

SCHEDULE 1

Regulations 4, 62, 79 and 103

Eligible Students

**PART 1**

**Interpretation**

1.—(1) For the purposes of this Schedule—

“EEA frontier self-employed person” (“*person hunan-gyflogedig ffin yr AEE*”) means an EEA national who —

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” (“*gweithiwr ffin yr AEE*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” (“*gweithiwr mudol o'r AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwladolyn o'r AEE*”) means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” (“*person hunan gyflogedig o'r AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (“*gwladwriaeth AEE*”) means a Member State of the European Economic Area;

“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the EEA States;

“family member” (“*aelod o deulu*”) means (unless otherwise indicated)—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
  - (i) his or her spouse or civil partner;
  - (ii) his or her child or the child of his or her spouse or civil partner; or
  - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person —
  - (i) his or her spouse or civil partner; or
  - (ii) his or her child or the child of his or her spouse or civil partner;
- (c) in relation to an EC national who falls within Article 7(1)(c) of Directive 2004/38—

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- (i) his or her spouse or civil partner; or
- (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
  - (aa) under the age of 21; or
  - (bb) dependants of his or her or of his or her spouse or civil partner;
- (d) in relation to an EC national who falls within Article 7(1)(b) of Directive 2004/38—
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;
  - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;

“self-employed person” (*“person hunan-gyflogedig”*) means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” (*“wedi setlo”*) has the meaning given by section 33(2A) of the Immigration Act 1971(1);

“Swiss Agreement” (*“Cytundeb y Swistir”*) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999(2) and which came into force on 1st June 2002;

“Swiss employed person” (*“person cyflogedig Swisaidd”*) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (*“person hunan -gyflogedig ffin y Swistir”*) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” (*“person hunan-gyflogedig ffin y Swistir”*) means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

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(1) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

(2) Cm. 4904.

“Swiss self-employed person” (“*person hunan-gyflogedig Swisaidd*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“worker” (“*gweithiwr*”) means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be;

(2) For the purposes of this Schedule, “parent” (“*rhiant*”) includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” (“*plentyn*”) is to be construed accordingly.

(3) For the purposes of this Schedule, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the present course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the present course,

is to be considered to be ordinarily resident in the place from which he or she moved.

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the European Economic Area Switzerland and Turkey if he or she would have been so resident but for the fact that—

- (a) he or she;
- (b) his or her spouse or civil partner;
- (c) his or her parent; or
- (d) in the case of a dependent direct relative in the ascending line, his or her child or child’s spouse or civil partner,

is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (4), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the European Economic Area, Switzerland and Turkey includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of this Schedule an area which—

- (a) was previously not part of the European Community or the European Economic Area; but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area.

## PART 2

### Categories

#### Persons who are settled in the United Kingdom

2.—(1) A person who on the first day of the first academic year of the course—

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

3. A person who—

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

#### Refugees and their family members

4. A person who—

- (a) is a refugee;
- (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was recognised as a refugee; and
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the spouse or civil partner of a refugee;
- (b) was the spouse or civil partner of the refugee on the date on which the refugee made his or her application for asylum;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) A person who—

- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee;

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- (b) on the date on which the refugee made his or her application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
- (c) was under 18 on the date on which the refugee made his or her application for asylum;
- (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
- (e) is ordinarily resident in Wales on the first day of the first academic year of the course.

### **Persons with leave to enter or remain and their family members**

#### **5.—(1) A person—**

- (a) with leave to enter or remain;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

#### **(2) A person—**

- (a) who is the spouse or civil partner of a person with leave to enter or remain;
- (b) who was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made his or her application for asylum;
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

#### **(3) A person—**

- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
- (b) who, on the date on which the person with leave to enter or remain made his or her application for asylum, was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;
- (c) who was under 18 on the date on which the person with leave to enter or remain made his or her application for asylum;
- (d) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

### **Workers, employed persons, self-employed persons and their family members**

#### **6.—(1) A person who—**

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;

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- (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in paragraph (iv) or (v);
  - (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
  - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.
- (2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers<sup>(3)</sup>, as extended by the EEA Agreement<sup>(4)</sup>.

**Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere**

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence;
- (c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where his or her ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if he or she is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

<sup>(3)</sup> OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

<sup>(4)</sup> EEA Agreement means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 — Cm 2073, as adjusted by the Protocol signed at Brussels on 17 March 1993, Cm 2183.

## **EC nationals**

**9.**—(1) A person who—

- (a) is either—
  - (i) an EC national on the first day of the first academic year of the course; or
  - (ii) a family member of a such a person;
- (b) is—
  - (i) attending a designated course in Wales; or
  - (ii) undertaking a designated part-time course or designated postgraduate course in Wales;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the first day of the first academic year of the course is treated as being satisfied.

**10.**—(1) A person who—

- (a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

## **Children of Swiss nationals**

**11.** A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;

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- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

### **Children of Turkish workers**

- 12.** A person who—
- (a) is the child of a Turkish worker;
  - (b) is ordinarily resident in Wales on the first day of the first academic year of the course; and
  - (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

## SCHEDULE 2

Regulations 5, 64 and 80

### DESIGNATED COURSES

- 1. A first degree course.
- 2. A course for the Diploma of Higher Education.
- 3. A course for the Higher National Diploma or Higher National Certificate of —
  - (a) the Business & Technician Education Council; or
  - (b) the Scottish Qualification Authority.
- 4. A course for the certificate of Higher Education.
- 5. A course for the initial training of teachers.
- 6. A course for the further training of youth and community workers.
- 7. A course in preparation for a professional examination of a standard higher than that of—
  - (a) examination at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
  - (b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3,not being a course for entry to which a first degree (or equivalent qualification) is normally required.
- 8. A course—
  - (a) providing education (whether or not in preparation for an examination) the standard of which is higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 7(a) or (b) but not higher than that of a first degree course; and
  - (b) for entry to which a first degree (or equivalent qualification) is not normally required.



## SCHEDULE 3

Regulations 11, 72, 96 and 108

### INFORMATION

1. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must, as soon as reasonably practicable after he or she is requested to do so, provide the Welsh Ministers with such information as the Welsh Ministers consider they require for the purposes of these Regulations.

2. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must forthwith inform the Welsh Ministers and provide them with particulars if any of the following occurs —

- (a) he or she withdraws from, abandons or is expelled from his or her course;
- (b) he or she transfers to any other course at the same or at a different institution;
- (c) he or she ceases to undertake his or her course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) he or she is absent from his or her course for more than 60 days due to illness or for any period for any other reason;
- (e) the month for the start or completion of the course changes;
- (f) his or her home or term-time address or telephone number changes.

3. Information provided to the Welsh Ministers under these Regulations must be in the format that the Welsh Ministers require and, if they require the information to be signed by the person providing it, an electronic signature in such form as the Welsh Ministers may specify satisfies such a requirement.

## SCHEDULE 4

Regulation 52

### COLLEGE FEE LOANS

#### **Availability of college fee loans**

1. A person qualifies for a college fee loan in connection with his or her attendance on a qualifying course in accordance with this Schedule.

2. A person qualifies for a college fee loan if he or she meets the following conditions—

- (a) he or she is an eligible student who is not excluded from qualifying by paragraph 3;
- (b) he or she has an honours degree from an institution in the United Kingdom;
- (c) he or she is taking a qualifying course which he or she—
  - (i) starts on or after 1 September 2006 and on which he or she is continuing after 31 August 2009; or
  - (ii) starts on or after 1 September 2009;
- (d) he or she is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge;
- (e) he or she is under the age of 60 on the first day of the first academic year of the qualifying course; and
- (f) none of the circumstances in regulation 4(3) apply to him or her.

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3. An eligible student who falls within paragraph 9 of Part 2 of Schedule 1 does not qualify for a college fee loan under these Regulations if he or she is ordinarily resident in England, Scotland or Northern Ireland.

#### **Disabled students**

4. A disabled student who is undertaking a qualifying course in the United Kingdom but who is not in attendance because he or she is not able to attend for a reason which relates to his or her disability is treated as if he or she were in attendance on the qualifying course for the purpose of qualifying for the college fee loan.

#### **Students becoming eligible during the course of an academic year**

5. Where one of the events listed in paragraph 6 occurs in the course of an academic year—
- (a) a student may qualify for a college fee loan in accordance with this Schedule in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
  - (b) a college fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
6. The events are—
- (a) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain;
  - (b) a state accedes to the European Community where the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state;
  - (c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
  - (d) the student acquires a right of permanent residence;
  - (e) the student becomes the child of a Turkish worker;
  - (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
  - (g) the student becomes the child of a Swiss national.

7. A college fee loan is available in respect of each standard academic year of the qualifying course and in respect of one academic year of the qualifying course that is not a standard academic year.

8. Where a qualifying student is allowed to study the content of one standard academic year of the qualifying course over two or more academic years, for the purpose of determining whether the student qualifies for a college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

9. In this Schedule “standard academic year” (*“blwyddyn academaidd safonol”*) means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

10. To receive a college fee loan, a qualifying student must enter into a contract with the Welsh Ministers.

### **Amount of the college fee loan**

**11.**—(1) The amount of the college fee loan in respect of an academic year of a qualifying course must not exceed the amount equal to the college fees payable by the student to his or her college or permanent private hall in connection with that year.

(2) Where a qualifying student has applied for a college fee loan of less than the maximum amount available in relation to the academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the maximum amount available.

### **Transfers**

**12.** Despite regulation 8, where a qualifying student transfers from one qualifying course to another qualifying course—

- (a) the Welsh Ministers must transfer the student’s status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;
- (b) subject to paragraph (c) if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in paragraph 13 are met and he or she cannot qualify for another college fee loan in respect of that academic year;
- (c) if the student transfers after the college fee loan is paid and before the end of the academic year, he or she cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he or she transfers.

### **Payment**

**13.**—(1) The Welsh Ministers must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The Welsh Ministers must pay the college fee loan in a single lump sum.

(3) The Welsh Ministers must not pay the college fee loan before—

- (a) they have received a valid request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) A college or permanent private hall is required to send confirmation of attendance to the Welsh Ministers in such form as the Welsh Ministers may require and the Welsh Ministers must not pay the college fee loan in respect of the academic year until they have received an attendance confirmation from the relevant college or private hall unless they determine that owing to exceptional circumstances, it would be appropriate to make a payment without receiving an attendance confirmation. In this paragraph “attendance confirmation” has the same meaning as in regulation 61.

(5) The Welsh Ministers must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend or in the case of a student who is treated as in attendance under paragraph 4, undertake the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not commence attending or, as the case may be, undertaking the course in the United Kingdom again during the academic year in respect of which the college fees are payable or at all.

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### Conditions of entitlement to payment of college fee loan

14.—(1) The Welsh Ministers may make it a condition of entitlement to payment of a college fee loan that a qualifying student must provide them with his or her United Kingdom national insurance number.

(2) Where the Welsh Ministers have imposed a condition under paragraph (1), they must not make any payment of the loan to the qualifying student before they are satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Welsh Ministers may make a payment of loan to a qualifying student if they are satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the qualifying student having complied with the condition imposed under paragraph (1).

### Information requirements

15.—(1) The Welsh Ministers may at any time request from a qualifying student information that they consider is required to recover a loan.

(2) The Welsh Ministers may at any time require a qualifying student to enter into an agreement to repay a loan by a particular method.

(3) The Welsh Ministers may at any time request from a qualifying student sight of his or her valid national identity card, his or her valid passport issued by the state of which he or she is a national or his or her birth certificate.

(4) Where the Welsh Ministers have requested information under this regulation, they may withhold any payment of a loan until the person provides what has been requested or provides a satisfactory explanation for not complying with the request.

(5) Where the Welsh Ministers have requested an agreement as to the method of repayment under this paragraph, they may withhold any payment of a college fee loan until the person provides what has been requested.

### Overpayment

16. Any overpayment of college fee loan is recoverable by the Welsh Ministers from the college or permanent private hall.

## SCHEDULE 5

Regulation 53

### FINANCIAL ASSESSMENT

#### Definitions

1.—(1) In this Schedule—

- (a) “existing student” (*“myfyriwr presennol”*) means an eligible student who is not a new eligible student;
- (b) “financial year” (*“blwyddyn ariannol”*) 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” (*“incwm yr aelwyd”*) has the meaning given in paragraph 3;

- (d) “independent eligible student” (“*myfyriwr cymwys annibynnol*”) has the meaning given in paragraph 2;
- (e) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (f) “new eligible student” (“*myfyriwr cymwys newydd*”) means an eligible student who begins a designated course on or after 1 September 2004;
- (g) “parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”) is construed accordingly;
- (h) “parent student” (“*myfyriwr sy'n rhiant*”) means an eligible student who is the parent of an eligible student;
- (i) “partner” (“*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 or she were his or her spouse where an eligible student falls within paragraph 2(1)(a) and he or she begins the designated course on or after 1 September 2000;
  - (iv) a person ordinarily living with an eligible student as if he or she were his or her civil partner where an eligible student falls within paragraph 2(1)(a) and he or she begins the designated course on or after 1 September 2005;
- (j) “partner” (“*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 or she were the parent’s spouse;
  - (iv) a person ordinarily living with the parent of an eligible student as if he or she were the parent’s civil partner;
- (k) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (l) “prior financial year” (“*blwyddyn ariannol gynharach*”) means the financial year immediately preceding the preceding financial year;
- (m) “relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;
- (n) “residual income” (“*incwm gweddilliol*”) 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 income referred to in sub-paragraph (2) received net of income tax; and
- (o) “taxable income” (“*incwm trethadwy*”) 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

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(iii) where the legislation of more than one Member State applies to the period, the legislation under which the Welsh Ministers consider 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 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<sup>(5)</sup> 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<sup>(6)</sup> which includes provision made by virtue of Parts 6 and 7 of that Schedule.

### Independent eligible student

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

- (a) he or she is aged 25 or over on the first day of the relevant year;
- (b) he or she 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 or she has no parent living;
- (d) the Welsh Ministers are satisfied that neither of his or her parents can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) he or she has communicated with neither of his or her parents for the period of one year before the beginning of the relevant year or, in the opinion of the Welsh Ministers, he or she can demonstrate on other grounds that he or she is irreconcilably estranged from his or her parents;
- (f) he or she was looked after by a local authority within the meaning of section 22 of the Children Act 1989<sup>(7)</sup> throughout any three-month period ending on or after the date on which he or she attained the age of 16 and before the first day of the first academic year of the course (“the relevant period”) provided that he or she has not in fact at any time during the relevant period been under the charge or control of his or her parents;
- (g) his or her parents are residing outside the European Community and the Welsh Ministers are 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 Welsh Ministers considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
- (i) he or she began the current course before 1 September 2009 and is a member of a religious order who resides in a house of that order;

<sup>(5)</sup> 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 116(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.

<sup>(6)</sup> 2004 c. 33, paragraph 25 of Schedule 5 was modified by S.I.2006/1934.

<sup>(7)</sup> 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) and the Children Act 2004 (c. 31), section 52.

- (j) he or she has the care of a person under the age of 18 as at the first day of the relevant year; or
  - (k) he or she has supported himself or herself out of his or her 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 or she is to be treated as supporting himself or herself out of his or her earnings during any period in which—
    - (i) he or she 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 or she 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 or she 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 or she held a state studentship<sup>(8)</sup> or comparable award; or
    - (v) he or she received any pension, allowance or other benefit paid by any person by reason of a disability to which he or she 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 or her specified designated course before 1 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 Welsh Ministers have selected that parent under paragraph 5(9)); or
    - (ii) in the case of a new eligible student who began his or her course on or after 1 September 2005, the residual income of the partner of the student’s parent (provided that the Welsh Ministers have 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), the sum of £1,130 is deducted—
- (a) for each child wholly or mainly financially dependent on the eligible student or the eligible student’s partner; or

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<sup>(8)</sup> Funding provided by the Research Councils in respect of full time post graduate study.

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- (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 his or her 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 or she has leave of absence or is relieved of his or her 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<sup>(9)</sup> or under section 188 of the Finance Act 2004<sup>(10)</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 1 into which an eligible student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 of Schedule 1, his or her income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she 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<sup>(11)</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;

<sup>(9)</sup> 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 (c. 5), Schedule 1, the Finance Act 2004 (c. 12), section 281 and Schedule 35 and the Income Tax Act 2007, Schedule 1.

<sup>(10)</sup> 2004 c. 12; section 188 was amended by the Finance Act 2007, sections 68,69 and 114 and Schedules 18,19 and 27.

<sup>(11)</sup> "Financial Statistics" (ISSN 0015-203X).



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(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—

(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 (6) any sums equivalent to the deduction mentioned in sub-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, £1,130.

(3) Where the Welsh Ministers are 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 or her residual income in the prior financial year they 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) In an academic year immediately following one in which the Welsh Ministers have ascertained the residual income of the parent for the current financial year under sub-paragraph (3), the Welsh Ministers must ascertain the parent's residual income in the preceding financial year.

(5) Where the eligible student's parent satisfies the Welsh Ministers that his or her income is wholly or mainly derived from the profits of a business or profession carried on by him or her, 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.

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

(a) he or she is not resident, ordinarily resident or domiciled in the United Kingdom, or where his or her 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 or her taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

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(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 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 Welsh Ministers determine 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 Welsh Ministers consider the more appropriate under the circumstances.

(10) Where the Welsh Ministers determine 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) 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 Welsh Ministers determine that the eligible student and his or her 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 Welsh Ministers determine that the eligible student and his or her partner have separated in the course of the relevant year, the partner's income is determined by reference to his or her income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Welsh Ministers determine that the eligible student and his or her 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 eligible students**

8.—(1) The contribution payable in relation to an old system eligible 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 £23,680 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £23,680; and
- (b) in any case where the household income is less than £23,680, nil.

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

- (a) in any case where the household income is £11,025 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £11,025; and
- (b) in any case where the household income is less than £11,025, nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) must in no case exceed £7,992.

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

(5) Where sub-paragraph (6) applies, the aggregate contributions must not exceed £7,992.

(6) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than new system 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) the household income consists of the residual income of an independent eligible student and his or her partner where both hold a statutory award.

#### **Calculation of contribution — new system eligible students**

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

- (a) in any case where the household income exceeds £39,793, £1 for every complete £9.27 by which the household income exceeds £39,793; and
- (b) in any case where the household income is £39,793 or less, nil.

(2) The contribution must not in any case exceed £6,208.

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

(4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,208.

(5) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than old system 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) the household income consists of the residual income of an independent eligible student and his or her 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.

## SCHEDULE 6

Regulation 91

### FINANCIAL ASSESSMENT — PART-TIME GRANTS FOR DEPENDANTS

#### Definitions

1.—(1) In this Schedule—

- (a) “financial year” (“*blwyddyn ariannol*”) 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;
- (b) “household income” (“*incwm aelwyd, incwm yr aelwyd, incwm sydd gan yr aelwyd*”) has the meaning given in paragraph 2;
- (c) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (d) “parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”) is construed accordingly;
- (e) “parent student” (“*myfyriwr sy'n rhiant*”) means an eligible part-time student who is the parent of an eligible student;
- (f) “partner” (“*partner*”) in relation to an eligible part-time student means any of the following—
  - (i) the spouse of an eligible part-time student;
  - (ii) the civil partner of an eligible part-time student;
  - (iii) a person ordinarily living with an eligible part-time student as if he or she were his or her spouse where an eligible part-time student is aged 25 or over on the first day of the relevant year and he or she begins the designated part-time course on or after 1 September 2000;
  - (iv) a person ordinarily living with an eligible part-time student as if he or she were his or her civil partner where an eligible part-time student is aged 25 or over on the first day of the relevant year and he or she begins the designated part-time course on or after 1 September 2005;
- (g) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (h) “relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;
- (i) “residual income” (“*incwm gweddilliol*”) means taxable income after the application of paragraph 3 (in the case of an eligible part-time student) or paragraph 4 (in the case of an eligible part-time student’s partner) and income referred to in sub-paragraph (2) received net of income tax; and
- (j) “taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 3, in respect of the academic year for which an application has been made under regulation 94 and, in relation to paragraph 4, in respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 4) 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 Welsh Ministers consider the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 4),
- 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 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 which includes provision made by virtue of Parts 6 and 7 of that Schedule.

### **Household income**

2.—(1) The amount of an eligible part-time student's contribution depends on the household income.

- (2) The household income is —
- (a) in the case of an eligible part-time student who has a partner, the residual income of the eligible part-time student aggregated with the residual income of that student's partner (subject to sub-paragraph (4)); or
  - (b) in the case of an eligible part-time student who does not have a partner, the residual income of that student.

(3) In determining the household income under sub-paragraph (2), the sum of £1,130 is deducted for each child wholly or mainly financially dependent on the eligible part-time student or that student's partner.

(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 (a) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child who is an eligible student 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 part-time student's residual income**

3.—(1) For the purpose of determining the residual income of an eligible part-time student, there is deducted from his or her taxable income (unless already deducted in determining taxable income) the gross amount of any premium or other sum paid by the eligible part-time 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<sup>(12)</sup> or under section 188 of the Finance Act 2004<sup>(13)</sup>, or where the eligible part-time 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.

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(12) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10, the Finance Act 2004 (c. 12), section 281, schedule 35, the Income Tax (Trading and other Income) Act 2005 (c. 5), Schedule 1 and the Income Tax Act 2007, Schedule 1.

(13) 2004 c. 12; section 188 was amended by the Finance Act 2007, sections 68, 69 and 114 and Schedules 18, 19 and 27.

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(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible part-time student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 of Schedule 1, his or her income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she 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 part-time 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>(14)</sup>.

#### **Calculation of eligible part-time student's partner's residual income**

4.—(1) For the purposes of determining the taxable income of an eligible part-time student's partner, 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 part-time student's partner, 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 (6) any sums equivalent to the deduction mentioned in sub-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 part-time student's partner's income were in fact income for the purposes of the Income Tax Acts.

(3) Where the Welsh Ministers are satisfied that the residual income of the partner 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 or her residual income in the preceding financial year they may, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain the partner's residual income for the current financial year.

(4) Where the Welsh Ministers are satisfied that the residual income of the partner 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

<sup>(14)</sup> "Financial Statistics" (ISSN 0015-203X).

cent. of the sterling value of his or her residual income in the previous financial year they may, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain the household income for the academic year of the eligible part-time student's course in which that event occurred by taking as the residual income of the partner the average of his or her residual income for each of the financial years in which that academic year falls.

(5) Where the eligible part-time student's partner satisfies the Welsh Ministers that his or her income is wholly or mainly derived from the profits of a business or profession carried on by him or her, 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 part-time student's partner is in receipt of any income which does not form part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

- (a) he or she is not resident, ordinarily resident or domiciled in the United Kingdom, or where his or her 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 partner'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 or her taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his or her 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 part-time student's partner 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 part-time student's partner 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.

(8) Where the Welsh Ministers determine that the eligible part-time student and his or her partner are separated for the duration of the relevant year, the partner's income is not taken into account in determining the household income.

(9) Where the Welsh Ministers determine that the eligible part-time student and his or her partner have separated in the course of the relevant year, the partner's income is determined by reference to his or her income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Welsh Ministers determine that the eligible part-time student and his or her partner are not separated.

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

### **Calculation of contribution**

5.—(1) The contribution payable in relation to an eligible part-time student is—

- (a) in any case where the household income exceeds £39,793, £1 for every complete £9.27 by which the household income exceeds £39,793; and
- (b) in any case where the household income is £39,793 or less, nil.

(2) The contribution must not in any case exceed £6,208.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) The contribution may be adjusted in accordance with paragraph 6.
- (4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,208.
- (5) This sub-paragraph applies where the household income consists of the residual income of an eligible part-time student and his or her partner where both hold a statutory award.

**Split contributions**

6. 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 part-time student is divided by the number of such persons.