

SCHEDULE 7

Regulations 12(1)(b) 12(3) and 14(2)

Resources

Part I

Student's Income

Calculation of student's income

1.—(1) In calculating the student's income for the purposes of regulation 12(1)(b) there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, and any payment referred to in paragraph (b), whether or not it is income, but there shall be disregarded the following—

- (a) in a case not covered by paragraph (u), the first £860 of income of any description;
- (b) the first £4,055 of any payment by way of—
 - (i) an award made to the student in respect of the course (in pursuance of a sponsorship scheme or otherwise) not being an award made in pursuance of Article 50 or 51; and
 - (ii) in the case of a student released by his employer to attend the course, any payments made by that employer;
- (c) any grant to facilitate teacher training paid to the student under regulations made under section 50(1) of the Education (No. 2) Act 1986(1) or any payment made in respect of the student's training as a teacher by an institution to which grants, loans or other payments for that purpose are provided under section 5 of the Education Act 1994(2); or under section 65(3) of the Further and Higher Education Act 1992(3);
- (d) in the case of a student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5)—
 - (i) the whole of that income or those payments if a parental contribution ascertained in accordance with Part II or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount including nil that contribution is ascertained to be);
- (e) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the student is subject and any war widow's or war widower's pension;
- (f) any bounty received as a reservist with the armed forces or in the Royal Irish Regiment or in the Royal Ulster Constabulary Reserve;
- (g) remuneration for work done during any academic year of the student's course;
- (h) in the case of a student in whose case a parental contribution is by virtue of Part II applicable (at whatever amount, including nil, that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;
- (i) any payment made for a specific educational purpose otherwise than to meet such fees and such requirements for maintenance as are specified in Schedules 5 and 6;

(1) 1986 c. 61; section 50 was amended by the Education Act 1993 (c. 35), section 278(6), Schedule 19, paragraph 102, Schedule 21 Part II, and by the Education Act 1994 (c. 30), section 13(2) to (4)

(2) 1994 c. 30

(3) 1992 c. 13

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- (j) child benefit payable under Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(4);
- (k) any allowance payable to the student by an adoption agency in accordance with regulations made pursuant to Article 59A of the Adoption (Northern Ireland) Order 1987(5);
- (l) any guardian's allowance to which he is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (m) in the case of a student with whom a child has been placed by a Health and Social Services Board or a Health and Social Services Trust, under Article 27(2)(a) of the Children (Northern Ireland) Act 1992;
- (n) any payment made to the student in pursuance of an order made under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995 in respect of a person who is not his child, or any assistance given by a Health and Social Services Board or Health and Social Services Trust pursuant to Articles 35 and 36 of that Order;
- (o) income support or working families' tax credit under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; or any transitional addition, personal expenses addition or special transitional addition payable under Part III of the Income Support (Transitional) Regulations (Northern Ireland) 1978(6);
- (p) any housing benefit granted to the student in pursuance of a statutory or local scheme under section 122(1)(d) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(7) or a scheme under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(8);
- (q) in a case not covered by paragraph (u), the first £3,260 of any pension, allowance or other benefit payable by reason of the student's old age, his retirement, the death of his spouse or parent or another person on whom he was wholly or mainly financially dependent, or by reason of his military or other public service;
- (r) any payments made to the student under the action scheme of the European Community for the mobility of university students known as ERASMUS(9), the European Community programme for foreign language competence known as LINGUA(10) or the European Community programme known as LEONARDO DA VINCI(11);
- (s) any payment made to the student out of access funds held by the institution at which he attends his course;

(4) 1992 c. 7

(5) S.I.1987/2203 (N.I. 22); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755(N.I. 22)); the relevant Regulations are 1996/438

(6) S.R. 1987 No. 460; Part III was amended by S.R. 1988 Nos. 132 and 153, S.R. 1991 No. 341, S.R. 1992 No. 284 and S.R. 1995 No. 71

(7) 1992 c. 7; the scheme under section 122(1)(d) is currently constituted by the provisions of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (S.R.1987 No. 461 as amended by S.R. 1988 Nos. 117, 186, 314 and 424, S.R. 1989 Nos.125, 260, 366 and 408, S.R. 1990 Nos. 33, 136, 137, 297, 395, 345, 298 and 442, S.R.1991 Nos. 47, 176, 204, 337 and 520, S.R. 1992 Nos. 6, 35, 85, 141, 201, 284, 298, 404, 435, 444 and 549, S.R. 1993 Nos. 145, 149, 195, 218, 233, 373, 381 and 414, S.R. 1994 Nos. 65, 80, 88, 137, 266, 274 and 335, S.R. 1995 Nos. 64, 71, 101, 129, 223, 280, 367, 410 and 481, S.R. 1996 Nos. 11, 73, 84, 92, 93, 111, 115, 181, 221, 291, 334, 375, 405, 448, 476 and 662 and S.R. 1997 Nos. 3, 4, 22, 113, 123, 126, 127, 130, 152 and 170)

(8) 1992 c. 4; the scheme under Part VII is currently constituted by the provisions of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) as amended by S.I. 1988/661, 909, 1444 and 1971, S.I. 1989/416, 566 and 1017, S.I. 1990/127, 546, 671, 1549, 1657, 1775 and 2564, S.I. 1991/235, 1175, 1599, 2695 and 2742, S.I. 1992/50, 201, 432, 1101, 1326, 1585, 2148 and 3147, S.I. 1993/317, 349, 518, 963, 1150, 1249, 1540 and 2118, S.I. 1994/470, 542, 578, 781, 1003, 1608, 1807, 1924, 2137, 2139 and 3061, 1995/511, 560, 625, 626, 1339 and 1742, S.I. 1995/1644, 2303, 2792, 2868 and 3282, S.I. 1996/30, 194, 462, 965, 1510, 1759, 1803, 1944, 2006, 2432, 2518, 2545 and 3195 and S.I. 1997/65, 454, 543, 584 and 582

(9) O.J. No. L166, 25.6.87, p. 20

(10) O.J. No. L239, 16.8.89, p. 24

(11) O.J. No. L340, 29.12.94, p. 8

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- (t) any payments made to the student for the maintenance of his child by virtue of any agreement, instrument or statutory provision;
- (u) where a parental contribution does not apply because the student falls within paragraph 3 of this Schedule and a spouse's contribution does not apply under Part III of this Schedule, the first £7,500 of income of any description, other than any sum treated as income under sub-paragraph (6).

(2) Where income may be disregarded under more than one of the sub-paragraphs of paragraph (1) it shall be disregarded under the sub-paragraph or sub-paragraphs which will result in the largest amount of the student's income from all sources being disregarded under paragraph (1).

(3) Where the student is a European student and his income arises from sources or under legislation different from sources or legislation normally relevant to a person who is settled in the United Kingdom within the meaning of the Immigration Act 1971(12) his income shall be disregarded in accordance with paragraph (1) but shall be disregarded to the extent necessary to ensure that he is treated no less favourably than a person in similar circumstances in receipt of similar income who is settled in the United Kingdom.

(4) Where a student makes any payment for the maintenance of his child or former spouse or person who lived with him as his spouse by virtue of any agreement, instrument or enactment, the amount of such payment shall be deducted in calculating his income for the purposes aforesaid.

(5) In the case of a student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes aforesaid there shall be deducted therefrom—

- (a) if, in the opinion of the board, the obligation had been reasonably so incurred, an amount equal to the payment in question;
- (b) if, in its opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to it appropriate,

except that no deduction shall be made from the income of a married student where the student's spouse is a dependant for the purpose of Part III of Schedule 6 and, in pursuance of paragraph 16(1) thereof, the payment is taken into account in determining the spouse's income.

(6) In a case where the student is the parent or step-parent of an award holder in respect of whom a contribution is ascertained under Part II so much of the amount (if any) by which the contribution is reduced under paragraph 4(3) of that Part as the board considers just shall be treated as part of the student's income for the purposes of regulation 12(1)(b).

(7) Where the student receives income in a currency other than sterling the value of the income shall be—

- (a) if the student purchases sterling with the income the amount of sterling the student receives for it, otherwise
- (b) the value of the sterling which the income would purchase using the rate for the month in which it is received as published by the Office for National Statistics in "Financial Statistics".

(12) 1971 c. 77; amended by the British Nationality Act 1981 c. 61, section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12

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Part II

Parental Contribution

Interpretation of Part II

2.—(1) In this Part—

“child” includes a person adopted in pursuance of adoption proceedings and a step-child but, except in paragraph 4, does not include a child who holds a statutory award; and except as otherwise provided by paragraph 5, “parent” shall be construed accordingly;

“financial year” means the period of 12 months for which the income of the student’s parent is computed for the purposes of the income tax legislation which applied to it;

“gross income” has the meaning assigned to it by paragraph 5;

“income of the student’s parent” means the taxable income of the parent from all sources computed as for the purposes of the Income Tax Acts or as for the purposes of the income tax legislation of another member State of the European Community which applies to the parent’s income, or where the legislation of more than one member State applies in respect of the same period, as for the purposes of the legislation pursuant to which the board considers that the parent will pay the largest amount of tax in that period, except as otherwise provided by paragraph 5 or 6;

“residual income” means, subject to sub-paragraph (2), the balance of gross income remaining in any year after the deductions specified in paragraph 6 have been made.

(2) Where, in a case not falling within paragraph 5(3) or (4), the board is satisfied that the income of the parent in any financial year is as a result of some event beyond his control likely to be, and to continue after that year to be, not more than 85% of his income in the financial year preceding that year, it may, for the purpose of enabling the student to attend the course without hardship, ascertain the parental contribution for the year of his course in which that event occurred by taking as the residual income the average of the residual income for each of the financial years in which that year falls.

(3) Where the student’s parent satisfies the board that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then if the board and the parent so agree, any reference in this Part to a financial year shall be construed as a reference to a year ending with such date as appears to the board expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

(4) Where a parent is in receipt of any income which does not form part of his taxable income by reason only that—

- (a) he is not resident, ordinarily resident or domiciled 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 of the European Community, 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 income for the purposes of this Part shall be computed as though the income first mentioned in this sub-paragraph were part of his total income.

(5) Where the income of the student’s parent is computed as for the purposes of the income tax legislation of another member State—

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- (a) it shall be computed in the currency of that member State;
- (b) the value of any deduction mentioned in paragraph 6(2) shall be the amount of that currency required to purchase the sterling value of the deduction; and
- (c) the value of the sterling which the income of the student's parent in that currency would purchase shall be determined, and shall constitute the income of the student's parent for the purposes of this Part.

(6) The rate applied in determining the sterling value of another currency under paragraph (5) shall be the rate for the month in which the last day of the financial year in question falls as published by the Office for National Statistics in "Financial Statistics".

Application of Part II

3. A parental contribution ascertained in accordance with this Part shall be applicable in the case of every student except—

- (a) an independent student; or
- (b) a student in respect of whom the board is satisfied either—
 - (i) that his parents cannot be found; or
 - (ii) that it is not reasonably practicable to get in touch with them;
- (c) a student who pursuant to an order of a competent court has been in the custody or care of or has been provided with accommodation by—
 - (i) a state authority or agency, national, regional or local;
 - (ii) a voluntary or charitable organisation; or
 - (iii) any person who is not the student's parentthroughout any three month period ending on a date on or after the date on which he attains the age of 16 and before the first day of his course; provided that he has not at any time from the beginning of the three month period to the first day of his course in fact been under the charge or control of his parents;
- (d) a student whose parents are residing outside the European Community where the board is satisfied either—
 - (i) that the assessment of a parental contribution would place those parents in jeopardy; or
 - (ii) that it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
- (e) where sub-paragraph (7) of paragraph 5 applies and the parent whom the board considered the more appropriate for the purposes of that sub-paragraph has died.

Parental contribution

4.—(1) The parental contribution shall, subject to sub-paragraphs (2) and (3) be in any case in which the residual income is £20,000 or more, £45 with the addition of £1 for every complete £9·50 by which it exceeds £20,000, reduced in each case, in respect of each child of the parent (other than the student) who is wholly or mainly dependent on him on the first day of the year for which the contribution falls to be ascertained, by £79; and in any case in which the residual income is less than £20,000 the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall not exceed £6,591 in any case.

(3) For any year in which a statutory award is held by—

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

the parental contribution for the student shall be such proportion of any contribution ascertained in accordance with this Part as the board (after consultation with any other board or local education authority in Great Britain concerned) considers just, provided that where a contribution is ascertained in respect of more than one child of the parent the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award.

Gross income

5.—(1) For the purposes of this paragraph, “preceding financial year” means the financial year immediately preceding the year in respect of which the resources of the student fall to be assessed, “assessment year” and “current financial year” means the financial year which includes the first day of that assessment year; provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending with a date less than five months before the assessment year, “preceding financial year” shall mean the year ending with a date five or more months before the beginning of that assessment year and “current financial year” shall mean the year ending with a date within those five months.

(2) Subject to the provisions of this paragraph, “gross income” means the income of the student's parent in the preceding financial year or, for the purpose of calculating residual income under paragraph 2(2), in a financial year there mentioned.

(3) Where the board is satisfied that the sterling value of the income of the student's parent in the current financial year is likely to be not more than 85 per cent of the sterling value of his income for the preceding financial year, it may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and, in such case, sub-paragraph (2) shall have effect, in relation to the assessment year and, if the board so determines, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where—

- (a) one of the student's parents dies either before or during the assessment year; and
- (b) that parent's income has been or would be taken into account for the purpose of determining the parental contribution,

the parental contribution shall—

- (c) where the parent dies before the assessment year, be determined by reference to the income of the surviving parent; or
- (d) where the parent dies during the assessment year, be the aggregate of—
 - (i) the appropriate proportion of the contribution determined by reference to the income of both parents, that is to say such proportion thereof as the part of the assessment year during which both parents were alive bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirement as determined in accordance with Schedule 6; and
 - (ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the assessment year remaining after the parent dies bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 6.

(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of any applicable legislation any income is applied by any person for or towards the maintenance, education or other benefit of the student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross income of the parent.

(6) Where any award such as is mentioned in paragraph 1(1)(b)(i) is made by reason of the parent's employment to any member of his family or his household (whether the student or some other such member) who holds a statutory award then that award shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the assessment year, the parental contribution shall be determined by reference to the income of whichever parent the board considers the more appropriate in the circumstances.

(8) Where the parents do not ordinarily live together for part only of the assessment year, the parental contribution shall be the aggregate of—

- (a) the proportion, which the part of the assessment year for which the parents do not so live together bears to the full year, of the contribution determined in accordance with sub-paragraph (7) subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 6; and
- (b) the proportion, which the part of the assessment year for which the parents so live together bears to the full year, of the contribution determined without regard to sub-paragraph (7) subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 6.

(9) Where the student has a parent and a step-parent, the parental contribution shall be ascertained by reference to the income of the parent.

Deductions

6.—(1) For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in computing his taxable income as for the purposes of the Income Tax Acts or for the purposes of the income tax legislation of another member State of the European Community any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter I of Part VII of the Income and Corporation Taxes Act 1988, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, any comparable personal reliefs;
- (b) in respect of any payment made by the parent under covenant;
- (c) in pursuance of any legislation or rule of law with the effect that payments which for the purposes of the law of the United Kingdom are treated as taxable income, are not treated as taxable income; or
- (d) without prejudice to the foregoing, of a kind mentioned in sub-paragraph (2), shall not be made or permitted.

(2) For the purpose of determining a parent's residual income there shall be deducted from his gross income—

- (a) in respect of any person, other than a spouse, child or holder of a statutory award, dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which £2,305 exceeds the income of that person in that year;
- (b) the gross amount of any sums paid as interest (including interest on a mortgage) in respect of which relief is given under the Income Tax Acts in respect of a loan to the parent; or where the parent's income is computed as for the purposes of the income tax legislation

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of another member State, the gross amount of any such sums in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;

- (c) 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 266, 273, 619 or 639 of the Income and Corporation Taxes Act 1988, or where the parent's income is computed as 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;
- (d) where the parents ordinarily live together and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,805;
- (e) where a parent whose marriage has terminated either is gainfully employed or is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,805;
- (f) in respect of additional expenditure incurred by reason of the fact that the parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the board considers reasonable in all the circumstances;
- (g) in the case of a parent who holds a statutory award, the amount by which the aggregate of his requirements for his ordinary maintenance (ascertained in accordance with Part I of Schedule 6) and £930 exceeds the sum payable in respect of maintenance in pursuance of that award;
- (h) any payments made to the parent of the student pursuant to an order of a competent court for the benefit of a child who is not his child of whom he has custody or care or for whom he provides accommodation;
- (i) where the parent's income is computed as for the purposes of the income tax legislation of another member State, sums equivalent to any amounts which would not be treated as taxable income if that legislation made provision equivalent to the Income Tax Acts.

(3) In any case where income is computed as for the purposes of the Income Tax Acts by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deductions mentioned in head (b), (c), or (d) of sub-paragraph (2), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact total income for the purposes of the Income Tax Acts.

Part III

Spouse's Contribution

Application of Part III

7. A spouse's contribution ascertained in accordance with this Part shall be applicable in the case of every man student ordinarily living with his wife and every woman student so living with her husband except—

- (a) a student in whose case a parental contribution is applicable in accordance with Part II; and
- (b) a student whose child holds an award in respect of which a parental contribution is applicable.

Spouse's contribution

8.—(1) Subject to sub-paragraphs (3) and (4), Part II shall, with the exception of paragraphs 3, 4(1), (2), (3)(a) and (c), 5(4), (7), (8) and (9) and 6(2)(f), apply with the necessary modifications

for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed as references to the student's spouse and this Part shall be construed as one with Part II.

(2) The spouse's contribution shall be in any case in which the residual income is £17,200 or more £45 with the addition of £1 for every complete £8 by which it exceeds £17,200, reduced in any such case by £79 in respect of each child of the student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than £17,200 the spouse's contribution shall be nil; provided that the amount of the spouse's contribution shall not exceed £6,591.

(3) If the student marries during any year for which the contribution falls to be ascertained, the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of the marriage and whichever is the earlier of the end of that year and the end of the course.

(4) If the student's marriage terminates during any year for which the contribution falls to be ascertained, the contribution for that year shall be the fraction of the sum ascertained in accordance with sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage.