

## SCHEDULE 1

Regulation 18

### “PART VIII

#### ASSISTANCE FOR PART-TIME COURSES

##### **Eligible part-time students**

28.—(1) Subject to and in accordance with this Part a person shall be eligible for assistance under regulation 30 or 31 in connection with his undertaking a designated part-time course if he is an eligible part-time student in accordance with the following paragraphs.

(2) Subject to and in accordance with the following paragraphs, an eligible part-time student shall be a person mentioned in Schedule 1, provided that a person shall not be eligible for assistance under regulation 30(1)(b) or regulation 31 if he is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule.

(3) Subject to and in accordance with the following paragraphs, an eligible part-time student shall be eligible for assistance if, in respect of the second and any subsequent year of his part-time course, he is resident in Northern Ireland on the first day of the academic year.

(4) An eligible part-time student shall not be eligible for assistance under regulation 30 if –

- (a) he holds a first degree from an educational institution in the United Kingdom or a comparable qualification from an educational institution outside the United Kingdom; or
- (b) there have been paid to him 8 loans in connection with his undertaking one or more designated part-time courses.

(5) For the purposes of paragraph (4)(a), a degree shall not be treated as a first degree where –

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his first degree course;
- (b) the course was undertaken at an educational institution in the United Kingdom; and
- (c) the eligible part-time student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

(6) A person shall not be eligible under this regulation if –

- (a) there has been made to him or paid to him in relation to his undertaking the part-time course –
  - (i) a bursary or award of similar description under Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 or section 63 of the Health Services and Public Health Act 1968 whether or not the amount of such bursary or award is calculated by reference to his income;
  - (ii) any allowance under the Nursery and Midwifery Student Allowances (Scotland) Regulations 1992; or
  - (iii) any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 where that part-time course leads to a qualification in a healthcare profession, other than as a medical doctor or dentist, whether or not the amount of such allowance is calculated by reference to his income;
- (b) he is in breach of any obligation to repay any loan;

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- (c) he has not ratified any agreement for a loan made with him when he was under the age of 18;
- (d) he has, in the opinion of the Department, shown himself by his conduct to be unfitted to receive assistance; or
- (e) subject to paragraph (7), he is a prisoner serving a custodial sentence.

(7) Paragraph (6)(e) shall not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

(8) For the purposes of paragraph (6)(b) and (c), “loan” means a loan made under the Education (Student Loans) (Northern Ireland) Order 1990, the Education (Student Support) (Northern Ireland) Order 1998 and regulations made thereunder, the Education (Student Loans) Act 1990, the Education (Scotland) Act 1980 and regulations made thereunder, or the Teaching and Higher Education Act and regulations made thereunder.

(9) Paragraph (6)(c) shall only apply, in a case where the agreement for a loan is subject to the law of Scotland, if it was made –

- (a) before 25th September 1991, and
- (b) with the concurrence of the borrower’s curator, or at a time when he had no curator.

(10) A person shall not be eligible for assistance for more than one designated part-time course at any one time.

(11) An eligible part-time student shall be eligible for assistance only in respect of –

- (a) an academic year during which his course becomes a designated part-time course, or during which he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1; and
- (b) any academic year subsequent to an academic year within paragraph (a).

(12) Where a person who meets the requirements of this regulation is notified of that fact by the Department under regulation 32(5), he shall thereafter be an eligible part-time student for the purposes of these Regulations.

### **Designated part-time courses**

29.—(1) Subject to paragraph (3), a part-time course shall be designated for the purposes of Article 3 of the Order and regulation 28 if –

- (a) it is mentioned in Schedule 2, otherwise than in paragraph 4 of that Schedule;
- (b) it exceeds one academic year’s duration and does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) it is wholly provided by an institution or institutions in the United Kingdom or by a relevant institution or institutions of higher education in the Republic of Ireland which (in either case) are maintained or assisted by recurrent grants out of public funds or provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not designated by or under regulation 5.

(2) Paragraphs (5) and (6) of regulation 5 shall apply for the purposes of paragraph (1) as they apply for the purposes of paragraph (1) of that regulation.

(3) For the purposes of Article 3(1) of the Order and regulation 28(1) the Department may designate part-time courses of higher education, which are not designated by paragraph (1).

### Assistance for part-time courses

30.—(1) For the purposes of this regulation, assistance shall mean –

- (a) a grant in respect of fees not exceeding the lesser of the following amounts –
  - (i) “the fee grant”, being one half of the amount referred to in paragraph (1) (a) of regulation 11, and
  - (ii) “the actual fees”, being the amount of fees charged in respect of the designated course; and
- (b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated course.

(2) An eligible part-time student shall be eligible for assistance in respect of an academic year in accordance with this regulation as follows –

- (a) an eligible part-time student shall receive the maximum amount of assistance available under this regulation if at the date of his application for assistance, he or his spouse is entitled –
  - (i) under Part VII of the Social Security Contributions and Benefits Act (Northern Ireland) 1992<sup>(1)</sup> to income support or housing benefit; or
  - (ii) under Part 1 of the Jobseekers Northern Ireland (Order) 1995<sup>(2)</sup> to income-based jobseekers allowance or under arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950<sup>(3)</sup> to new deal allowance;
- (b) subject to sub-paragraph (a), an eligible part-time student shall be assessed for assistance under paragraph (6).

(3) Subject to paragraph (4), for the purposes of paragraph (5), an eligible part-time student’s financial resources for a financial year means the aggregate of his income for that year together with the aggregate of the income for that year of any person who at the date of his application for assistance is his spouse.

(4) Where the Department is satisfied that an eligible part-time student’s financial resources for a financial year are greater than his financial resources for the current financial year and that the difference between the two amounts is £1,000 or more, it may assess that student’s financial resources under this regulation by reference to those resources in the current financial year.

(5) For the purposes of paragraph (6), an eligible part-time student’s relevant income shall be calculated by disregarding from his financial resources –

- (a) £2,000 in respect of his spouse;
- (b) £2,000 in respect of the only or eldest child who is dependent on him or on his spouse; and
- (c) £1,000 in respect of each other such child.

(6) Subject to paragraphs (7) and (8), an eligible part-time student shall receive assistance as follows –

- (a) in any case where the relevant income is less than £14,600, the maximum amount of the assistance available under paragraph (1);

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(1) 1992 c. 7

(2) S.I.1995/2205 (N.I. 15) Schedules 2 and 3; see also Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11), Schedule 8 Part IV

(3) 1950 c. 29 (N.I.) Section 1(1) was substituted and sub-sections 1(A), 1(B) and 1(C) inserted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

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- (b) in any case where the relevant income is £14,600, the maximum amount of assistance available under paragraph (1)(b) together with £50 less than the maximum amount of assistance available under paragraph (1)(a); and
  - (c) in any case where the relevant income exceeds £14,600, the assistance available under paragraph (1) shall be reduced by £50 and also by £1 for every complete £9·50 by which the relevant income exceeds £14,600.
- (7) Where an eligible part-time student is eligible to receive assistance under paragraph (6) (c) –
- (a) if the full amount of any assistance for which he would otherwise be eligible is calculated to be less than £50, he shall receive no assistance; and
  - (b) any deduction from the maximum amount of the assistance available shall apply firstly to the assistance provided under paragraph (1)(a) and when no assistance is provided under that paragraph to paragraph (1)(b).
- (8) In this paragraph, where the fee grant is greater than the actual fees, the difference shall be referred to as “the difference”.
- (b) Subject to sub-paragraph (c), any deduction under paragraph 6(b) or (c) from the maximum amount of the assistance provided under paragraph (1)(a) shall itself be reduced by the difference.
  - (c) Where the resulting amount of the deduction would be negative under sub-paragraph (b) the student shall receive the maximum amount of assistance available under paragraph (1)(a).
- (9) In any academic year, an eligible part-time student shall not receive under this regulation assistance in excess of the maximum amount available to him under paragraph (1) in relation to a single designated part-time course, and where under regulation 33 a student receives assistance in relation to more than one such course, he shall not receive more than he would have received in relation to the course in respect of which he would have been eligible for the greatest amount of assistance.
- (10) For the purposes of this regulation –
- (a) “child” in relation to an eligible part-time student includes a step-child and any child for whom the student has parental responsibility and, in the case of an eligible part-time student aged 25 or over on the first day of the academic year in respect of which his eligibility for assistance is being assessed, any child of his partner;
  - (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person’s eligibility for assistance is being assessed;
  - (c) “dependent” means wholly or mainly financially dependent;
  - (d) “financial year” means the period of twelve months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;
  - (e) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims made under section 3 of the Tax Credits Act 2002;
  - (f) “partner” means a woman ordinarily living with a male part-time student as his wife or a man ordinarily living with a female part-time student as her husband;
  - (g) “spouse” includes –
    - (i) the wife of a male eligible part-time student and the husband of a female eligible part-time student; and

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- (ii) in the case of an eligible part-time student aged 25 or over on the first day of the academic year in respect of which his eligibility for assistance is being assessed, a partner,

but it does not include a spouse of an eligible part-time student where they have ceased ordinarily to live together, whether or not an order for their separation has been made by any court, or where the spouse is ordinarily living outside the United Kingdom and is not maintained by him.

### **Grants for disabled part-time students' living costs**

31.—(1) Regulation 14 shall apply in relation to an eligible part-time student in respect of his undertaking a designated part-time course as it applies in relation to an eligible student in respect of his undertaking a designated course with the substitution –

- (a) for the amount specified in regulation 14(2)(a) of £8,670;
- (b) for the amount specified in regulation 14(2)(d) of £1,140.

### **Applications for assistance**

32.—(1) A person shall apply for assistance in respect of an academic year of a part-time course by completing and submitting to the Department an application in such form and accompanied by such documentation as it may require, and regulation 6 shall not apply to him in connection with his undertaking that course.

(2) Subject to paragraph (3), the application must reach the Department not later than six months after the first day of the academic year of the course in relation to which it is submitted, but where –

- (a) the course becomes a designated part-time course after the first day of that academic year, the application must reach the Department not later than six months after the date on which the course was designated;
- (b) the student, or his spouse or parent, is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 after the first day of that academic year, the application must reach the Department not later than six months after the date of recognition or the date the leave was granted retrospectively; or
- (c) the Department considers that having regard to the circumstances of the particular case the time limit should be relaxed, the application must reach the Department not later than such date as it specifies.

(3) Where an eligible part-time student is applying for assistance under regulation 31 the application form must reach the Department as soon as it is reasonably practical.

(4) An applicant shall demonstrate his eligibility for assistance by providing such evidence as the Department may require, and the Department may take such steps and make such inquiries as it considers necessary to determine whether the applicant is eligible for assistance.

(5) If the Department considers that the applicant is eligible for the assistance for which he has applied under this Part, it shall –

- (a) where the application is the first to be made in connection with the applicant's undertaking the part-time course, notify him of the fact that the applicant is an eligible part-time student and is eligible for the assistance for which he has applied; and
- (b) in respect of any subsequent application, notify him that he is eligible for the assistance for which he has applied.

### **Transfer of eligibility**

33.—(1) An eligible part-time student may request the Department to transfer his eligibility in any case where –

- (a) the student starts to undertake another part-time course at the institution;
- (b) the student starts to undertake a part-time course at another institution; or
- (c) after commencing a part-time course for a first degree (other than an honours degree) the student is before the completion of that course admitted to a part-time course for an honours degree in the same subject or subjects at the institution.

(2) The Department, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated part-time course, shall transfer the eligible part-time student's eligibility, and thereafter the student shall (subject to regulation 30(9)) be an eligible part-time student in connection with his undertaking the second course, whether or not he may have been so eligible if he had applied under regulation 32.

(3) An eligible part-time student's eligibility as such may not be transferred after it has expired or been terminated under regulation 35.

### **Conversion of eligibility**

34.—(1) An eligible student under Part II may request the Department to convert his eligibility to that of an eligible part-time student in any case where –

- (a) the eligible student ceases to attend his course and starts to undertake a designated part-time course at the institution; or
- (b) the eligible student ceases to attend his course and starts to undertake a designated part-time course at another institution.

(2) On being satisfied of the matters referred to in paragraph (1), the Department shall convert the eligible student's eligibility, and thereafter the student shall for all purposes cease to be an eligible student and shall (subject to regulation 30(9)) be an eligible part-time student in connection with his undertaking the second course, whether or not he may have been so eligible if he had applied under regulation 32.

(3) An eligible student's eligibility as such may not be converted after it has expired or been terminated under regulation 8.

(4) Where under this regulation an eligible student under Part II becomes an eligible part-time student in the course of an academic year –

- (a) where the Department has determined to pay an amount of grant to the student under regulation 14 in periodic instalments, no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible part-time student;
- (b) the maximum amount of grant to which the student would, apart from this regulation, be entitled pursuant to regulation 31 in connection with his undertaking a designated part-time course in respect of that academic year shall be reduced by one third, where the student became an eligible part-time student during the second quarter of the academic year, and by two thirds where he became such a student in a later quarter of that year;
- (c) where an amount of grant for any purpose has been paid to the student under regulation 14 in a single instalment, the maximum amount of grant payable to him pursuant to regulation 31 for that purpose shall be reduced (or where subparagraph (b) applies further reduced) by the amount of grant paid to him for that

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purpose pursuant to regulation 14, and where the resulting amount is nil or a negative amount that amount shall be nil; and

- (d) where immediately before he became an eligible part-time student he was eligible to apply, but had not applied, for a loan for living costs in respect of that year under regulation 21, or had not applied for the maximum amount or increased maximum for which he was entitled under regulation 21, he may apply for such a loan or such additional amount of loan in accordance with regulation 21 as if he had continued to be an eligible student under Part II; and in the circumstances mentioned in paragraph (5) the maximum or increased maximum amount of such loan for the academic year shall be reduced in accordance with that paragraph.

(5) Where the application under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) shall be reduced by two thirds, and where the application is made during the second quarter of that year that amount shall be reduced by one third.

(6) An eligible part-time student may request the Department to convert his eligibility to that of an eligible student under Part II in any case where –

- (a) the eligible part-time student ceases to undertake his course and starts to attend a course designated by or under regulation 5 at the institution; or
- (b) the eligible part-time student ceases to undertake his course and starts to attend a course designated by or under regulation 5 at another institution.

(7) The Department, on being satisfied of the matters referred to in paragraph (6), shall convert the eligible part-time student's eligibility, and thereafter the student shall for all purposes cease to be an eligible part-time student and shall be an eligible student in connection with his attendance at the second course, whether or not he may have been so eligible if he had applied under regulation 6.

(8) An eligible part-time student's eligibility as such may not be converted after it has expired or been terminated under regulation 35.

(9) Where under this regulation an eligible part-time student becomes an eligible student under Part II in the course of an academic year –

- (a) where the Department has determined to pay an amount of grant to the student pursuant to regulation 31 in periodic instalments no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any assistance to which the student is entitled under this Part in respect of that year shall be ignored in determining the amount of assistance to which he may be entitled in respect of that year under Parts III to V;
- (c) the maximum amount of any assistance under Part IV or V to which the student would, apart from this regulation, be entitled in connection with his attendance at a designated course in respect of that academic year shall be reduced by one third, where the student became an eligible student during the second quarter of that academic year, and by two thirds where he became such a student in a later quarter of that year; and
- (d) where an amount of grant for any purpose has been paid to the student pursuant to regulation 31 in a single instalment, the maximum amount of grant payable to him under regulation 14 for that purpose shall be reduced (or where sub-paragraph (c) applies further reduced) by the amount of grant paid to him for that purpose pursuant to regulation 31 and where the resulting amount is nil or a negative amount that amount shall be nil.

### **Termination of eligibility**

35.—(1) Subject to the following paragraphs an eligible part-time student shall cease to be eligible for assistance at the end of the academic year in which he completes his course.

(2) Where an eligible part-time student has withdrawn from a course in circumstances where the Department has not transferred or converted or will not transfer or convert his eligibility under regulation 33 or 34, or has ceased to undertake or been expelled from his course, the Department shall determine that he is no longer eligible to receive assistance under this Part and on such determination he shall cease to be an eligible part-time student.

(3) Where an eligible part-time student has shown himself by his conduct to be unfitted to receive assistance under this Part the Department may determine that he is no longer eligible to receive such assistance and on such determination he shall cease to be an eligible part-time student.

### **Payment of assistance to eligible part-time students**

36.—(1) The Department shall pay grant pursuant to regulation 31 and in relation to paragraph (1)(b) of regulation 30 in such instalments (if any) and at such times as it considers appropriate.

(2) Payments shall be made in such manner as the Department considers appropriate and it may make it a condition of entitlement to payment that the eligible part-time student shall provide it with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

### **Payment of grant for fees**

37.—(1) Subject to paragraphs (2) and (3), the Department shall pay any grant under regulation 30(1)(a) to the appropriate academic authority when a valid request for payment has been received.

(2) The Department may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The Department may make provisional payments under paragraph (1) in such cases as it deems appropriate.

### **Overpayments**

38.—(1) Any overpayment of a grant under this Part in respect of any academic year may be recovered if in the opinion of the Department –

- (a) the overpayment is a result of a failure of the student to provide promptly information which might affect his eligibility for a grant under this Part; or
- (b) any information which he has provided is inaccurate in a material particular.

(2) In a case following within paragraph (1), the student shall, if so required by the Department, repay any amount paid to him which for whatever reason exceeds the amount of grant to which he is entitled under the relevant regulation.

(3) In a case falling within paragraph (1), any overpayment of grant paid pursuant to regulation 30 in respect of an academic year may be recovered in such one or more of the following ways as the Department considers appropriate in all the circumstances –

- (a) by subtracting the overpayment from the amount of grant paid under this Part for which the student is eligible in respect of any other academic year;



- (b) by taking such other action for the recovery of a payment made without statutory authority as is available to it.
- (4) In a case falling within paragraph (1), any overpayment of grant paid pursuant to regulation 31 in respect of an academic year may be recovered in such one or more of the following ways, as the Department considers appropriate in all the circumstances:
  - (a) by subtracting the overpayment from the grant for which the student is eligible pursuant to regulation 31 in respect of any other academic year;
  - (b) by subtracting the overpayment from any other grant for which the student is eligible either in respect of the academic year in question or any other academic year;
  - (c) where the student commences any course subsequent to the course in respect of which the overpayment was made by subtracting the overpayment from any payment of grant for living costs for which he is eligible in respect of any academic year in connection with that subsequent course; or
  - (d) by taking such other action for the recovery of a payment made without statutory authority as is available to the Department.”

## SCHEDULE 2

Regulation 21

## “SCHEDULE 3

Regulations 13(2), 15(1), 16(11) and 23(1)

## FINANCIAL ASSESSMENT

### Definitions in Schedule 3

#### 1. In this Schedule –

- (a) “existing student” means an eligible student who is not a new eligible student;
- (b) “financial year” means, in relation to paragraph 4, 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) “gross taxable income” means, in relation to paragraph 3, in respect of the academic year for which an application has been made under regulation 6 and, in relation to paragraph 4, in respect (subject to sub-paragraphs (4), (5) and (6) 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 in respect of the same period) the legislation under which the Department considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 4);
- (d) “household income” has the meaning assigned to it by paragraph 7;
- (e) “independent eligible student” has the meaning assigned to it by paragraph 2(1);
- (f) “Member State” means a Member State of the European Union;

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- (g) “new eligible student” means an eligible student starting a course either on or after 1st September 2004, but does not include an eligible student starting an end-on course during that time where he has already completed a course prior to this time;
- (h) “parent” means a natural or adopted parent and “child”, “mother” and “father” shall be construed accordingly;
- (i) “parent student” means an eligible student who is the parent of an eligible student;
- (j) “partner” in relation to an eligible student shall mean any of the following:
  - (i) the wife of an eligible student;
  - (ii) the husband of an eligible student;
  - (iii) a woman with whom a male student is ordinarily living as her husband, if he falls within paragraph 2(1)(a) and he is on a course which began on or after 1st September 2000 unless –
    - (aa) his course is an end-on course in relation to a course which began before 1st September 2000; or
    - (bb) his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (aa);
  - (iv) a man with whom a female student is ordinarily living as his wife, if she falls within paragraph 2(1)(a) and she is on a course which began on or after 1st September 2000 unless –
    - (aa) her course is an end-on course in relation to a course which began before 1st September 2000; or
    - (bb) her course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (aa);
- (k) “partner” in relation to the parent of a new eligible student shall mean any of the following other than another parent of the eligible student:
  - (i) the wife of an eligible student’s father;
  - (ii) the husband of an eligible student’s mother;
  - (iii) a woman with whom an eligible student’s father is ordinarily living as her husband;  
or
  - (iv) a man with whom an eligible student’s mother is ordinarily living as his wife;
- (l) “preceding financial year” means the financial year ending in the April immediately preceding the relevant year;
- (m) “relevant year” means the academic year in respect of which the household income falls to be assessed; and
- (n) “residual income” means gross taxable income after the application of paragraph 3 (in the case of an eligible student), paragraph 4 (in the case of an eligible student’s parent), paragraph 5 (in the case of an eligible student’s partner) or paragraph 6 (in the case of the partner of an eligible student’s parent).

#### **Application of this Schedule to an eligible student**

- 2.—(1) An independent eligible student shall mean an eligible student in every case where –
- (a) he is aged 25 or over on the first day of the relevant year;
  - (b) he has been married before the beginning of the relevant year, whether or not the marriage is still subsisting;
  - (c) he has no parents living;

- (d) the Department is satisfied that his parents cannot be found or that it is not reasonably practical to get in touch with them;
  - (e) he has communicated with neither of his parents for the period of one year before the beginning of the relevant year or in the opinion of the Department can demonstrate on other grounds that he is irreconcilably estranged from his parents;
  - (f) he has pursuant to an order of a competent court been in the custody or care or has been provided with accommodation by any legal person who is not the student's parent throughout any three month period ending on a date on or after the date on which he attains the age of 16 and before the first day of his course ("the relevant period") (provided that he has not in fact at any time during the relevant period been under the charge or control of his parents);
  - (g) his parents are residing outside the European Community and the Department is satisfied that either –
    - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
    - (ii) it would not be reasonably practical for those parents as a result of the calculation of any contribution under paragraph 8 to send any relevant funds to the United Kingdom;
  - (h) paragraph 4(9) applies and the parent whom the Department considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner within paragraph 1(k));
  - (i) he is a member of a religious order who resides in a house of that order; or
  - (j) he has supported himself out of his earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he shall be treated as supporting himself out of his earnings during any period which –
    - (i) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local ("a relevant authority");
    - (ii) he was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
    - (iii) he was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
    - (iv) he held a State Studentship or comparable award;
    - (v) he received any pension, allowance or other benefit paid by any person by reason of a disability to which he is subject, or by reason of confinement, injury or sickness; or
    - (vi) he could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was wholly or mainly financially dependent on him.
- (2) The household income of an eligible student not falling within sub-paragraph (1) or (3) shall be calculated under paragraph 7(1)(a).
- (3) The household income of an eligible student within sub-paragraph (1) who has a partner under paragraph 1(j) shall be calculated under paragraph 7(1)(b).
- (4) The household income of an eligible student within sub-paragraph (1) who does not have a partner under paragraph 1(j) shall be calculated under paragraph 7(1)(c).

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### **Calculation of eligible student's residual income**

3.—(1) For the purpose of determining the residual income of an eligible student, there shall be deducted from his gross taxable income the aggregate of any amounts falling within any of the following sub-paragraphs –

- (a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration shall not include any sums paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988<sup>(4)</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;
- (c) any payment made by virtue of any agreement, instrument or enactment by the eligible student for the maintenance of his child or former partner.

(2) Where an eligible student is a person referred to in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 1 of Schedule 1, his income shall not be disregarded in accordance with sub-paragraph (1) but shall instead be disregarded to the extent necessary to ensure that he is treated no less favourably than a person who is referred to in any paragraph of Schedule 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 shall be –

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives, and
- (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>(5)</sup>.

### **Calculation of parent's residual income**

4.—(1) For the purposes of determining the residual income of an eligible student's parent, there shall not be deducted or exempted from his gross taxable income any deductions or exemptions which (under the Income Tax Acts or under the income tax legislation of another Member State) fall to be made or 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) in respect of any payment made under covenant;
- (c) 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
- (d) pursuant to any United Kingdom enactment irrespective of whether, if the person's income is determined for the purposes of another Member State, they would not be so permitted.

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(4) 1988 c. 1

(5) "Financial Statistics" reference 7.1A (ISSN 0015-203X)

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

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed as for the purposes of the Income Tax Acts by virtue of sub-paragraph 7, any sums equivalent to the deduction mentioned in sub-paragraph (a), provided that any sums so deducted shall not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact taxable 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, £1,000.

(3) Where, in pursuance of any instrument or by virtue of any applicable legislation any income is applied by any person for or towards the maintenance, education or other benefit of the eligible student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross taxable income of the parent.

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

(5) Where the Department is satisfied that the income of the parent in any financial year is, as a result of some event beyond his control, likely to be and to continue after that year to be not more than 85 per cent of the sterling value of his income in the previous financial year he may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his residual income for each of the financial years in which that academic year falls.

(6) Where the eligible student's parent satisfies the Department that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then any reference in this Schedule to a preceding financial year shall mean the most recent period of twelve months which ends before the start of the relevant year and in respect of which accounts are kept relating to that business or profession.

(7) Where an eligible student's parent is in receipt of any income which does not form part of his gross taxable income by reason only that –

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where his income is computed as for the purposes of the income tax legislation of another Member State, not so resident, ordinarily resident or domiciled in that Member State;
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another Member State, does not arise in that Member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

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his gross taxable income for the purposes of this Schedule shall be computed as though the income under this sub-paragraph were part of his taxable income.

(8) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another Member State, it shall be computed under the provisions of this Schedule in the currency of that Member State and the income of the eligible student's parent for the purposes of this Schedule shall be the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(9) Where –

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

the household income shall –

- (c) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (d) where the parent dies during the relevant year, be the aggregate of –
  - (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and
  - (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(10) Where the parents do not ordinarily live together throughout the relevant year, the household income shall be determined by reference to the income of whichever parent the Department considers the more appropriate under the circumstances.

(11) Where the parents do not ordinarily live together for part only of the relevant year, the household income shall be determined by reference to the aggregate of: –

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (10), being the proportion in respect of that part of the relevant year for which the parents do not so live together; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

#### **Calculation of eligible student's partner's residual income**

5.—(1) Subject to sub-paragraphs (2), (3) and (4) and with the exception of sub-paragraphs (9), (10) and (11) of paragraph 4, an eligible student's partner's income shall be determined in accordance with paragraph 4, references to the parent being construed as references to the eligible student's partner.

(2) Where an eligible student acquires a partner within the meaning of paragraph 1(j) during any relevant year, the household income shall be determined by reference to the eligible student's partner's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks before the end of that academic year or before the end of the course (whichever is earlier) during which that person was the eligible student's partner within the meaning of paragraph 1(j).

(3) Where an eligible student ceases to have a partner within the meaning of paragraph 1(j) during any relevant year, the household income shall be determined by reference to the eligible student's partner's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of

complete weeks after the beginning of that academic year during which that person was still the eligible student's partner within the meaning of paragraph 1(j).

(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**

6. The income of a new eligible student's parent's partner shall be determined in accordance with paragraph 5, 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 household income**

7.—(1) The household income shall be –

- (a) in the case of an eligible student falling within paragraph 2(2), the residual income of the eligible student aggregated with the residual income of the eligible student's parent or parents and (in the case of a new eligible student) the residual income of the new eligible student's parent's partner (if any);
- (b) in the case of an eligible student falling within paragraph 2(3), the residual income of the eligible student aggregated (subject to sub-paragraph (3)) with the residual income of the eligible student's partner; or
- (c) in the case of an eligible student falling within paragraph 2(4), the residual income of the eligible student.

(2) There shall be deducted from the sum of the household income under sub-paragraph (1) the sum of £1,000 –

- (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.

(3) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner shall not be aggregated under sub-paragraph (1)(b) in the case of a parent student whose child or whose partner's child holds an award:

- (a) in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both; or
- (b) in respect of which a parental contribution is otherwise applicable with reference to the parent student or his partner.

#### **Calculation of contribution**

8.—(1) In relation to an eligible student falling within paragraph 2(2), the contribution payable shall –

- (a) in any case where the household income is £21,475 or more be £45 with the addition of £1 for every complete £12·50 by which the household income exceeds £21,475, and
- (b) in any case where the household income is less than £21,475 be nil.

(2) In relation to an eligible student falling within paragraph 2(3), the contribution payable shall –

- (a) in any case where the household income is £21,475 or more be £45 with the addition of £1 for every complete £9·50 by which the household income exceeds £21,475, and

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- (b) in any case where the household income is less than £21,475 be nil.
- (3) In relation to an eligible student falling within paragraph 2(4), the contribution shall –
  - (a) in any case where the household income is £10,000 or more be £45 with the addition of £1 for every complete £9·50 by which the household income exceeds £10,000, and
  - (b) in any case where the household income is less than £10,000 be nil.
- (4) The amount of the contribution payable under sub-paragraphs (1) to (3) shall in no case exceed £7,512.
- (5) In a case falling within paragraph (6), the aggregate contributions shall not exceed –
  - (a) £7,512; or
  - (b) the contribution which would have been payable if only one eligible student held an award.
- (6) Paragraph (5) applies where a contribution is payable in relation to –
  - (a) more than one eligible student falling with paragraph 2(2), in respect of the same income under both paragraphs 4 and 6; or
  - (b) more than one eligible student falling within paragraph 2(3), in respect of the same household income.

### **Split contributions**

9.—(1) Where a contribution is payable under paragraph 8 other than in relation to sub-paragraph (2) of that paragraph, the contribution shall be payable in accordance with the following sub-paragraphs –

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

the contribution payable in respect of the eligible student shall be such proportion of any contribution calculated under paragraph 8 as the Department, after consultation with any other authority involved, considers just, taking into account the application of paragraph 6 of this Schedule to new eligible students and existing students respectively;

- (b) for any year in which an award payable under the 2003 Regulations, the Education (Students Awards) Regulations (Northern Ireland) 2003<sup>(6)</sup> the Education and Libraries (Northern Ireland) Order 1986 or section 63 of the Health Services and Public Health Act 1968 (and no other statutory award) is held by more than one child of the eligible student’s parents, the contribution payable in respect of the eligible student shall, subject to this paragraph, be such proportion of any contribution calculated under paragraph 8 as is equal to the proportion payable in respect of any other such statutory award holder;
- (c) if, as a result of the apportionment under sub-paragraph (b), any part of that contribution would not be applied in respect of any statutory award and there would remain any part of any statutory award in respect of which the contribution had not been applied, the contribution shall instead be applied –
  - (i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply, and
  - (ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be

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(6) S.R. 2003 No. 459



apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

- (2) In any case where –
- (a) the eligible student’s parent has a partner within paragraph 1(k);
  - (b) a contribution is payable in relation to more than one eligible student who is the child of either the eligible student’s parent or the eligible student’s parent’s partner; and
  - (c) the amount payable in relation to each eligible student is not equal to the amount payable in respect of every other eligible student,

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

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

(4) In a case where a contribution is payable in respect of more than one eligible student, and the residual income of any such eligible student is greater than nil, the contribution in relation to each eligible student shall be calculated in accordance with the following sub-paragraphs –

- (a) the contribution in respect of each eligible student shall be calculated without reference to paragraph 3 but otherwise in accordance with this Schedule and shall be apportioned between each eligible student in accordance with this paragraph;
- (b) there shall then be applied in addition in respect of each eligible student a further contribution of £1 for every complete £12.50 by which the sum calculated under sub-paragraph (c) exceeds £21,475;
- (c) the sum referred to in sub-paragraph (b) shall be the aggregate of any amounts calculated under paragraphs 3, 4 and 6 (where appropriate) with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 4 and 6 exceeds £21,475.

(5) Subject to sub-paragraph (6), there shall be added to a parent student’s residual income for the purpose of calculating the contribution to his statutory award any sum remaining –

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this paragraph.

(6) Where a parent student has a partner within paragraph 1(k), the sums added to his residual income under sub-paragraph (5) shall be calculated as though the contribution in respect of his children had been assessed with reference to paragraph 6, whether or not the contribution was actually calculated on that basis.

(7) In this paragraph, “household” means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 4 and 6.”

### SCHEDULE 3

Regulation 22

<i>Provision in the 2003 Regulations</i>	<i>Existing figure</i>	<i>New figure</i>
	£	£

#### **Regulation 11**

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<i>Provision in the 2003 Regulations</i>	<i>Existing figure</i>	<i>New figure</i>
	£	£
11(1)(b) to (g)	550	560
11(2)(a)(ii)	1,050	1,075
11(2)(b)	2,640	2,705
	4,055	4,150
	1,995	2,045
<b>Regulation 13</b>		
13(1)	20,000	20,500
<b>Regulation 14</b>		
13(2)(a)	11,280	11,550
13(2)(b)	4,460	4,565
13(2)(d)	1,490	1,525
13(3)	8,465	8,670
	1,115	1,140
<b>Regulation 16</b>		
16(1)	2,280	2,335
16(1)(b)	3,280	3,360
16(2)(b)(i)	1,000	1,025
16(2)(b)(ii)	3,000	3,070
16(2)(b)(iii)	4,000	4,095
16(2)(b)(iv)	4,000	4,095
16(2)(b)(v)	5,000	5,120
16(5)	1,125	1,150
16(7)(a)	1,300	1,330
16(7)(b)	1,300	1,330
	1,250	1,280
<b>Regulation 17</b>		
17(5)(b)(i)	1,000	1,025
17(5)(b)(ii)	3,000	3,070
17(5)(b)(iii)	4,000	4,095
17(5)(b)(iv)	4,000	4,095
17(5)(b)(v)	5,000	5,120
17(7)(b)(i)	1,000	1,025
17(7)(b)(ii)	3,000	3,070

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<i>Provision in the 2003 Regulations</i>	<i>Existing figure</i>	<i>New figure</i>
	£	£
17(7)(b)(iii)	4,000	4,095
17(7)(b)(iv)	4,000	4,095
17(7)(b)(v)	5,000	5,120
<b>Regulation 18</b>		
18(2)	270	275
<b>Regulation 20</b>		
20(1)(a)	3,165	3,240
20(1)(b)(i)	4,930	5,050
20(1)(b)(ii)	4,885	5,000
20(1)(b)(iii)	4,885	5,000
20(1)(b)(iv)	4,000	4,095
20(2)(a)	2,765	2,830
20(2)(b)(i)	4,275	4,380
20(2)(b)(ii)	4,250	4,350
20(2)(b)(iii)	4,250	4,350
20(2)(b)(iv)	3,470	3,555
20(10)(a)	48	49
20(10)(b)(i)	92	94
20(10)(b)(ii)	99	101
20(10)(b)(iii)	99	101
20(10)(b)(iv)	71	73
<b>Regulation 24</b>		
24(3)	1,125	1,150
24(6)(a)	1,839	1,886
24(6)(b)(i)	3,604	3,696
24(6)(b)(ii)	3,559	3,646
24(6)(b)(iii)	3,559	3,646
24(6)(b)(iv)	2,674	2,741
24(7)(a)	1,439	1,476
24(7)(b)(i)	2,949	3,026
24(7)(b)(ii)	2,924	2,996
24(7)(b)(iii)	2,924	2,996
24(7)(b)(iv)	2,144	2,201

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#### SCHEDULE 4

Regulation 24

#### RELEVANT INSTITUTIONS OF HIGHER EDUCATION IN THE REPUBLIC OF IRELAND

All Hallows College, Drumcondra  
Church of Ireland College of Education, Dublin  
Colaiste Mhuire, Marino, Dublin  
Dublin City University  
Dublin Institute of Technology  
Dun Laoghaire Institute of Art, Design and Technology  
Froebel College of Education, Sion Hill, Co Dublin  
Holy Ghost College, Kimmage Manor, Dublin  
Institute of Technology, Athlone  
Institute of Technology, Blanchardstown  
Institute of Technology, Carlow  
Institute of Technology, Cork  
Institute of Technology, Dundalk  
Institute of Technology, Galway/Mayo  
Institute of Technology, Letterkenny  
Institute of Technology, Limerick  
Institute of Technology, Sligo  
Institute of Technology, Tallaght  
Institute of Technology, Tralee  
Mary Immaculate College, Limerick  
Mater Dei Institute of Education  
Milltown Institute of Theology and Philosophy, Dublin  
Montessori College, (A.M.I.), Mount St Mary's, Dublin  
National College of Art and Design, Dublin  
National College of Ireland, Dublin  
National University of Ireland, Galway  
National University of Ireland, Maynooth  
Pontifical University of Maynooth  
Royal College of Surgeons in Ireland  
St Angela's College, Lough Gill, Sligo  
St Catherine's College, Sion Hill, Co Dublin  
St Nicholas Montessori College, Dun Laoghaire, Co Dublin  
St Patrick's College, Carlow  
St Patrick's College, Thurles  
St Patrick's College of Education, Drumcondra, Dublin  
Tipperary Rural and Business Development Institute  
Trinity College Dublin

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