

SCHEDULE 6

Regulation 108

FINANCIAL ASSESSMENT – PART-TIME GRANTS FOR DEPENDANTS

Definitions

1.—(1) In this Schedule—

- (a) “financial year” (“*blwyddyn ariannol*”) means the period of twelve months in respect of which the income of a person, whose residual income is calculated under the provisions of this Schedule, is computed for the purposes of the income tax legislation which applies to it;
- (b) “household income” (“*incwm aelwyd, incwm yr aelwyd, incwm sydd gan yr aelwyd*”) has the meaning given in paragraph 2;
- (c) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (d) “parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”) is construed accordingly;
- (e) “parent student” (“*myfyriwr sy’n rhiant*”) means an eligible part-time student who is the parent of an eligible student;
- (f) “partner” (“*partner*”) in relation to an eligible part-time student means any of the following—
 - (i) the spouse of an eligible part-time student;
 - (ii) the civil partner of an eligible part-time student;
 - (iii) a person ordinarily living with an eligible part-time student as if the person were the eligible part-time student’s spouse where an eligible part-time student is aged 25 or over on the first day of the relevant year and the eligible part-time student begins the designated part-time course on or after 1 September 2000;
 - (iv) a person ordinarily living with an eligible part-time student as if the person were the eligible part-time student’s civil partner where an eligible part-time student is aged 25 or over on the first day of the relevant year and the eligible part-time student begins the designated part-time course on or after 1 September 2005;
- (g) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (h) “relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;
- (i) “residual income” (“*incwm gweddilliol*”) means taxable income after the application of paragraph 3 (in the case of an eligible part-time student) or paragraph 4 (in the case of an eligible part-time student’s partner) and income referred to in sub-paragraph (2) received net of income tax; and
- (j) “taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 3, in respect of the academic year for which an application has been made under regulation 111 and, in relation to paragraph 4, in respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 4) of the preceding financial year, a person’s taxable income from all sources computed as for the purposes of—
 - (i) the Income Tax Acts;
 - (ii) the income tax legislation of another Member State which applies to the person’s income; or

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- (iii) where the legislation of more than one Member State applies to the period, the legislation under which the Welsh Ministers consider the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 4),

except that no account is taken of income referred to in sub-paragraph (2) paid to another party.

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

Household income

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

(2) The household income is—

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

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

(4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner must not be aggregated under paragraph (a) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child who is an eligible student holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

Calculation of eligible part-time student's residual income

3.—(1) For the purpose of determining the residual income of an eligible part-time student, there is deducted from the eligible part-time student's taxable income (unless already deducted in determining taxable income) the gross amount of any premium or other sum paid by the eligible part-time student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 188 of the Finance Act 2004⁽¹⁾, or where the eligible part-time student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible part-time student falls is paragraph 9 and the eligible part-time student's income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 of Schedule 1, the eligible part-time student's income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that the eligible part-time student is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

(1) 2004 c.12; section 188 was amended by the Finance Act 2007 (c.11), sections 68, 69 and 114 and Schedules 18, 19 and 27.

(3) Where the eligible part-time student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is—

- (a) if the eligible part-time student purchases sterling with the income, the amount of sterling the eligible part-time student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics⁽²⁾.

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

4.—(1) For the purposes of determining the taxable income of an eligible part-time student's partner ("A" in this paragraph), any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;
- (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under sub-paragraph (2),

must not be made or permitted.

(2) For the purposes of determining the residual income of A, there is deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following 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 188 of the Finance Act 2004, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted do not exceed the deductions which would be made if the whole of A's income were in fact income for the purposes of the Income Tax Acts.

(3) Where the Welsh Ministers are satisfied that the residual income of A in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 85 per cent of the sterling value of A's residual income in the preceding financial year they must, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain A's residual income for the current financial year.

(4) Where the Welsh Ministers are satisfied that the residual income of A 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 A's residual income in the previous financial year they must, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain the household income for the academic year of the eligible part-time student's course in which that event occurred by taking as the residual income of A the average of A's residual income for each of the financial years in which that academic year falls.

(5) Where A satisfies the Welsh Ministers that A's income is wholly or mainly derived from the profits of a business or profession carried on by A, then any reference in this Schedule to a preceding

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

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financial year means the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

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

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

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

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

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

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

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

Calculation of contribution

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

- (a) in any case where the household income exceeds £39,793, £1 for every £9.27 by which the household income exceeds £39,793; and
 - (b) in any case where the household income is £39,793 or less, nil.
- (2) The contribution must not in any case exceed £6,208.
- (3) The contribution may be adjusted in accordance with paragraph 6.
- (4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,208.

(5) This sub-paragraph applies where the household income consists of the residual income of an eligible part-time student and the eligible part-time student's partner where both hold a statutory award.

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Split contributions

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