

## SCHEDULE 5

Regulation 90

### FINANCIAL ASSESSMENT

#### Definitions

1. In this Schedule:—

- (a) “existing student” means an eligible student who is not a new eligible student;
- (b) “financial year” means the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of this Schedule is computed for the purposes of the income tax legislation which applies to it;
- (c) “household income” has the meaning given in paragraph 3;
- (d) “independent eligible student” has the meaning given in paragraph 2;
- (e) “Member State” means a Member State of the European Union;
- (f) “new eligible student” means an eligible student who begins a specified designated course on or after 1st September 2004;
- (g) “parent” means a natural or adoptive parent and “child”, “mother” and “father” are to be construed accordingly;
- (h) “parent student” means an eligible student who is the parent of an eligible student;
- (i) “partner” in relation to an eligible student means any of the following—
  - (i) the spouse of an eligible student;
  - (ii) the civil partner of an eligible student;
  - (iii) a person ordinarily living with an eligible student as if he were his spouse where an eligible student falls within paragraph 2(1)(a) and he begins the specified designated course on or after 1st September 2000;
  - (iv) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(1)(a) and he begins the specified designated course on or after 1st September 2005;
- (j) “partner” in relation to the parent of an eligible student means any of the following other than another parent of the eligible student—
  - (i) the spouse of an eligible student’s parent;
  - (ii) the civil partner of an eligible student’s parent;
  - (iii) a person ordinarily living with the parent of an eligible student as if he were the parent’s spouse;
  - (iv) a person ordinarily living with the parent of an eligible student as if he were the parent’s civil partner;
- (k) “preceding financial year” means the financial year immediately preceding the relevant year;
- (l) “relevant year” means the academic year in respect of which the household income falls to be assessed;
- (m) “residual income” means taxable income after the application of paragraph 4 (in the case of an eligible student), paragraph 5 (in the case of an eligible student’s parent), paragraph 6 (in the case of an eligible student’s partner) or paragraph 7 (in the case of the partner of a new eligible student’s parent); and
- (n) “taxable income” means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 9 and, in relation to paragraph 5, in

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respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 5) of the preceding financial year, a person's taxable income from all sources computed as for the purposes of—

- (i) the Income Tax Acts;
- (ii) the income tax legislation of another Member State which applies to the person's income; or
- (iii) where the legislation of more than one Member State applies to the period, the legislation under which the Department considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

### **Independent eligible student**

2.—(1) An independent eligible student is an eligible student where—

- (a) he is aged 25 or over on the first day of the relevant year;
- (b) he is married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;
- (c) he has no parent living;
- (d) the Department is satisfied that neither of his parents can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) he has communicated with neither of his parents for the period of one year before the beginning of the relevant year or, in the opinion of the Department, he can demonstrate on other grounds that he is irreconcilably estranged from his parents;
- (f) he was looked after by an authority (within the meaning of Articles 25 and 26 of the Children (Northern Ireland) Order 1995<sup>(1)</sup>) throughout any three-month period ending on or after the date on which he attained the age of 16 and before the first day of the first academic year of the course (the “relevant period”) provided that he has not in fact at any time during the relevant period been under the charge or control of his parents;
- (g) his parents are residing outside the European Community and the Department is satisfied that either—
  - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
  - (ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under paragraph 8 or 9 to send any relevant funds to the United Kingdom;
- (h) paragraph 5(9) applies and the parent whom the Department considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
- (i) he is a member of a religious order who resides in a house of that order;
- (j) as at the first day of the relevant year, he has the care of a person under the age of 18; or
- (k) he has supported himself out of his earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he is to be treated as supporting himself out of his earnings during any period in which—
  - (i) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local (“a relevant authority”);

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(1) S.I. 1995/755 (N.I. 2)

- (ii) he was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
  - (iii) he was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
  - (iv) he held a State Studentship or comparable award; or
  - (v) he received any pension, allowance or other benefit paid by any person by reason of a disability to which he is subject, or by reason of confinement, injury or sickness.
- (2) An eligible student who qualifies as an independent eligible student under paragraph 2(1)(j) in respect of an academic year of a designated course retains that status for the duration of the period of eligibility.

### **Household income**

- 3.—(1) The amount of an eligible student's contribution depends on the household income.
- (2) The household income is—
- (a) in the case of an eligible student who is not an independent eligible student, the residual income of the eligible student aggregated with the residual income of the eligible student's parents (subject to paragraph 5(9)) and—
    - (i) in the case of a new eligible student who began his specified designated course before 1st September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(iv)) of the student's parent (provided that the Department has selected that parent under paragraph 5(9)); or
    - (ii) in the case of a new eligible student who began his specified designated course on or after 1st September 2005, the residual income of the partner of the student's parent (provided that the Department has selected that parent under paragraph 5(9));
  - (b) in the case of an independent eligible student who has a partner, the residual income of the eligible student aggregated with the residual income of the eligible student's partner (subject to sub-paragraph (4)); or
  - (c) in the case of an independent eligible student who does not have a partner, the residual income of the eligible student.
- (3) In determining the household income under sub-paragraph (2), there is deducted the sum of £1,075—
- (a) for each child wholly or mainly financially dependent on the eligible student or the eligible student's partner; or
  - (b) for each child other than the eligible student wholly or mainly financially dependent on the eligible student's parent or the eligible student's parent's partner whose residual income is being taken into account.
- (4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

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### Calculation of eligible student's residual income

4.—(1) For the purpose of determining the residual income of an eligible student, there is deducted from his taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs—

- (a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration does not include any sums paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988<sup>(2)</sup> or under section 188 of the Finance Act 2004<sup>(3)</sup>, or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 2 into which an eligible student falls is paragraph 9 and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Schedule 2, his income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 2 would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is—

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics<sup>(4)</sup>.

### Calculation of parent's residual income

5.—(1) For the purposes of determining the taxable income of an eligible student's parent, any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;
- (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under sub-paragraph (2)

must not be made or permitted.

(2) For the purposes of determining the residual income of an eligible student's parent, there is deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs—

(2) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10 and the Income Tax (Trading and other Income) Act 2005, Schedule 1. Amendments to section 273 made by the Finance Act 2004 (c. 12), section 281 and Schedule 35 do not come into force until 6th April 2006. Sections 619 and 639 are repealed by the Finance Act 2004, section 326 and Schedule 42 with effect from 6th April 2006 subject to the transitional provisions and savings in Schedule 36 to the Finance Act 2004.

(3) 2004 c. 12.

(4) "Financial Statistics" (ISSN 0015-203X).

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- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988 or under section 188 of the Finance Act 2004, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted do not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact income for the purposes of the Income Tax Acts;
- (c) in the case of a parent student or an eligible student's parent who holds a statutory award, £1,075.

(3) Where the Department is satisfied that the residual income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 85 per cent. of the sterling value of his residual income in the preceding financial year it may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the parent's residual income for the current financial year.

(4) Where the Department is satisfied that the residual income of the parent in any financial year is, as a result of any event, likely to be and to continue after that year to be not more than 85 per cent. of the sterling value of his residual income in the previous financial year it may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his residual income for each of the financial years in which that academic year falls.

(5) Where the eligible student's parent satisfies the Department that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then any reference in this Schedule to a preceding financial year means the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

(6) Where an eligible student's parent is in receipt of any income which does not form part of his income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where his income is computed as for the purposes of the income tax legislation of another Member State, not so resident, ordinarily resident or domiciled in that Member State;
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another Member State, does not arise in that Member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

(7) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another Member State, it is computed under the provisions of this Schedule in the currency of that Member State and the income of the eligible student's parent for the purposes of this Schedule is the sterling value of that income determined in accordance with the rate for the

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month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(8) Where one of the eligible student's parents dies either before or during the relevant year and that parent's income has been or would be taken into account for the purpose of determining the household income, the household income is—

- (a) where the parent dies before the relevant year, determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, the aggregate of—
  - (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and
  - (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(9) Where the Department determines that the parents are separated for the duration of the relevant year, the household income is determined by reference to the income of whichever parent the Department considers the more appropriate under the circumstances.

(10) Where the Department determines that the parents have separated in the course of the relevant year, the household income is determined by reference to the aggregate of—

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (9), being the proportion in respect of that part of the relevant year during which the parents are separated; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

### **Calculation of eligible student's partner's residual income**

6.—(1) — Subject to sub-paragraphs (2), (3) and (4) an eligible student's partner's income is determined in accordance with paragraph 5 (other than sub-paragraphs (8), (9) and (10) of paragraph 5), references to the parent being construed as references to the eligible student's partner.

(2) Where the Department determines that the eligible student and his partner are separated for the duration of the relevant year, the partner's income is not taken into account in determining the household income.

(3) Where the Department determines that the eligible student and his partner have separated in the course of the relevant year, the partner's income is determined by reference to his income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Department determines that the eligible student and his partner are not separated.

(4) Where an eligible student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

### **Calculation of parent's partner's residual income**

7. The income of a new eligible student's parent's partner whose income is part of the household income by virtue of paragraph 3(2)(a) is determined in accordance with paragraph 6, references to the eligible student's partner being construed as references to the new eligible student's parent's partner, and references to the eligible student being construed as references to the new eligible student's parent.

### **Calculation of contribution – old system students**

8.—(1) The contribution payable in relation to an old system student who is not an independent eligible student is—

- (a) in any case where the household income is £23,085 or more, £45 with the addition of £1 for every complete £12.50 by which the household income exceeds £23,085; and
- (b) in any case where the household income is less than £23,085, nil.

(2) The contribution payable in relation to an old system student who is an independent eligible student with a partner is—

- (a) in any case where the household income is £23,085 or more, £45 with the addition of £1 for every £9.50 by which the household income exceeds £23,085; and
- (b) in any case where the household income is less than £23,085, nil.

(3) The contribution payable in relation to an old system student who is an independent eligible student without a partner is—

- (a) in any case where the household income is £10,750 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,750; and
- (b) in any case where the household income is less than £10,750, nil.

(4) The amount of the contribution payable under sub-paragraphs (1) to (3) must in no case exceed £8,145.

(5) The contribution may be adjusted in accordance with paragraph 10 or 11.

(6) Where sub-paragraph (7) applies, the aggregate contributions must not exceed £8,145.

(7) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than current system students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
- (b) the household income consists of the residual income of an independent eligible student and his partner where both hold a statutory award.

### **Calculation of contribution – current system students**

9.—(1) In relation to an eligible student who is a current system student, the contribution payable is—

- (a) in any case where the household income exceeds £38,805, £1 for every complete £9.50 by which the household income exceeds £38,805; and
- (b) in any case where the household income is £38,805 or less, nil.

(2) The contribution must not in any case exceed £5,905.

(3) The contribution may be adjusted in accordance with paragraph 10 or 11.

(4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £5,905.

(5) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than old system students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
- (b) the household income consists of the residual income of an independent eligible student and his partner where both hold a statutory award.

### **Split contributions – eligible students who are not independent**

10.—(1) This paragraph applies where a contribution is payable in relation to an eligible student who is not an independent eligible student.

(2) Sub-paragraphs (3) to (7) apply where the children who are eligible students are either all old system students or are all current system students.

(3) For any year in which a statutory award other than an award referred to in sub-paragraph (4) is held by—

- (a) more than one child of the eligible student's parents;
- (b) the eligible student's parent; or
- (c) the eligible student's parent's partner,

the contribution payable in respect of the eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Department after consultation with any other authority involved considers just taking into account the application of paragraph 7 to new eligible students and existing students respectively.

(4) Subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Student Awards) Regulations (Northern Ireland) 2003<sup>(5)</sup>, the 1986 Order or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 the amount of which is calculated by reference to his income (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of children who hold a relevant statutory award.

(5) If, as a result of the apportionment under sub-paragraph (4), the contribution would not be extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is instead applied—

- (i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply; and
- (ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

(6) Where—

- (a) the eligible student's parent whose income is assessed under this Schedule has a partner;
- (b) a contribution taking into account the residual income of that parent is payable in relation to more than one eligible student who is the child of either that parent or his partner; and
- (c) the amount payable in relation to each eligible student is not the same in every case,

the contribution in respect of each eligible student is calculated under sub-paragraph (7).

(7) Where sub-paragraph (6) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (b) of sub-paragraph (6) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory award of the eligible students in his relevant household.

(8) Where—

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(5) [S.R. 2003 No. 459](#)



- (a) a contribution taking into account the residual income of the parent of an eligible student is payable in relation to more than one eligible student who is the child of that parent or of the parent's partner; and
- (b) the amount payable in relation to each eligible student is not the same in every case because some of the eligible students are old system students and some are current system students,

the contribution in respect of an eligible student is calculated under sub-paragraph (9).

(9) Where sub-paragraph (8) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (a) of sub-paragraph (8) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory awards of the other old system students where the eligible student is an old system student and to the relevant statutory awards of the other current system students where the eligible student is a current system student.

(10) Where a contribution taking into account the residual income of the eligible student's parent is payable in respect of more than one child of that parent or that parent's partner, if any, and the residual income of any such eligible student is greater than nil, the contribution in relation to each eligible student is calculated in accordance with the following sub-paragraphs—

- (a) the contribution in respect of the eligible student is calculated without reference to paragraph 4 but otherwise in accordance with this Schedule and is apportioned between each eligible student in accordance with this paragraph;
- (b) there is then applied in addition in respect of the eligible student a further contribution of £1 for every complete £12.50 by which the sum calculated in respect of the student under paragraph (c) exceeds £23,085 where the student is an old system student or, £1 for every complete £9.50 by which the sum calculated in respect of the student under paragraph (c) exceeds £38,805 where the student is a current system student;
- (c) the sum referred to in paragraph (b) is the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £23,085 where the student is an old system student or exceeds £38,805 where the student is a current system student.

(11) Subject to sub-paragraph (12), there is added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this paragraph.

(12) Where a parent student has a partner within paragraph 1(j), the sums added to his residual income under sub-paragraph (11) are calculated as though the contribution in respect of his children had been assessed taking into account the income of the parent's partner under paragraph 7, whether or not the contribution was actually calculated on that basis.

(13) In this paragraph, "relevant household" means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 5 and 7.

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### **Split contributions – independent eligible students**

11.—(1) Where a contribution is payable under paragraph 8 or 9 in relation to an independent eligible student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in paragraph (b) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Department after consultation with any other authority involved considers just;
- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Student Awards) Regulations (Northern Ireland) 2003<sup>(6)</sup>, the 1986 Order or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 the amount of which is calculated by reference to his income (and no other statutory award) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is an amount equal to half the contribution calculated under paragraph 8 or 9;
- (c) if, as a result of the apportionment under paragraph (b), the contribution calculated would not be extinguished by applying it in respect of the independent eligible student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his partner if they are both old system students or if they are both current system students.

(2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this Schedule.

(3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income.

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(6) S.R. 2003 No. 459