

2010 No.960

EDUCATION, ENGLAND

**The Education (Student Support) (College of Europe)
Regulations 2010**

Made - - - - - *23rd March 2010*

Laid before Parliament *26th March 2010*

Coming into force in accordance with regulation 1

The Secretary of State for Business, Innovation and Skills, in exercise of the powers conferred by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(a), makes the following Regulations:

PART 1

GENERAL

Citation, commencement, application and interpretation

1. These Regulations may be cited as the Education (Student Support) (College of Europe) Regulations 2010 and come into force on the 22nd day after they are laid before Parliament.

2. These Regulations apply in relation to England(b).

3. In these Regulations—

“1998 Act” means the Teaching and Higher Education Act 1998;

“academic authority” means the governing body or other body having the functions of a governing body of the College and includes a person acting with the authority of that body;

“College” means the College of Europe;

“current course” means the designated course in respect of which a person is applying for support or to be recognised as an eligible student;

“designated course” has the meaning given by regulation 7;

“eligible student” has the meaning given by regulation 6;

“European Union” means the territory comprised of the Member States of the European Union as constituted from time to time;

(a) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7.

(b) In relation to Wales, the functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales under section 44 of the Higher Education Act 2004 except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22.

“grants for living and other costs” means the grants payable under regulation 15;

“person with leave to enter or remain” means a person—

- (a) who has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although that person is considered not to qualify for recognition as a refugee, it is thought right to allow that person to enter or remain in the United Kingdom;
- (b) who has been granted leave to enter or remain accordingly;
- (c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002(a)); and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since being granted leave to enter or remain;

“refugee” means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(b) as extended by the Protocol thereto which entered into force on 4th October 1967(c);

“relevant date” means 22nd May 2010;

“statutory award” means any award bestowed, grant paid or other support provided by virtue of the 1998 Act or the Education Act 1962(d), or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

“student loans legislation” means the Education (Student Loans) Act 1990(e), the Education (Student Loans) (Northern Ireland) Order 1990(f), the Education (Scotland) Act 1980(g) and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998(h) and regulations made thereunder or the 1998 Act and regulations made thereunder;

“supplementary grants” means the grants payable under Chapter 2 of Part 4;

“Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom and Islands; and
- (b) is, or had been, lawfully employed in the United Kingdom.

4. These Regulations apply in relation to the provision of support to students only in relation to the academic year which begins on or after 1st September 2010 and before 1st September 2011 whether anything done under these Regulations is done before, on or after 1st September 2010.

(a) 2002, c. 41; section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19), Schedule 2(1) paragraphs 20(a) and 20(b) and the Immigration, Asylum and Nationality Act 2006 (c.13), section 9.

(b) Cmnd. 9171.

(c) Cmnd. 3906 (out of print; photocopies are available free of charge, from the Student Finance Policy Division, Department for Business, Innovation and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

(d) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provision set out in Schedule 5 to the Education Act 1980 (c. 20). Section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4. Section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237), article 3.

(e) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.

(f) S.I. 1990/1506 (N.I. 11); amended by S.I. 1996/274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6 and revoked, with savings, by SR (NI) 1998 No 306.

(g) 1980 c. 44.

(h) S.I. 1998/1760 (N.I. 14), to which there have been amendments not relevant to these Regulations.

PART 2

APPLYING FOR SUPPORT AND ELIGIBILITY

Applications

5.—(1) A person (the “applicant”) must submit an application to be considered as an eligible student and an application for support in such form as the Secretary of State may require to the College by the application deadline.

(2) Subject to paragraph (3), the application deadline is 21st May 2010.

(3) The Secretary of State may extend the application deadline if the Secretary of State considers that the circumstances of the case warrant it.

Eligible students

6.—(1) An eligible student qualifies for support in connection with the student’s attendance on a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraphs (3) and (7), a person is an eligible student in connection with a designated course if—

- (a) the academic authority notifies the Secretary of State in writing that the person has a reasonable chance of being offered a place on a designated course by the academic authority; and
- (b) the Secretary of State determines in connection with an application for support under these Regulations that the person falls within one of the categories in Part 2 of Schedule 1.

(3) A person (“A”) is not an eligible student if—

- (a) subject to paragraph (4), A has attended a postgraduate or comparable course of at least one academic year’s duration;
- (b) A is in breach of an obligation to repay any loan;
- (c) A has reached the age of 18 and not ratified any agreement for a loan made with A when A was under the age of 18; or
- (d) A has, in the opinion of the Secretary of State, shown by A’s conduct to be unfitted to receive support.

(4) Paragraph (3)(a) does not apply where the person has attended a postgraduate or comparable course of at least one academic year’s duration but the Secretary of State has determined that having regard to the particular circumstances of that person’s case it is appropriate to pay that person support in connection with the current course.

(5) For the purposes of paragraph (3)(b) and (c), “loan” means a loan made under the student loans legislation.

(6) In the case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) applies only if the agreement was made—

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

(7) The number of eligible students must not exceed 11.

(8) An eligible student shall not, at any one time, qualify for support for more than one designated course.

(9) The Secretary of State may take such steps and make such enquiries as the Secretary of State considers necessary to determine whether a person is an eligible student.

(10) The Secretary of State must inform a person who has been notified to the Secretary of State under paragraph (2)(a) whether that person qualifies as an eligible student.

(11) A person who has received notification from the Secretary of State under paragraph (10) that that person is an eligible student in connection with a designated course must, by the deadline for receipt of financial information, provide the Secretary of State with any information or documentation that the Secretary of State requests in order to determine the amount of support payable under these Regulations.

(12) The deadline for receipt of financial information is 31st July 2010 or, in the case of grants payable under regulation 15(6), 28th February 2011.

(13) The Secretary of State must notify an eligible student of the amount of support payable, if any.

Designated course

7. A course is designated for the purposes of section 22(1) of the 1998 Act and regulation 6 if it is—

- (a) a postgraduate course;
- (b) a full-time course;
- (c) of one academic year's duration; and
- (d) provided by the College.

Period of eligibility

8.—(1) Subject to the following paragraphs and regulation 6, a student's status as an eligible student in connection with a designated course will terminate at the end of the academic year in which the College would ordinarily expect the student to complete the course ("period of eligibility").

(2) The period of eligibility terminates when the student withdraws from the designated course or abandons or is expelled from the designated course.

(3) The Secretary of State may terminate a period of eligibility where the conduct of the student means that the student is unfitted to receive support.

(4) Where the student's period of eligibility will terminate before the end of the academic year in which the student will actually complete the course, the Secretary of State may, at any time, extend or renew the period of eligibility for such period as the Secretary of State determines.

(5) If the Secretary of State is satisfied that the student has failed to comply with any requirement to provide information under these Regulations or has provided information which is inaccurate in a material particular, the Secretary of State may do one or more of the following—

- (a) terminate the student's period of eligibility;
- (b) determine that the student no longer qualifies for any particular type of support or particular amount of support;
- (c) treat any support already paid to the student as an overpayment which may be recovered in accordance with regulation 31.

Transfer of eligibility

9.—(1) Where an eligible student transfers to another designated course at the College, the Secretary of State must transfer the student's status as an eligible student where—

- (a) the Secretary of State receives a request from the eligible student to do so;
- (b) the Secretary of State is satisfied that the eligible student has begun to attend that other course on the recommendation of the academic authority; and
- (c) the student's status as an eligible student has not terminated.

(2) An eligible student who transfers under paragraph (1) shall receive in connection with the course to which that eligible student transfers the remainder of the support assessed by the Secretary of State in respect of the course from which the eligible student transfers.

(3) An eligible student (“A”) who transfers under paragraph (1) after the Secretary of State has assessed support in connection with the course from which A is transferring but before A completes that course may not, in connection with the course to which A transfers, apply for another grant of a kind that A has already applied for under these Regulations in connection with the course from which A is transferring.

PART 3

PROVISION OF INFORMATION

Information

10. Every applicant and eligible student must, as soon as reasonably practicable after being requested to do so, provide the Secretary of State with such information as the Secretary of State considers to be required for the purposes of these Regulations.

11. Every applicant and eligible student must forthwith inform the Secretary of State and provide the Secretary of State with particulars if any of the following occurs—

- (a) the applicant or student withdraws from, abandons or is expelled from the course;
- (b) the applicant or student transfers to another course at the College;
- (c) the applicant or student ceases to attend the course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) the applicant or student is absent from the course for more than 60 days due to illness or for any period for any other reason;
- (e) the month for the start or the completion of the course changes;
- (f) the applicant or student’s home or term-time address changes.

12. Information provided to the Secretary of State pursuant to these Regulations must be in the format required by the Secretary of State and, if the Secretary of State requires the information to be signed by the person providing it, an electronic signature in such form as the Secretary of State may specify satisfies this requirement.

PART 4

FINANCIAL SUPPORT

General

13. An eligible student who is attending a designated course qualifies in connection with that course for—

- (a) a grant for fees and grants for living and other costs in accordance with Chapter 1; and
- (b) supplementary grants in accordance with Chapter 2.

CHAPTER 1

GRANTS FOR COLLEGE OF EUROPE STUDENTS

Grant for fees

14.—(1) A student qualifies for a grant for fees for the current course calculated in accordance with paragraph (2).

(2) Subject to paragraph (3), the amount of grant for fees payable is the aggregate amount of fees payable by the student in respect of, or otherwise in connection with, that student's attendance on the current course.

(3) The maximum amount of grant for fees is 13,450 euro.

Grants for living and other costs

15.—(1) Subject to paragraph (2), a student qualifies for the grants for living and other costs specified in and calculated in accordance with paragraphs (3) to (6).

(2) A student does not qualify for any of the grants payable under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

(3) A student qualifies for a grant for living costs of an amount equal to the sum of **(A + B)** where—

A is £2,463; and

B is £50 for each week, including a week during which the student is required to attend the College for less than 5 days, that the student is required to attend the College in excess of 30 weeks and 3 days.

(4) A student qualifies for a grant for board and lodging of 5,000 euro if studying at Natolin campus, Poland and 7,000 euro if studying at Bruges campus, Belgium.

(5) A student qualifies for a grant for travel home of the amount determined by the Secretary of State to be the reasonable cost of one return journey from the student's home address to the College.

(6) Subject to the prior agreement of the Secretary of State before costs are incurred, a student qualifies for a grant for research travel of such amount as the Secretary of State determines to be the reasonable cost of travel incurred for the purposes of completing periods of research authorised by the College during the academic year.

16. A deduction may be made in accordance with Part 5 from the amount payable in respect of any of the grants calculated in accordance with regulation 15.

CHAPTER 2

SUPPLEMENTARY GRANTS

Disabled students' allowance

17.—(1) Subject to paragraph (2), a student ("A") qualifies for a disabled students' allowance to assist with the additional expenditure which the Secretary of State is satisfied that A is obliged to incur by reason of a disability to which A is subject in respect of A's attendance at a designated course.

(2) A student does not qualify for a disabled students' allowance under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

Amount of disabled students' allowance

18.—(1) Subject to paragraph (2), the amount of the disabled students' allowance is the amount that the Secretary of State considers appropriate in accordance with the student's circumstances to assist with one or more types of eligible expenditure.

(2) The amount of disabled students' allowance must not exceed £10,260.

(3) The "types of eligible expenditure" are—

(a) expenditure on a non-medical personal helper;

- (b) expenditure on major items of specialist equipment;
- (c) any additional expenditure incurred—
 - (i) for the purpose of attending the College; and
 - (ii) within or outside the United Kingdom for the purpose of travelling to the College in order to attend the relevant course.

Grant for dependants

- 19.**—(1) The grant for dependants consists of the following elements—
- (a) adult dependants’ grant; and
 - (b) parents’ learning allowance.
- (2) The qualifying conditions for each element are set out in regulations 20 to 24.

Adult dependants’ grant

20.—(1) Subject to paragraph (3), a student qualifies for an adult dependants’ grant in connection with that student’s attendance on a designated course in accordance with this regulation.

(2) The adult dependants’ grant is available in respect of a dependant of an eligible student who is either—

- (a) the student’s partner; or
- (b) an adult dependant of the student whose net income does not exceed £3,796.

(3) A student does not qualify for the grant payable under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

21. The amount of the adult dependants’ grant payable is calculated in accordance with regulation 23, the basic amount being—

- (a) £2,642; or
- (b) where the person in respect of whom the student is applying for adult dependants’ grant is ordinarily resident outside of the United Kingdom, such amount not exceeding £2,642 as the Secretary of State considers reasonable in the circumstances.

Parents’ learning allowance

22.—(1) Subject to paragraph (2), a student qualifies in connection with that student’s attendance on a designated course for the parents’ learning allowance if that student has one or more dependants who are dependent children.

(2) A student does not qualify for the grant payable under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

(3) The amount of the parents’ learning allowance payable is calculated in accordance with regulation 23, the basic amount being £1,508.

Calculations

23.—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which the student qualifies under regulations 20 to 22 is the amount of that element remaining after applying, until it is extinguished or no element remains payable under regulations 20 to 22, an amount equal to **(A – B)** as follows and in the following order—

- (a) to reduce the basic amount of the adult dependants’ grant where the student qualifies for that element under regulation 20; and

- (b) to reduce the basic amount of the parents' learning allowance where the student qualifies for that element under regulation 22.
- (2) Subject to paragraph (4) and regulation 24, where **B** is greater than or equal to **A**, the basic amount of each element of the grant for dependants for which the student qualifies is payable.
- (3) Where $(\mathbf{A} - \mathbf{B})$ is equal to or exceeds the aggregate of the basic amounts of the elements of the grant for dependants for which the eligible student qualifies, the amount payable in respect of each element is nil.
- (4) The amount of adult dependants' grant calculated under paragraph (1) in respect of an adult dependant is reduced by one half where—
- (a) the student's partner—
 - (i) is an eligible student; or
 - (ii) holds a statutory award; and
 - (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which the partner is entitled under the statutory award.
- (5) Where the amount of the parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than £50, the amount of parents' learning allowance payable is £50.
- (6) For the purposes of this regulation—
- A** is the aggregate of the net income of each of the eligible student's dependants; and
- B** is—
- (a) £1,159 where the student has no dependent children;
 - (b) £3,473 where the student is not a lone parent and has one dependent child;
 - (c) £4,627 where the student is not a lone parent and has more than one dependent child;
 - (d) £4,627 where the student is a lone parent and has one dependent child;
 - (e) £5,792 where the student is a lone parent and has more than one dependent child.
- 24.** A deduction may be made in accordance with Part 5 from the amount payable in respect of a particular element of the grant for dependants calculated in accordance with regulations 20 to 23.

Interpretation

- 25.**—(1) For the purposes of regulations 20 to 24—
- (a) “adult dependant” means, in relation to a student (“A”), an adult person dependent on A but does not include A's child, A's partner (including a spouse or civil partner from whom the Secretary of State considers the student is separated) or A's former partner;
 - (b) “child” in relation to a student (“A”) includes any child of A's partner who is dependent on A and any child for whom A has parental responsibility who is dependent on A;
 - (c) “dependant” means, in relation to a student (“A”), A's partner, A's dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
 - (d) “dependent” means wholly or mainly financially dependent;
 - (e) “lone parent” means a student who does not have a partner and who has a dependent child;
 - (f) “net income” has the meaning given in paragraph (2);
 - (g) subject to sub-paragraphs (h), (i) and (j), “partner” means any of the following—
 - (i) the spouse of a student;
 - (ii) the civil partner of a student;

- (iii) a person ordinarily living with a student (“A”) as if that person were A’s spouse where A was aged 25 or over at the start of the academic year;
- (iv) a person ordinarily living with a student (“A”) as if that person were A’s civil partner where A was aged 25 or over at the start of the academic year;
- (h) unless otherwise indicated, a person who would otherwise be a partner under subparagraph (g) is not to be treated as a partner if—
 - (i) in the opinion of the Secretary of State, that person and the student are separated; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the student;
- (i) for the purposes of the definition of “adult dependant”, a person is to be treated as a partner if that person would be a partner under sub-paragraph (g) but for the fact that the student with whom that person is living was not aged 25 or over at the start of the academic year;
- (j) for the purposes of the definitions of “child” and “lone parent”, a person is to be treated as a partner if that person would be a partner under sub-paragraph (g) but for the date on which the student began the designated course or the fact that the student with whom that person is ordinarily resident was not aged 25 or over at the start of the academic year.

(2) Subject to paragraph (3), a dependant’s net income is that person’s income from all sources for the academic year reduced by the amount of income tax and social security contributions payable in respect of it but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992(a);
- (c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002(b);
- (d) any guardian’s allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989(c);
- (f) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant’s child or any assistance given by a local authority pursuant to section 24 of that Act; and
- (g) any child tax credit to which the dependant is entitled under Part 1 of the Tax Credits Act 2002.

(3) Where a student or that student’s partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the beginning of the student’s course, the partner’s net income is net income calculated in accordance with paragraph (2) reduced by—

- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Secretary of State the obligation has been reasonably incurred; or
- (b) such lesser amount, if any, as the Secretary of State considers appropriate if, in the Secretary of State’s opinion, a lesser obligation could reasonably have been incurred.

(4) For the purposes of paragraph (2), where—

(a) 1992 c. 4.
 (b) 2002 c. 38.
 (c) 1989 c. 41. Section 23 was amended by the Children Act 2004 (c. 31), section 49(3).

- (a) the dependant is a dependent child; and
- (b) payments are made to the student towards the child's maintenance, those payments are to be treated as the child's income.

PART 5

CONTRIBUTIONS

Student's contributions

26. A student's contribution is the amount, if any, calculated under Schedule 2.

Application of the student's contribution

27. The contribution calculated in accordance with regulation 26 shall be applied in accordance with regulation 28.

28.—(1) The Secretary of State must apply the student's contribution—

- (a) first, to reduce the amount of grant for living costs calculated in accordance with regulation 15(3);
- (b) second—
 - (i) in the case of a student who is eligible for the grant for dependants, to reduce in the following order—
 - (aa) the amount of any adult dependants' grant calculated in accordance with regulation 23;
 - (bb) the amount of any parents' learning allowance calculated in accordance with regulation 23;
 - (cc) the amount of any grant for board and lodging calculated in accordance with regulation 15(4);
 - (ii) in any other case, to reduce the amount of grant for board and lodging calculated in accordance with regulation 15(4);
- (c) third, to reduce the amount of grant for travel home calculated in accordance with regulation 15(5).
- (d) fourth, subject to paragraph (2), to reduce the amount of grant for research travel calculated in accordance with regulation 15(6).

(2) Where the contribution available to reduce the amount of grant for research travel in accordance with paragraph (1)(d) exceeds the amount of that grant calculated under regulation 15(6), the amount of that grant payable to the student is nil.

PART 6

PAYMENTS

Payment of grant for fees

29.—(1) The Secretary of State must not pay the grant for fees for which the student qualifies until the Secretary of State has received a request for payment from the academic authority.

(2) The Secretary of State may make the payments of the grant for fees to the academic authority in such instalments and at such times as the Secretary of State considers to be appropriate.

Payments for grants of living and other costs and supplementary grants

30.—(1) The Secretary of State may pay the grants for living and other costs and the supplementary grants for which a student qualifies in such instalments and at such times as the Secretary of State considers appropriate.

(2) The Secretary of State may, if the Secretary of State considers it appropriate to do so, pay the grant payable under regulation 15(4) to the College for the College to pay the relevant grant on the Secretary of State's behalf.

(3) Where a final assessment of the amount of grants for living and other costs or supplementary grants payable to a student cannot be made on the basis of the information provided by the student, the Secretary of State may make provisional payments of those grants pending the final assessment.

(4) The Secretary of State may, if the Secretary of State considers it appropriate to do so, make a payment of a disabled students' allowance before the start of the academic year.

(5) Where the circumstances in regulation 11(a) or regulation 11(c) apply, the Secretary of State must not make any payments of support to a student after the date on which that student stops attending the course unless the Secretary of State considers it appropriate to do so taking into account the circumstances of the student's case.

(6) The Secretary of State must not make any payments of support to a student who is absent from the course—

(a) for more than 60 days due to illness; or

(b) for any period for any other reason,

unless the Secretary of State considers that it is appropriate to do so taking into account the circumstances of the student's case.

Overpayments

31.—(1) The Secretary of State may recover any overpayment of grant for fees from the academic authority.

(2) An eligible student must, if required to do so by the Secretary of State, repay any amount paid to that student under Part 4 which for whatever reason exceeds the amount of support to which that student is entitled under Part 4.

David Lammy

Minister for Higher Education and Intellectual Property
Department for Business, Innovation and Skills

23rd March 2010

SCHEDULE 1 ELIGIBLE STUDENTS

Regulation 6

PART 1

Interpretation

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

“Directive 2004/38” means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004 on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States^(a);

“EEA frontier self-employed person” has the meaning given by sub-paragraph (2);

“EEA frontier worker” has the meaning given by sub-paragraph (3);

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

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

“EU national” means a national of a Member State of the European Union;

“European Economic Area” means the area comprised by the EEA States;

“family member”, unless otherwise indicated, means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
 - (i) that person’s spouse or civil partner;
 - (ii) that person’s child or the child of that person’s spouse or civil partner; or
 - (iii) dependent direct relatives in that person’s ascending line or that of the person’s spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
 - (i) that person’s spouse or civil partner; or
 - (ii) that person’s child or the child of that person’s spouse or civil partner;
- (c) in relation to an EU national who falls within article 7(1)(c) of Directive 2004/38—
 - (i) that person’s spouse or civil partner; or
 - (ii) direct descendants of that person or that person’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of that person or of the person’s spouse or civil partner;
- (d) in relation to an EU national who falls within article 7(1)(b) of Directive 2004/38—
 - (i) that person’s spouse or civil partner;
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the person or of the person’s spouse or civil partner;
 - (iii) dependent direct relatives in the person’s ascending line or that of the person’s spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
 - (i) the person’s spouse or civil partner; or
 - (ii) direct descendants of the person or the person’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the person or of the person’s spouse or civil partner;

(a) OJ L158, 30.04.2004, pp 77-123.

“right of permanent residence” means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” means—

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

“settled” has the meaning given by section 33(2A) of the Immigration Act 1971(a);

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

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

“Swiss frontier employed person” has the meaning given in sub-paragraph (4);

“Swiss frontier self-employed person” has the meaning given in sub-paragraph (5);

“Swiss self-employed person” means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“United Kingdom national” means a person who falls to be treated as a national of the United Kingdom for the purposes of the EU Treaties;

“worker” means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be.

- (2) “EEA frontier self-employed person” means an EEA national who—
 - (a) is a self-employed person in England; and
 - (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.
- (3) “EEA frontier worker” means an EEA national who—
 - (a) is a worker in England; and
 - (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.
- (4) “Swiss frontier employed person” means a Swiss national who—
 - (a) is an employed person in England; and
 - (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.
- (5) “Swiss frontier self-employed person” means a Swiss national who—
 - (a) is a self-employed person in England; and
 - (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.
- (6) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

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

(b) Cm. 4904.

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

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

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

(8) For the purposes of sub-paragraph (7), temporary employment outside of England, the United Kingdom or the territory comprising the European Economic Area, Switzerland and Turkey includes—

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

PART 2

Categories

Persons who are settled in the United Kingdom

2.—(1) A person who—

- (a) is settled in the United Kingdom on the relevant date other than by reason of having acquired a right of permanent residence;
- (b) is ordinarily resident in England on the relevant date;
- (c) had been ordinarily resident throughout the three-year period preceding the relevant date in the United Kingdom and Islands; and
- (d) had not during any part of the period referred to in paragraph (c) been ordinarily resident in the United Kingdom and Islands wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(7).

3. A person who—

- (a) is settled in the United Kingdom on the relevant date by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in England on the relevant date;
- (c) who had been ordinarily resident in the United Kingdom throughout the three-year period preceding the relevant date; and
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Refugees

- 4.—(1) A person—
- (a) who is a refugee;
 - (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being recognised as a refugee; and
 - (c) who is ordinarily resident in England on the relevant date.
- (2) A person—
- (a) who is the spouse or civil partner of a refugee;
 - (b) who was the spouse or civil partner of the refugee on the date on which the refugee made the application for asylum;
 - (c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
 - (d) who is ordinarily resident in England on the relevant date.
- (3) A person—
- (a) who is the child of a refugee or the child of the spouse or civil partner of a refugee;
 - (b) who, on the date on which the refugee made the application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
 - (c) who was under 18 on the date on which the refugee made the application for asylum;
 - (d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
 - (e) who is ordinarily resident in England on the relevant date.

Persons with leave to enter or remain

- 5.—(1) A person—
- (a) with leave to enter or remain;
 - (b) who is ordinarily resident in England on the relevant date; and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.
- (2) A person—
- (a) who is the spouse or civil partner of a person with leave to enter or remain;
 - (b) who was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made the application for asylum;
 - (c) who is ordinarily resident in England on the relevant date; and
 - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.
- (3) A person—
- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
 - (b) who, on the date on which the person with leave to enter or remain made the application for asylum, was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;
 - (c) who was under 18 on the date on which the person with leave to enter or remain made the application for asylum;
 - (d) who is ordinarily resident in England on the relevant date; and

- (e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.

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

6.—(1) A person who—

- (a) on the relevant date, is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person in (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in England on the relevant date; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—

- (a) is ordinarily resident in England on the relevant date;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (c) is entitled to support by virtue of article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers^(a), as extended by the EEA Agreement.

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

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence;
- (c) is ordinarily resident in England on the relevant date;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) in a case where the person's ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person ("A") has exercised a right of residence if A is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if A goes to the state within

(a) OJ No L257, 19.10.1968, p. 2 (OJ/SE 1968 (II) P475).

the territory comprising the European Economic Area and Switzerland of which A is a national or of which the person in relation to whom A is a family member is a national.

EU nationals

9.—(1) A person who—

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

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(7).

10. A person who—

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

Children of Swiss nationals

11. A person who—

- (a) on the relevant date, is the child of a Swiss national who is entitled to support from the Secretary of State by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in England on the relevant date;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the academic year of the course; and
- (d) in a case whose ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Children of Turkish workers

12. A person who—

- (a) on the relevant date, was the child of a Turkish worker;
- (b) was ordinarily resident in England on the relevant date; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the academic year of the course.

STUDENT'S CONTRIBUTION

PART 1

Interpretation

1.—(1) In this Schedule—

“financial year” means the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of Part 2 of this Schedule is computed for the purposes of the income tax legislation which applies to it;

“household income” has the meaning given in paragraph 2;

“parent” means a natural or adoptive parent and “child”, “mother” and “father” shall be construed accordingly;

“parent student” means a student of the College who is the parent of a student of the College;

“partner” in relation to a student means any of the following—

- (a) the spouse of the student;
- (b) the civil partner of the student;
- (c) a person ordinarily living with the student (“A”) as if that person were A’s spouse where A was aged 25 or over at the start of the academic year;
- (d) a person ordinarily living with the student (“A”) as if that person were A’s civil partner where A was aged 25 or over at the start of the academic year;

“partner” in relation to the parent of a student means any of the following—

- (a) the spouse of the student’s parent;
- (b) the civil partner of the student’s parent;
- (c) a person ordinarily living with the student’s parent as if that person were the parent’s spouse;
- (d) a person ordinarily living with the student’s parent as if that person were the parent’s civil partner;

“preceding financial year” means the financial year immediately preceding the academic year;

“residual income” means taxable income after the application of paragraph 3 (in the case of a student), paragraph 4 (in the case of a student’s parent), paragraph 5 (in the case of a student’s partner), paragraph 6 (in the case of the partner of a student’s parent) and income referred to in sub-paragraph (2) received net of income tax;

“taxable income” means, in relation to paragraph 3, in respect of the academic year and, in relation to paragraph 4, in respect (subject to sub-paragraphs (3) and (4) of paragraph 4) of the preceding financial year, a person’s taxable income from all sources computed as for the purposes of—

- (a) the Income Tax Acts;
- (b) the income tax legislation of another EEA State or Switzerland which applies to a person’s income;
- (c) where the legislation of more than one EEA State or of an EEA State and Switzerland applies to the period, the legislation under which the Secretary of State considers the person will pay the largest amount of tax in that period,

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^(a) which includes provision made by virtue of sections 25B(4) and 25E(2) of that Act or pension benefits under Part 1 of Schedule 5 to the Civil Partnerships Act 2004^(b) which includes provision made by virtue of Parts 6 and 7 of that Schedule.

- (3) An “independent eligible student” is a student (“A”) where—
- (a) A is aged 25 or over on the first day of the academic year;
 - (b) A is married or in a civil partnership before the beginning of the academic year, whether or not the marriage or civil partnership is still subsisting;
 - (c) A has no parent living;
 - (d) the Secretary of State is satisfied that neither of A’s parents can be found or that it is not reasonably practicable to get in touch with either of them;
 - (e) A has communicated with neither parent for the period of one year before the beginning of the academic year or, in the opinion of the Secretary of State, A can demonstrate on other grounds that A is irreconcilably estranged from A’s parents;
 - (f) A has been provided with accommodation by, or A has pursuant to an order of a competent court been in the custody or care of, any legal person who is not A’s parent throughout any three-month period ending on or after the date on which A attains the age of 16 and before the first day of the course (“the relevant period”) (provided that A has not in fact at any time during the relevant period been under the charge or control of A’s parents);
 - (g) A’s parents are residing outside of the European Union and the Secretary of State 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 practicable for those parents as a result of the calculation of any contribution under paragraph 7 to send any relevant funds to the United Kingdom;
 - (h) where paragraph 4(8) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question has a partner);
 - (i) A is a member of a religious order who resides in a house of that order;
 - (j) as at the first day of the academic year, A has the care of a person under the age of 18; or
 - (k) A has been self-supported out of A’s earnings for any period or periods ending before the academic year of the course which periods together aggregate not less than three years, and for the purposes of this paragraph A is to be treated as self-supported out of A’s earnings during any period in which—
 - (i) A is 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 (“relevant authority”);
 - (ii) A was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but is unemployed;
 - (iii) A was available for employment and 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 benefits;

(a) 1973 c.18; section 23 was amended by the Administration of Justice Act 1982 (c.53), section 16. Section 25B was inserted by the Pensions Act 1995 (c.26), section 166(1) and was amended by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 4. Section 25E was inserted by the Pensions Act 2004 (c.35), section 319(1), Schedule 12, paragraph 3.

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

- (iv) A held a State Studentship or other comparable award;
- (v) A 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.

(4) Any student who qualifies as an independent eligible student under sub-paragraph (3)(j) in respect of the academic year of a designated course retains that status for the duration of the period of eligibility.

PART 2

Calculation of contribution

Household income

2.—(1) The amount of a student's contribution depends on the household income.

(2) The household income is—

- (a) in the case of a student who is not an independent eligible student, the residual income of the eligible student aggregated with the residual income of the student's parents (subject to paragraph 4(8)) and the residual income of the partner of the student's parent (provided that the Secretary of State has selected that parent under paragraph 4(8));
- (b) in the case of an independent eligible student who has a partner, the residual income of the student aggregated with the residual income of that student's partner (subject to sub-paragraph (4)); or
- (c) in the case of an independent eligible student who does not have a partner, the residual income of that student.

(3) In determining the household income under sub-paragraph (2), there is deducted the sum of £1,130—

- (a) for each child wholly or mainly dependant on the student or the student's partner; or
- (b) for each child (other than the student) wholly or mainly financially dependent on the student's parent or the student's parent's partner whose residual income is being taken into account.

(4) For the purposes 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 (2)(b) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

Calculation of the student's residual income

3.—(1) For the purpose of determining the residual income of a student ("A"), there shall be deducted from A's taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs—

- (a) any remuneration for work done during the academic year of A's course, provided that such remuneration shall not include any sums paid in respect of any period for which A has leave of absence or is relieved of A's normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by A in relation to a pension (not being a pension payable under a policy of life assurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988(a)

(a) 1988 c. 1.

or under section 188 of the Finance Act 2004^(a), or where A's income is computed for the purpose of the income tax legislation of another Member State of the European Union, 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 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; or
- (b) otherwise, the value of the sterling the income would purchase using the rate for the month in which it is received published by the Office for National Statistics^(b).

Calculation of the parent's residual income

4.—(1) For the purposes of determining the taxable income of a student's parent, any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988, or where the income is computed for the purposes of the income tax legislation of another EEA State or Switzerland, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under sub-paragraph (2),

shall not be made or permitted.

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

- (a) the gross amount of any premium or other sum relating to a pension (not being a pension 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 under section 188 of the Finance Act 2004, or where the income is computed for the purpose of the income tax legislation of another EEA State or Switzerland, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed in accordance with sub-paragraph (5) any sums equivalent to the deduction mentioned in paragraph (a), provided that any sums so deducted shall not exceed the deductions which would be made if the whole of the parent's income were in fact income for the purposes of the Income Tax Acts; and
- (c) in the case of a parent student or a student's parent who holds a statutory award, £1,130.

(3) Where the Secretary of State is satisfied that the residual income of the student's parent in the financial year beginning immediately before the academic year ("current financial year") is likely to be not more than 85 per cent. of the sterling value of the parent's residual income in the preceding financial year the Secretary of State may, for the purpose of enabling the student to attend the course without hardship, ascertain the parent's residual income for the current financial year.

(4) Where the student's parent ("A") satisfies the Secretary of State 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 Part to a preceding financial year shall mean the earliest period of twelve months which ends

(a) 2004 c. 12.

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

after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

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

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

(6) Where the income of the student's parent is computed as for the purposes of the income tax legislation of another EEA State or Switzerland, it shall be computed under the provision of this Schedule in the currency of that EEA State or Switzerland and the income of the 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.

(7) Where one of the student's parents dies either before or during the academic year and that parent's income has been or would be taken into account for the purposes of determining the household income, the household income shall—

- (a) where the parent dies before the academic year, be determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the academic 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 academic 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 academic year remaining after the death of the other parent.

(8) Where the Secretary of State determines that the parents are separated for the duration of the academic year, the household income is determined by reference to the income of whichever parent the Secretary of State considers most appropriate under the circumstances.

(9) Where the Secretary of State determines that the parents have separated in the course of the academic year, the household income is determined by reference to the aggregate of—

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (8), being the proportion in respect of that part of the academic year for which the parents are separated; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the academic year.

Calculation of the student's partner's residual income

5.—(1) Subject to paragraphs (2), (3) and (4) of this paragraph and with the exception of sub-paragraphs (7), (8) and (9) of paragraph 4, a student's partner's income shall be determined in accordance with paragraph 4, references to the parent being construed as references to the student's partner.

(2) Where the Secretary of State determines that the student and the student's partner are separated for the duration of the academic year, the partner's income is not taken into account in determining the household income.

(3) Where the Secretary of State determines that the student and the student's partner have separated in the course of the academic year, the partner's income is determined by reference to that person's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the academic year for which the Secretary of State determines that the student and the student's partner are not separated.

(4) Where a student has more than one partner in the 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 student's parent's partner whose income is part of the household income by virtue of paragraph 2(2)(a) shall be determined in accordance with paragraph 5, references to the student's partner being construed as references to the student's parent's partner, and references to the student being construed as references to the student's parent.

Calculation of contribution and split contributions

7.—(1) A student's contribution shall be calculated in accordance with this paragraph.

(2) In relation to a student who is not an independent eligible student and a student who is an independent eligible student who has a partner, the contribution shall—

- (a) where the household income is £23,660 or more, be £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £23,660; and
- (b) in any case where the household income is less than £23,600, be nil.

(3) In relation to a student who is an independent eligible student who does not have a partner, the contribution shall—

- (a) where the household income is £11,020 or more, be £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £11,020; and
- (b) where the household income is less than £11,020, be nil.

(4) 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 student is divided by the number of such persons.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations provide support for up to 11 eligible students only taking postgraduate designated higher education courses at the College of Europe in respect of the academic year beginning on or after 1st September 2010 and before 1st September 2011. These Regulations apply in relation to England.

The Regulations provide for a grant for fees, grants for living and other costs, a disabled student allowance and a grant for dependents. The Regulations also set out the eligibility criteria for the grants, the application procedure and the method for calculating the amount of grant payable including contributions. In addition they set out the arrangements for payment of the grants and recovery of any overpayments as well as the provision of information.

An impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies. The impact on the public sector is minimal.

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