), Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

**'standard maintenance grant'** means-

- a. except where paragraph (b) or (c) applies, in the case of a student attending or undertaking 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 2003 ('the 2003 Regulations') for such a student;
- b. except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- c. in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as 'standard maintenance allowance' for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- d. in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

**'student'** means a person, other than a person in receipt of a training allowance, who is attending or undertaking-

- a. a course of study at an educational establishment; or
- b. a qualifying course;

**'student' loan'** means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Student's Allowances (Scotland) Regulations 2007

43.2 For the purposes of the definition of 'full-time student', a person shall be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course

- a. in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending;
  - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time

course of study; or  
(ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;

- b. in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

43.3 For the purposes of sub-paragraph (a) of paragraph 43.2, the period referred to in that sub-paragraph shall include;

- a. where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- b. any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

#### **44.0 Treatment of students**

44.1 The following sections relate to students who claim Council tax support

#### **45.0 Students who are excluded from entitlement to council tax support**

45.1 Students (except those specified in paragraph 45.3) are not able to claim Council tax support under Classes D and E of the Council's support scheme.

45.2 To be eligible for support, the student must be liable for Council Tax under Section 6 of the Local Government Finance Act 1992 and they must not be deemed to be a full time student or a persons from abroad within the meaning of section 7 of this scheme (persons from aboard).

45.3 Paragraph 45.2 shall not apply to a student

- (a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;
- (b) who is a lone parent;
- (c) whose applicable amount would, but for this section, include the disability premium or severe disability premium;
- (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the Act;

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;

(f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period.

(g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

(h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989, or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;

(i) who is;

(i) aged under 21 and whose course of study is not a course of higher education, or

(ii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);

(j) in respect of whom

(i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;

(ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;

(iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.



45.3 A For the purposes of paragraph 45.3(h)(i) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19

45.4 For the purposes of paragraph 45.3, once paragraph 45.3(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

45.5 In paragraph 45.3(h) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

45.6 6 A full-time student to whom sub-paragraph (i) of paragraph 45.3 applies, shall be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

45.7 Paragraph 45.2 shall not apply to a full-time student for the period specified in paragraph 45.8 if;

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is;
  - (i) engaged in caring for another person; or
  - (ii) ill;
- (b) he has subsequently ceased to be engaged in engaging in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in paragraph 45.8.

45.8 The period specified for the purposes of paragraph 45.7 is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before;

- (a) the day on which he resumes attending or undertaking the course; or
- (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, which shall first occur.

## **46.0 Calculation of grant income**

46.1 The amount of a student's grant income to be taken into account shall, subject to paragraphs 46.2 and 46.3, be the whole of his grant income.

46.2 There shall be excluded from a student's grant income any payment;

- 
- (a) intended to meet tuition fees or examination fees;
  - (b) in respect of the student's disability;
  - (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) 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;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant.
  - (i) of higher education bursary for care leavers made under Part 111 of the Children Act 1989.

46.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall be excluded from the student's grant income;

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.

The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).

46.4 There shall also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.

46.5 Subject to paragraphs 46.6 and 46.7, a student's grant income shall be apportioned;

- (a) subject to paragraph 46.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the support week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
- (b) in any other case, equally between the weeks in the period beginning with the support week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

46.6 Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of

Schedule 2 to the Education (Mandatory Awards) Regulations 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 support weeks (including part-weeks) in the year, 53.

46.7 In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither paragraph 46.6 nor section 50 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.

46.8 In the case if 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 weeks in the period beginning with the support week, the first day of which immediately follows the last day of the period of experience and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

#### **47.0 Calculation of covenant income where a contribution is assessed**

47.1 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 47.3, the amount of the contribution.

47.2 The weekly amount of the student's covenant shall be determined-

- (a) by dividing the amount of income which falls to be taken into account under paragraph 47.1 by 52 or 53, whichever is reasonable in the circumstances; and
- (b) by disregarding from the resulting amount, £5.

47.3 For the purposes of paragraph 47.1, the contribution shall be treated as increased by the amount (if any) by which the amount excluded under paragraph 46.2(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

#### **48.0 Covenant income where no grant income or no contribution is assessed**

48.1 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 paragraph 46.2 (a) to (e) (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 paragraph 46.2(f) and 46.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
- (d) 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.

48.2 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 (d) of paragraph 48.1, 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 paragraph 46.2 (a) to (e); and
- (b) the amount to be disregarded under paragraph 48.1(c) shall be abated by an amount equal to the amount of any sums disregarded under paragraph 46.2(f) and (g) and 46.3.

#### **49.0 Student Covenant Income and Grant income - non disregard**

49.1 No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 4 to this scheme

#### **50.0 Other amounts to be disregarded**

50.1 For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with section 51, any amounts intended for any expenditure specified in paragraph 46.2 (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 paragraphs 46.2 or 46.3, 47.3, 48.1(a) or (c) or 51.5 (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

#### **51.0 Treatment of student loans**

51.1 A student loan shall be treated as income.

51.2 In calculating the weekly amount of the loan to be taken into account as income

- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be

apportioned equally between the weeks in the period beginning with;

(i) except in a case where (ii) applies, the support week, the first day of which coincides with, or immediately follows, the first day of the single academic year;

(ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the support week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the support week, the last day of which coincides with, or immediately precedes with last day of the course,

(b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the support week, the first day of which coincides with or immediately follows, the first day of that academic year and ending with the support week, the last day of which coincides with or immediately precedes, the last day of that academic year but excluding any support weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken and for the purposes of this sub-paragraph, 'quarter' shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2005;

(c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with;

(i) except in a case where (ii) applies, the support week, the first day of which coincides with or immediately follows, the first day of that academic year;

(ii) where the final academic year starts on 1st September, the support week, the first day of which coincide with, or immediately follows, the earlier of 1st September or the first day of the autumn term,

and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the course;

(d) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of;

(i) the first day of the first support week in September; or

(ii) the support week, the first day of which coincides with, or immediately follows the first day of the autumn term,

and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of June,

and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.

51.3 A student shall be treated as possessing a student loan in respect of an academic year where;

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

51.4 Where a student is treated as possessing a student loan under paragraph 51.3, the amount of the student loan to be taken into account as income shall be, subject to paragraph 51.5

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to
  - (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
  - (ii) any contribution whether or not it has been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if;
  - (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
  - (ii) no deduction in that loan was made by virtue of the application of a means test.

51.5 There shall be deducted from the amount of income taken into account under paragraph 51.4

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).

#### **51A.O Treatment of fee loans**

51A. 1A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

#### **52.0 Treatment of payments from access funds**

52.1 This paragraph applies to payments from access funds that are not payments to which paragraph 55.2 or 55.3 (income treated as capital) applies.

52.2 A payment from access funds, other than a payment to which paragraph 52.3 applies, shall be disregarded as income.

52.3 Subject to paragraph 52.4 of this section and paragraph 35 of Schedule 4,

- a) any payments from access funds which are intended and used for

an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family and

- b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, shall be disregarded as income to the extent of £20 per week.

52.4 Where a payment from access funds is made-

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student, that payment shall be disregarded as income.

### **53.0 Disregard of contribution**

53.1 Where the applicant or his partner is a student and for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.

### **54.0 Further disregard of student's Income**

54.1 Where any part of a student's income has already been taken into account for the purpose of assessing his entitlement to a grant or student loan, the amount taken into account shall be disregarded in assessing that student's income.

### **55.0 Income treated as capital**

55.1 Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.

55.2 Any amount paid from access funds as a single lump sum shall be treated as capital.

55.3 An amount paid from access fund as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.

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**56.0 Disregard of changes occurring during summer vacation**

56.1 In calculating a student's income the 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.