

SCHEDULE 2

Regulation 27

STUDENT'S CONTRIBUTION

PART 1

Interpretation

1.—(1) In this Schedule—

“EEA State” (“*Gwladwriaeth yr AEE*”) has the meaning given by paragraph 1 of Part 1 of Schedule 1;

“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 Part 2 of this Schedule is computed for the purposes of the income tax legislation which applies to it;

“household income” (“*incwm yr aelwyd*”) has the meaning given in paragraph 2;

“Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;

“parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”), “mother” (“*mam*”) and “father” (“*tad*”) are to be construed accordingly;

“partner” (“*partner*”) in relation to an eligible student means any of the following—

- (i) the spouse of the eligible student;
- (ii) the civil partner of the eligible student;
- (iii) a person ordinarily living with the eligible student as if he or she were the spouse of the student where the eligible student is aged 25 or over on the first day of the relevant year and he or she begins the designated course on or after 1 September 2000;
- (iv) a person ordinarily living with the student as if that person were the student’s civil partner where the eligible student is aged 25 or over on the first day of the relevant year and he or she begins the designated course on or after 1 September 2005;

“preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;

“relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;

“residual income” (“*incwm gweddilliol*”) means taxable income after the application of paragraph 3 (in the case of an eligible student) and paragraph 4 (in the case of a student’s partner);

“taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 3, in respect of an academic year for which support is sought 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—

- (a) the Income Tax Acts;
- (b) the income tax legislation of another EEA State or Switzerland which applies to the person’s income;
- (c) where the legislation of more than one EEA State or of an EEA State and Switzerland 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.

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(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.

PART 2

Calculation of contribution

Household income

2.—(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 has a partner, the residual income of the student aggregated with the residual income of that student's partner; or
- (b) in the case of an eligible 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 student or his or her partner.

Calculation of the student's residual income

3.—(1) For the purpose of determining the residual income of an eligible student, there is to be 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 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 assurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988⁽³⁾ or under section 188 of the Finance Act 2004⁽⁴⁾, or where the student's income is computed for the purpose 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 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; or
- (b) otherwise, the value of the sterling the income would purchase using the rate for the month in which it is received published by the Office for National Statistics⁽⁵⁾.

(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 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.

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

(3) 1988 c. 1.

(4) 2004 c. 12.

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

Calculation of eligible student's partner's residual income

4.—(1) For the purposes of determining the taxable income of an eligible 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 EEA State or Switzerland, 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) 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),

are not to be made or permitted.

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

- (a) the gross amount of any premium or other sum paid by the student in relation to a pension (not being a pension 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 student's income is computed for the purpose of the income tax legislation of another EEA State or Switzerland, 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;
- (b) in any case where income is computed in accordance with sub-paragraph (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted are not to exceed the deductions which would be made if the whole of the eligible student's partner's income were in fact income for the purposes of the Income Tax Acts; and
- (c) in the case of an eligible student's partner who holds a statutory award, £1,130.

(3) Where the Welsh Ministers are satisfied that the income of the eligible student's 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 income in the preceding financial year the Welsh Ministers must, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.

(4) Where the Welsh Ministers are satisfied that the income of the eligible student's 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 cent. of the sterling value of his or her income in the previous financial year the Welsh Ministers must, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the 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 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 Part of the Schedule to a preceding financial year is to be read as a reference to the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

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

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- (a) the partner 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 EEA State or Switzerland, not so resident, ordinarily resident or domiciled in that EEA State or Switzerland;
- (b) the income does not arise in the United Kingdom, or where the partner's income is computed for the purposes of the income tax legislation of another EEA State or Switzerland, does not arise in that EEA State or Switzerland; 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 purpose of this Schedule is to be computed as though the income under this sub-paragraph were part of his or her income for the purpose of the Income Tax Acts or the income tax legislation of another EEA State or Switzerland, as the case may be.

(7) Where the income of the eligible student's partner is computed as for the purposes of the income tax legislation of another EEA State or Switzerland, it is to be computed under the provisions of this Schedule in the currency of that EEA State or Switzerland and the income of the eligible 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 student and his or her partner were 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 student and his or her partner 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 were not separated.

(10) 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 contribution

- 5.—(1) An eligible student's contribution is to be calculated in accordance with this regulation.
- (2) In relation to an eligible student who has a partner, the contribution is—
- (a) 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.
- (3) In relation to an eligible student who does not have a partner, the contribution is—
- (a) 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) where the household income is less than £11,025, nil.
- (4) The amount of contribution is not to exceed £7,992.