

## SCHEDULE 5

Regulations 23, 29 and 30

### 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 designated course on or after 1st September 2004;
- (g) “parent” means a natural or adoptive parent and “child”, “mother” and “father” shall 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 woman ordinarily living with a male eligible student as if she were his wife where an eligible student falls within paragraph 2(a) and he begins the designated course on or after 1st September 2000;
  - (iv) a man ordinarily living with a female eligible student as if he were her husband where an eligible student falls within paragraph 2(a) and she begins the designated course on or after 1st September 2000;
  - (v) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(a) and he begins the 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 woman ordinarily living with the father of an eligible student as if she were his wife;
  - (iv) a man ordinarily living with the mother of an eligible student as if he were her husband;
  - (v) 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;

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- (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 8 and, in relation to paragraph 5, in 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 Secretary of State considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

### **Independent eligible student**

- 2. An independent eligible student shall mean an eligible student in every case where—
  - (a) he is aged 25 or over on the first day of the relevant year;
  - (b) he has been 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 Secretary of State 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 Secretary of State, he can demonstrate on other grounds that he is irreconcilably estranged from his parents;
  - (f) he has pursuant to an order of a competent court been in the custody or care of, or has been provided with accommodation by, any legal person who is not the student’s parent throughout any three-month period ending on or after the date on which he attains the age of 16 and before the first day of his 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 Secretary of State 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 to send any relevant funds to the United Kingdom;
  - (h) paragraph 5(9) applies and the parent whom the Secretary of State 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; or
  - (j) 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 shall be treated as supporting himself out of his earnings during any period 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”);
- (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;
- (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; or
- (vi) he could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was wholly or mainly financially dependent on him.

### **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 course before 1st September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(v)) of the student’s parent (provided that the Secretary of State has selected that parent under paragraph 5(9)); or
    - (ii) in the case of a new eligible student who began his course on or after 1st September 2005, the residual income of the partner of the student’s parent (provided that the Secretary of State 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 shall be deducted the sum of £1,025—
- (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 shall not be aggregated under sub-paragraph (2)(b) in the case of a parent student whose child or whose partner’s child holds an award—
- (a) 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; or

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- (b) in respect of which a parental contribution is otherwise applicable with reference to the parent student or his partner.

### Calculation of eligible student's residual income

4.—(1) For the purpose of determining the residual income of an eligible student, there shall be 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 shall 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(1), 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 from 1 to 7 of Schedule 2 into which an eligible student falls is paragraph 7 and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 1 of Schedule 2, his income shall not be disregarded in accordance with sub-paragraph (1) but shall instead be 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 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 shall be—

- (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(2).

### 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)

shall not be made or permitted.

(1) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10. 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. Section 619 was amended by the Finance Act 1989 (c. 26), section 170 and the Finance Act 1996 (c. 8), section 135 and Schedule 21. Section 639 was amended by the Finance Act 2000 (c. 17), Schedule 13. 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.

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

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

- (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 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 sub-paragraph (a), provided that any sums so deducted shall 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, £1,025.

(3) Where the Secretary of State is satisfied that the income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is, as a result of some event beyond his control, likely to be not more than 85 per cent. of the sterling value of his income in the preceding financial year she may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.

(4) Where the Secretary of State 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 per cent. of the sterling value of his income in the previous financial year she 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 Secretary of State 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 shall mean 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 shall be 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 shall be computed under the provisions of this

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Schedule in the currency of that Member State and the income of the eligible student's parent for the purposes of this Schedule shall be the sterling value of that income determined in accordance with 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.

(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 shall—

- (a) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, be 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 Secretary of State determines that the parents do not ordinarily live together throughout the relevant year, the household income shall be determined by reference to the income of whichever parent the Secretary of State considers the more appropriate under the circumstances.

(10) Where the Secretary of State determines that the parents do not ordinarily live together for part only of the relevant year, the household income shall be 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 for which the parents do not so live together; 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) of this paragraph and with the exception of sub-paragraphs (8), (9) and (10) of paragraph 5, an eligible student's partner's income shall be determined in accordance with paragraph 5, references to the parent being construed as references to the eligible student's partner.

(2) Where the Secretary of State determines that the eligible student and his partner do not ordinarily live together throughout the relevant year, the partner's income shall not be taken into account in determining the household income.

(3) Where the Secretary of State determines that the eligible student and his partner do not ordinarily live together for part only of the relevant year, the partner's income shall be 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 Secretary of State determines that the eligible student and his partner ordinarily live together.

(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) shall be 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

8.—(1) In relation to an eligible student who is not an independent eligible student and in relation to an independent eligible student who has a partner, the contribution payable shall—

- (a) in any case where the household income is £22,010 or more be £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £22,010; and
- (b) in any case where the household income is less than £22,010 be nil.

(2) In relation to an independent eligible student who does not have a partner, the contribution shall—

- (a) in any case where the household income is £10,250 or more be £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,250; and
- (b) in any case where the household income is less than £10,250 be nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) shall in no case exceed £7,250.

(4) Where sub-paragraph (5) applies, the aggregate contributions shall not exceed—

- (a) £7,250; or
- (b) the contribution which would have been payable if only one eligible student held an award.

(5) This sub-paragraph applies where a contribution is payable in relation to—

- (a) two or more eligible 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) two or more independent eligible students each with a partner in respect of the same household income.

### Split contributions

9.—(1) Where a contribution is payable under paragraph 8 other than in relation to an independent eligible student who does not have a partner, the contribution shall be payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in sub-paragraph (b) is held by—
  - (i) more than one child of the eligible student's parents;
  - (ii) the eligible student's parent; or
  - (iii) the eligible student's parent's partner,

the contribution payable in respect of the eligible student shall be such proportion of any contribution calculated under paragraph 8 as the Secretary of State after consultation with any other authority involved considers just taking into account the application of paragraph 7 of this Schedule to new eligible students and existing students respectively;

- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003(3) or section 63

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(3) S.I.2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792.

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of the Health Services and Public Health Act 1968 (4) (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 shall be an amount equal to the contribution calculated under paragraph 8 divided by the number of children of his parents who hold a relevant statutory award;

- (c) if, as a result of the apportionment under sub-paragraph (b), any part of the contribution calculated under paragraph 8 would not be applied in respect of the eligible student's statutory award, the remainder of the contribution shall instead be 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.

(2) In any case 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 equal to the amount payable in respect of every other eligible student,

the contribution in respect of each eligible student shall be calculated under sub-paragraph (3).

(3) Where sub-paragraph (2) applies, the contribution payable in respect of each relevant household shall be calculated and the apportionment carried out in accordance with sub-paragraph (1) of this paragraph withholding only that part of the contribution apportioned to each eligible student who is not part of the relevant household.

(4) In a case 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 shall be calculated in accordance with the following sub-paragraphs—

- (a) the contribution in respect of each eligible student shall be calculated without reference to paragraph 4 but otherwise in accordance with this Schedule and shall be apportioned between each eligible student in accordance with this paragraph;
- (b) there shall then be applied in addition in respect of each eligible student a further contribution of £1 for every complete £9.50 by which the sum calculated under sub-paragraph (c) exceeds £22,010;
- (c) the sum referred to in sub-paragraph (b) shall be the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) of this Schedule with the deduction of

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(4) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.



the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £22,010.

(5) Subject to sub-paragraph (6), there shall be 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.

(6) Where a parent student has a partner within paragraph 1(j) of this Schedule, the sums added to his residual income under sub-paragraph (5) of this paragraph shall be 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.

(7) 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.