

SCHEDULE 4

Regulation 99

FINANCIAL ASSESSMENT

Definitions

1.—(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 EU;
- (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 the person were the student’s spouse where an eligible student falls within paragraph 2(1)(a) and the student begins the specified designated course on or after 1st September 2000;
 - (iv) a person ordinarily living with an eligible student as if that person were the student’s civil partner where an eligible student falls within paragraph 2(1)(a) and the student 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 the person were the parent’s spouse;
 - (iv) a person ordinarily living with the parent of an eligible student as if the person were the parent’s civil partner;
- (k) “preceding financial year” means the financial year immediately preceding the relevant year;
- (l) “prior financial year” means the financial year immediately preceding the preceding financial year;
- (m) “relevant year” means the academic year of the course in respect of which the household income falls to be assessed;
- (n) “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

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of a new eligible student's parent) and income referred to in sub-paragraph (2) received net of income tax;

- (o) "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 respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 5) of the prior 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)
- except that no account is taken of income referred to in sub-paragraph (2) paid to another party.

(2) The income referred to in this sub-paragraph is any benefits under a pension arrangement pursuant to an order made under section 23 of the Matrimonial Causes Act 1973⁽¹⁾ which includes provision made by virtue of sections 25B(4) and 25E(3) of that Act or pension benefits under Part 1 of Schedule 5 to the Civil Partnership Act 2004⁽²⁾ which includes provision made by virtue of Parts 6 and 7 of that Schedule.

Independent eligible student

- 2.—(1) An independent eligible student is an eligible student where—
- (a) the student is aged 25 or over on the first day of the relevant year;
 - (b) the student 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) the student has no parent living;
 - (d) the Secretary of State is satisfied that neither of the student's parents can be found or that it is not reasonably practicable to get in touch with either of them;
 - (e) the student has communicated with neither of the student's parents for the period of one year before the beginning of the relevant year or, in the opinion of the Secretary of State, the student can demonstrate on other grounds that the student is irreconcilably estranged from the student's parents;
 - (f) the student was looked after by a local authority (within the meaning of section 22 of the Children Act 1989⁽³⁾) throughout any three-month period ending on or after the date on which the student reached the age of 16 and before the first day of the first academic year of the course ("the relevant period") provided that the student has not in fact at any time during the relevant period been under the charge or control of the student's parents;
 - (g) the student's parents are residing outside the EU 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

(1) 1973 c.18; section 23 was amended by the Administration of Justice Act 1982 (c.53), section 18. Section 25B was inserted by the Pensions Act 1995(c.26), section 166(1) and was amended by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 4, Section 25E was inserted by the Pensions Act 2004(c.35), section 319(1), Schedule 12, paragraph 3.

(2) 2004 c.33; paragraph 25 of Schedule 5 was modified by S.I.2006/1934,

(3) 1989 c.41; section 22 has been amended by the Children (Leaving Care) Act 2000 (c.35) section 2, Local Government Act 2000 (c.41), Schedule 5, paragraph 19, the Adoption and Children Act 2002 (c.38), section 116(2), the Children Act 2004 (c. 31), section 52 and the Children and Young Persons Act 2008 (c.23), section 39 and Schedule 3.

- (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 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) in the case of a student who began the current course before 1st September 2009, the student 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, the student has the care of a person under the age of 18; or
 - (k) the student (“A”) has supported A out of A’s 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 A is to be treated as supporting A out of A’s earnings during any period in which—
 - (i) A 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) A 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) A 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) A held a state studentship or comparable award; or
 - (v) A received any pension, allowance or other benefit paid by any person by reason of a disability to which A is subject, or by reason of confinement, injury or sickness.
- (2) An eligible student who qualifies as an independent eligible student under sub-paragraph (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 the 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 Secretary of State has selected that parent under paragraph 5(9)); or
 - (ii) in the case of a new eligible student who began the specified designated 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

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- (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 £1,130—
- (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.

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 the student's 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 the student has leave of absence or is relieved of the student's 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 of the Income and Corporation Taxes Act 1988⁽⁴⁾ or under section 188 of the Finance Act 2004⁽⁵⁾, 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 1 into which an eligible student falls is paragraph 9 and the student's income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Schedule 1, the student's income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that the student is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 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⁽⁶⁾.

⁽⁴⁾ 1988 c.1; section 273 was amended by the Finance Act 1988 (c.39), Schedule 3, paragraph 10, the Income Tax (Trading and other Income) Act 2005, Schedule 1, the Finance Act 2004 (c.12), section 281 and Schedule 35, S.I. 2005/3229 and, the Income Tax Act 2007, Schedule 1.

⁽⁵⁾ 2004 c.12; section 188 was amended by the Finance Act 2007 (c.11), sections 68, 69 and 114 and Schedules 18, 19 and 27.

⁽⁶⁾ "Financial Statistics" (ISSN 0015-203X).

Calculation of parent's residual income

5.—(1) For the purposes of determining the taxable income of an eligible student's parent, ("A" in this paragraph) 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(7) 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 A 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—

- (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 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 (7) 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 A's income were in fact income for the purposes of the Income Tax Acts;
- (c) where A is a parent student or A holds a statutory award, £1,130.

(3) Where the Secretary of State is satisfied that the residual income of A 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 A's residual income in the prior financial year the Secretary of State may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the current financial year.

(4) In the event that sub-paragraph (3) or this paragraph was applied in the previous academic year of the current course and the Secretary of State is satisfied that the residual income of A 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 A's residual income in the previous financial year the Secretary of State may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the current financial year.

(5) In an academic year immediately following one in which the Secretary of State has ascertained A's residual income for the current financial year under sub-paragraph (3) and, where applicable under sub-paragraph (4) the Secretary of State must ascertain A's residual income in the preceding financial year.

(7) 1988 c.1; Chapter 1 of Part VII was amended by the Finance Act 1988 (c.39), sections 29, 31 and 33 and Schedules 3 and 14, the Finance Act 1989 (c.26) section 33, the Finance Act 1990 (c.29) Schedule 19, the Finance (No.2) Act 1992 (c.48) Schedules 5 and 9, the Finance Act 1993 (c.34), section 107 and Schedule 23, the Finance Act 1994 (c.9), section 77 and Schedules 8, 17 and 26, the Finance Act 1996 (c.8), sections 145 and 171 and Schedules 20, 21 and 41, the Finance Act 1997 (c.16) section 56, the Finance Act 1999 (c.16), sections 25, 30 and 31 and Schedule 20, S.I. 2001/3629, Tax Credits Act 2002 (c.21) Schedule 6, the Finance Act 2002 (c.23) section 27, the Income Tax (Earnings and Pensions) Act 2003 (c.1) Schedule 6, the Finance Act 2004 (c.12) Schedule 35, the Income Tax (Trading and Other Income) Act 2005 (c.5) Schedule 1, S.I. 2005/3229, S.I. 2006/3241, the Income Tax Act 2007 (c.3), Schedules 1 and 3, the Finance Act 2008(c.9) section 118(1) and Schedule 39, S.I. 2008/673 and S.I.2008/3024, and the Finance Act 2009 (c.10), section 5 and Schedule 1.

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(6) Where A satisfies the Secretary of State that A's income is wholly or mainly derived from the profits of a business or profession carried on by A, then any reference in this Schedule to a prior financial year means the earliest period of twelve months which ends after the start of the prior financial year and in respect of which accounts are kept relating to that business or profession.

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

- (a) A is not resident, ordinarily resident or domiciled in the United Kingdom, or where A's 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 A'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,

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

(8) Where A's income 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 A's income for the purposes of this Schedule is 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.

(9) 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.

(10) Where the Secretary of State 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 Secretary of State considers the more appropriate under the circumstances.

(11) Where the Secretary of State 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 (10), 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) of this paragraph, 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 Secretary of State determines that the eligible student and the student's 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 Secretary of State determines that the eligible student and the student's partner have separated in the course of the relevant year, the partner's income is determined by reference to the partner's 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 the student's 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 or is an independent eligible student with a partner is—

- (a) in any case where the household income is £23,660 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £23,660; and
- (b) in any case where the household income is less than £23,660, nil.

(2) 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 £11,020 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £11,020; and
- (b) in any case where the household income is less than £11,020, nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) must in no case exceed £7,998.

(4) The contribution may be adjusted in accordance with paragraph 10.

(5) Where sub-paragraph (6) applies, the aggregate contributions must not exceed £7,998.

(6) 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 the student's partner where both hold a statutory award.

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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 £39,796, £1 for every complete £9.27 by which the household income exceeds £39,796; and
 - (b) in any case where the household income is £39,796 or less, nil.
- (2) The contribution must not in any case exceed £6,210.
- (3) The contribution may be adjusted in accordance with paragraph 10.
- (4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,210.
- (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 the student's partner where both hold a statutory award.

Split contributions

10. Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, the contribution payable in respect of the eligible student is divided by the number of such persons.