

## SCHEDULE 3

Regulation 18

### RESOURCES

#### PART I

#### STUDENT'S INCOME

##### Calculation of student's income

1.—(1) In calculating the student's income for the purposes of regulation 18(1)(b) there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, but there shall be disregarded the following resources—

- (a) the first £800 of any income other than income of a kind mentioned in paragraphs (b) to (u) below and other than any sum treated as income under sub-paragraph (3);
- (b) the first £3,865 of any income by way of—
  - (i) scholarship, studentship, exhibition or award of a similar description bestowed on the student in respect of the course (in pursuance of a sponsorship scheme or otherwise) not being an award bestowed in pursuance of section 1 of the Education Act 1962, and
  - (ii) in the case of a student released by his employer to attend the course, any payments made by that employer;
- (c) in the case of a student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5)—
  - (i) the whole of that income or those payments if a parental contribution ascertained in accordance with Part II or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount including nil that contribution is ascertained to be), or
  - (ii) the first £1,810 of that income or those payments if such a contribution would be applicable but for the fact that the student has no parent living or is such a student as is described in paragraph 3(b), (c), (d), (e) or (f).
- (d) any disability pension not subject to income tax;
- (e) any bounty received as a reservist with the armed forces;
- (f) remuneration for work done during any year of the student's course;
- (g) in the case of a student in whose case a parental contribution is by virtue of Part II of this Schedule applicable (at whatever amount, including nil, that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;
- (h) any payment made for a specific educational purpose otherwise than to meet such fees and such requirements for maintenance as are specified in Schedules 1 and 2;
- (i) child benefit;
- (j) any income support under Part VII of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>, or any transitional addition, personal expenses addition or special transitional addition payable under Part II of the Income Support (Transitional) Regulations 1987<sup>(2)</sup>;

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(1) 1992 c. 4.

(2) S.I.1987/1969.

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- (k) any attendance allowance, mobility allowance or disability living allowance under section 35, 37A or 37ZA of the Social Security Act 1975(3) or under section 64, 72 or 73 of the Social Security Contributions and Benefits Act 1992, or any mobility supplement or constant attendance allowance provided for in an Order made under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(4);
- (l) any housing benefit or community charge benefits granted to him in pursuance of a statutory or local scheme...under Part VII of the Social Security Contributions and Benefits Act 1992 or any council tax benefit granted to him in pursuance of a statutory or local scheme under that Act(5);
- (m) any allowance payable to him by an adoption agency in accordance with regulations made pursuant to section 57A of the Adoption Act 1976(6);
- (n) any guardian's allowance to which he is entitled...under section 77 of the Social Security Contributions and Benefits Act 1992;
- (o) in the case of a student with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989(7)
- (p) any payments made to the student in pursuance of an order made under section 34 of the Children Act 1975(8) or under section 15 of and Schedule 1 to the Children Act 1989 or any assistance given by a local authority pursuant to section 24 of that Act;
- (q) any payments made to the student under the action programme of the European Community in Education and Training for Technology known as COMETT(9);
- (r) any payments made to the student under the action scheme of the European Community for the Mobility of University Students known as ERASMUS(10) or the European Community programme for foreign language competence known as LINGUA(11);
- (s) the first £3,030 of any pension, however described, other than one of the kind mentioned at sub-paragraph (d) above, and including any such pension paid to the student as a widow, child or dependant;
- (t) any payment made to the student in pursuance of the Education (Student Loans) Act 1990(12);
- (u) any payment made to the student out of access funds held by the institution at which he attends his course.

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- (3) 1975 c. 14; section 35 was amended by paragraph 63 of Schedule 15 to the National Health Service Act 1977 (c. 49), section 2 of the Social Security Act 1979 (c. 18), paragraph 8 of Schedule 1 to the Social Security Act 1980 (c. 30), section 1 of the Social Security Act 1988 (c. 7) and paragraph 5 of Schedule 8 to the Social Security Act 1989 (c. 24); section 37A was inserted by section 22 of the Social Security Pensions Act 1975 (c. 60); section 37ZA was inserted by section 1(2) of the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 210); the whole Act was repealed by Schedule 1 to the Social Security (Consequential Provisions) Act 1992 (c. 6).
  - (4) 1977 c. 5; the relevant Order currently in force is the Naval, Military and Air Forces etc.(Disablement and Death) Service Pensions Order 1983 (S.I.1983/883, amended by S.I.1983/1116, 1521, 1984/1154, 1687, 1985/1201, 1986/592, 1987/165, 1988/248, 2248, 1989/156, 1990/250, 1308, 1991/766, 1992/710 and 3208).
  - (5) The statutory schemes are currently constituted in relation to housing benefit by the Housing Benefits (General) Regulations 1987 (S.I. 1987/1971), in relation to community charge benefits by the Community Charge Benefits (General) Regulations 1987 (S.I.1989/1321) and in relation to council tax benefit by the Council Tax Benefit (General) Regulations 1992 (S.I.1992/1814).
  - (6) 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41).The relevant instruments are S.I. 1991/2030 and 2130.
  - (7) 1989 c. 41.
  - (8) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).
  - (9) OJNo. L222, 8.8.86, p. 17.
  - (10) OJ No.L166, 25.6.87, p. 20.
  - (11) OJ No. L239, 16.8.89, p. 24.
  - (12) 1990 c. 6.

(2) In the case of a student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes aforesaid there shall be deducted therefrom—

- (a) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;
- (b) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;

except that no deduction shall be made from the income of a married student where the student's spouse is a dependant for the purpose of Part III of Schedule 2 and, in pursuance of paragraph 13(1) thereof, the payment is taken into account in determining the spouse's income.

(3) In a case where the student is the parent or step-parent of an award holder in respect of whom a contribution is ascertained under Part II of this Schedule, so much of the amount (if any) by which the contribution is reduced under paragraph 4(4) as the authority consider just shall be treated as part of the student's income for the purposes of regulation 18(1)(b).

## PART II

### PARENTAL CONTRIBUTION

#### Definitions and construction of Part II

2.—(1) In this Part of this Schedule—

“child” includes a person adopted in pursuance of adoption proceedings and a step-child but, except in paragraph 4, does not include a child who holds a statutory award; and, except as otherwise provided by paragraph 5, “parent” shall be construed accordingly;

“gross income” has the meaning assigned to it by paragraph 5;

“income of the student's parent” means the total income of the parent from all sources computed as for income tax purposes, except as otherwise provided by paragraph 5 or 6;

“residual income” means, subject to sub-paragraph (2), the balance of gross income remaining in any year after the deductions specified in paragraph 6 have been made;

“total income” has the same meaning as in section 835(1) of the Income and Corporation Taxes Act 1988(13).

(2) Where, in a case not falling within paragraph 5(3) or (4), the authority are 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 his income in the financial year preceding that year, they may, for the purpose of enabling the student to attend the course without hardship, ascertain the parental contribution for the year of his course in which that event occurred by taking as the residual income the average of the residual income for each of the financial years in which that year falls.

(3) Where the student's parent satisfies the authority that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then, if the authority and the parent so agree, any reference in this Part of this Schedule to a financial year shall be construed as a reference to a year ending with such date as appears to the authority expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

(4) Where a parent is in receipt of any income which does not form part of his total income by reason only that—

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(13) 1988 c. 1.

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- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom,
- (b) the income does not arise in the United Kingdom, or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any enactment,

his income for the purposes of this Part of this Schedule shall be computed as though the income first mentioned in this sub-paragraph were part of his total income.

### **Application of Part II**

**3.** A parental contribution ascertained in accordance with this Part shall be applicable in the case of every student except—

- (a) an independent student;
- (b) a student in respect of whom the authority are satisfied either—
  - (i) that his parents cannot be found; or
  - (ii) that it is not reasonably practicable to get in touch with them;
- (c) a student who has been in the care of a local authority or in the care of a voluntary organisation within the meaning of section 88 of the Children Act 1975<sup>(14)</sup> or accommodated under section 20 of the Children Act 1989<sup>(15)</sup> throughout the three months immediately preceding—
  - (i) the first year of his course; or
  - (ii) without prejudice to sub-paragraph (i), his attaining the age of 18 years where he had attained that age before the first year of his course,and has not, at any time in the said period, been allowed by the local authority to be under the charge and control of his parents or, in the case of a student who has been in the care of a voluntary organisation, has not, at any such time, in fact been under such charge and control;
- (d) a student whose parents are residing overseas where the authority are satisfied either—
  - (i) that the assessment of a parental contribution would place those parents in jeopardy; or
  - (ii) that it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
- (e) a student who has been the subject of a custodianship order made under section 33 of the Children Act 1975 or section 31 of the Children Act 1989, throughout the three months immediately preceding—
  - (i) the first year of his course; or
  - (ii) without prejudice to sub-paragraph (i), his attaining the age of 18 years where he had attained that age before the first year of his course;
- (f) where sub-paragraph (7) of paragraph 5 applies and the parent whom the authority considered the more appropriate for the purposes of that sub-paragraph has died.

### **Parental contribution**

**4.—(1)** The parental contribution shall, subject to sub-paragraphs (2), (3), and (4) be—

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<sup>(14)</sup> 1975 c. 72.

<sup>(15)</sup> 1989 c. 41.

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- (a) in any case in which the residual income is £14,845 or more but less than £18,974, £45 with the addition of £1 for every complete £12.00 by which it exceeds £14,845;
- (b) in any case in which the residual income is £18,975 or more but less than £27,884, £389 with the addition of £1 for every complete £8.55 by which it exceeds £18,975; and
- (c) in any case in which the residual income is £27,885 or more, £1,431 with the addition of £1 for every complete £6.90 by which it exceeds £27,885,

reduced in each case in respect of each child of the parent (other than the student) who is wholly or mainly dependent on him on the first day of the year for which the contribution falls to be ascertained, by £75; and in any case in which the residual income is less than £14,845 the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall in no case exceed £5,800.

(3) For any year in which a statutory award is held by—

- (a) more than one child of the parent;
- (b) the parent; or
- (c) the student's step-parent,

the parental contribution for the student shall be such proportion of any contribution ascertained in accordance with this Part as the authority (after consultation with any other authority concerned) consider just;

Provided that where a contribution is ascertained in respect of more than one child of the parent the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award.

(4) Where in any year a student attends only part of his course the parental contribution for that year shall be reduced pro rata.

### **Gross income**

5.—(1) For the purposes of this paragraph “preceding financial year” means the financial year preceding the year in respect of which the resources of the student fall to be assessed and “current financial year” means the financial year which includes the first day of the year:

Provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending less than five months before the beginning of a year of the student's course, “preceding financial year” shall mean the year last ending five or more months before the year in respect of which the resources of the student fall to be assessed and “current financial year” shall mean the year ending within those five months.

(2) Subject to the provisions of this paragraph, “gross income” means the income of the student's parent in the preceding financial year or, for the purpose of calculating residual income under paragraph 2(2), in the financial year there mentioned.

(3) Where the authority are satisfied that the income of the parent in the current financial year is likely to be not more than 85 per cent. of his income for the preceding financial year, they may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and in such case sub-paragraph (2) shall have effect, in relation to the year in respect of which the student's resources fall to be assessed and, if the authority so determine, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where—

- (a) one of the student's parents dies either before or during the year in respect of which the resources of the student fall to be ascertained (“the relevant year”); and

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(b) that parent's income has been or would be taken into account for the purpose of determining the parental contribution,  
the parental contribution shall—

- (a) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, be the aggregate of—
  - (i) the appropriate proportion of the contribution determined by reference to the income of both parents that is to say such proportion thereof as the part of the relevant year during which both parents were alive bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 2; and
  - (ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the relevant year remaining after the parent dies bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 2.

(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of section 31(1) of the Trustee Act 1925<sup>(16)</sup> or any other enactment, any income is applied by any person for or towards the maintenance, education or other benefit of the 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 income of the parent.

(6) Where any such benefit as is mentioned in paragraph 1(1)(b)(i) of Part I of this Schedule is provided, by reason of the parent's employment, for any member of his family or household who holds a statutory award (whether the student or some other such member) then, notwithstanding the provisions of section 154 of the Income and Corporation Taxes Act 1988<sup>(17)</sup>, that benefit shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the year in respect of which the resources of the student fall to be ascertained ("the relevant year"), the parental contribution shall be determined by reference to the income of whichever parent the authority consider the more appropriate in the circumstances.

(8) Where the parents do not ordinarily live together for part only of the relevant year, the parental contribution shall be the aggregate of—

- (a) the appropriate proportion of the contribution determined as provided in sub-paragraph (7), that is to say such proportion thereof as the part of the relevant year for which the parents do not so live together bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 2; and
- (b) the appropriate proportion of the contribution determined without regard to this sub-paragraph, that is to say, such proportion thereof as the part of the relevant year for which the parents so live together bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 2.

(9) Where one of the student's parents is his step-parent the parental contribution shall be ascertained by reference only to the income of the other parent.

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<sup>(16)</sup> 1925 c. 19.

<sup>(17)</sup> 1988 c. 1.

## Deductions

6.—(1) For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in so far as in computing his total income for income tax purposes any deductions fall to be made—

- (a) by way of personal reliefs provided for in Chapter I of Part VII or section 280 of the Income and Corporation Taxes Act 1988;
- (b) in respect of any payment made by the parent under covenant;
- (c) in pursuance of any Act passed after the passing of the Finance Act 1987(18) on 15 May 1987; or
- (d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2),

the parent's income shall be determined as though those deductions did not fall to be made.

(2) For the purpose of determining a parent's residual income there shall be deducted from his gross income—

- (a) in respect of any person, other than a spouse, child or holder of a statutory award, dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which £1,875 exceeds the income of that person in that year;
- (b) the gross amount of any sums paid as interest (including interest on a mortgage) in respect of which relief is given under the Income Tax Acts in respect of a loan to the parent;
- (c) half of the gross amount of any premium payable under a policy of life insurance in respect of which relief is given under section 266 of the Income and Corporation Taxes Act 1988 (life policy and certain other premiums) in the relevant year;
- (d) the gross amount of any other premium or sum in respect of which relief is given under section 266, 273, 619 or 639 of that Act in the relevant year;
- (e) where the parents ordinarily live together and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,470;
- (f) where a parent whose marriage has terminated either is gainfully employed or is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,470;
- (g) in respect of additional expenditure incurred by reason of the fact that the parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the authority consider reasonable in all the circumstances;
- (h) in the case of a parent who holds a statutory award, the amount by which the aggregate of his requirements for his ordinary maintenance (ascertained in accordance with Part I of Schedule 2) and £760 exceeds the sum payable in respect of maintenance in pursuance of that award;
- (i) any payments made pursuant to an order made under section 34 of the Children Act 1975(19) or under section 15 of and Schedule 1 to the Children Act 1989(20).

(3) In any case where income is computed as though it were total income by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deductions mentioned in paragraphs (b), (c), (d) or (i) of sub-paragraph (2), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact total income.

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(18) 1987 c. 16.

(19) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

(20) 1989 c. 41.

## PART III

### SPOUSE'S CONTRIBUTION

#### **Application of Part III**

7. A spouse's contribution ascertained in accordance with this Part shall be applicable in the case of every man student ordinarily living with his wife and every woman student so living with her husband except—

- (a) a student in whose case a parental contribution is applicable in accordance with Part II; and
- (b) a student whose child holds an award in respect of which a parental contribution is applicable.

#### **Spouse's contribution**

8.—(1) Subject to sub-paragraphs (3) and (4), Part II above, except paragraphs 3, 4(1), (2), (3)(a) and (c), 5(4), (7), (8) and (9), and 6(2)(f), shall apply with the necessary modifications for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed, except where the context otherwise requires, as references to the student's spouse and, unless the context otherwise requires, this Part shall be construed as one with the said Part II.

(2) The spouse's contribution shall be—

- (a) in any case in which the residual income is £11,745 or more but less than £18,974, £10 with the addition of £1 for every complete £9.05 by which it exceeds £11,745;
- (b) in any case in which the residual income is £18,975 or more but less than £27,884, £808 with the addition of £1 for every complete £6.50 by which it exceeds £18,975; and
- (c) in any case in which the residual income is £27,885 or more, £2,178, with the addition of £1 for every complete £5.15 by which it exceeds £27,885;

reduced in any such case by £100 in respect of each child of the student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than £11,745 the spouse's contribution shall be nil:

Provided that the amount of the spouse's contribution shall in no case exceed £5,800.

(3) If the student marries during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of the marriage and whichever is the earlier of the end of that year and the end of the course.

(4) If the student's marriage terminates during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage.