
STATUTORY INSTRUMENTS

2020 No. 48

The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020

Amendments relating to assessment of the residual income of parents and parents' partners

10.—(1) The Education (Student Support) Regulations 2011 are amended as follows.

(2) In regulation 42(6) (interpretation of chapter 4: calculation of eligible student's adult dependants' residual income), for "(8), (9) and (10)" substitute "(3)(b) and (c), (4)(b) and (c), (9), (10) and (11)".

(3) In Schedule 4 (financial assessment)—

(a) in paragraph 1(1)(o) (definition of "taxable income")—

(i) for "9 and" substitute "8";

(ii) for "(3), (4) and (5)" substitute "(3) to (5A)";

(iii) after "prior financial year" insert "and in relation to paragraph 7, in respect (subject to sub-paragraphs (2) to (5) of paragraph 7) of the prior financial year";

(b) in paragraph 5 (calculation of parent's residual income)—

(i) for sub-paragraphs (3) to (5) substitute—

"(3) The Secretary of State may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the financial year beginning immediately before the relevant year ("the current financial year") if the Secretary of State is satisfied that—

(a) where the eligible student's household income is determined by reference to the residual income of A alone, the residual income of A in the current financial year is likely to be not more than 85% of the sterling value of A's residual income in the prior financial year;

(b) where the eligible student's household income is determined by reference to the residual income of both parents, the aggregate of the residual incomes of A and the other parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of A and the other parent in the prior financial year; or

(c) where the eligible student's household income is determined by reference to the residual income of A and A's partner, the aggregate of the residual incomes of A and A's partner in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of—

(i) the residual income of A in the prior financial year applicable to A; and

(ii) the residual income of A's partner in the prior financial year applicable to A's partner.

(4) In the event that sub-paragraph (3) or this paragraph was applied in the previous academic year of the current course, the Secretary of State may, for the

purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the current financial year if the Secretary of State is satisfied that—

- (a) where the eligible student's household income is determined by reference to the residual income of A alone, the residual income of A in the current financial year is likely to be not more than 85% of the sterling value of A's residual income in the previous financial year;
- (b) where the eligible student's household income is determined by reference to the residual income of both parents, the aggregate of the residual incomes of A and the other parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of A and the other parent in the previous financial year; or
- (c) where the eligible student's household income is determined by reference to the residual income of A and A's partner, the aggregate of the residual incomes of A and A's partner in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of A and A's partner in the previous financial year.

(5) In an academic year immediately following one in which the Secretary of State has ascertained A's residual income for the current financial year under sub-paragraph (3) or, where applicable, under sub-paragraph (4), the Secretary of State must ascertain A's residual income in the preceding financial year.

(5A) In an academic year immediately following one in which the Secretary of State has ascertained A's residual income for the previous financial year under sub-paragraph (5), the Secretary of State must ascertain A's residual income in the prior financial year.”;

(ii) in sub-paragraph (6), for “prior financial year”, in the second place it occurs, substitute “financial year immediately preceding the preceding financial year”;

(c) in paragraph 6 (calculation of eligible student's partner's residual income)—

(i) in sub-paragraph (1)—

(aa) for “(2), (3) and (4)” substitute “(2) and (3)”;

(bb) before “income” insert “residual”;

(cc) for “(8), (9) and (10)” substitute “(3)(b) and (c), (4)(b) and (c), (9), (10) and (11)”;

(ii) in sub-paragraph (2), before “income” in the first place it occurs, insert “residual”;

(iii) in sub-paragraph (3), before “income” in each place it occurs, insert “residual”;

(iv) omit sub-paragraph (4);

(d) for paragraph 7 (calculation of parent's partner's residual income) substitute—

“Calculation of parent's partner's residual income

7.—(1) For the purposes of determining the residual income of an eligible student's parent's partner (“P”), there is deducted from the taxable income of P the aggregate of any amounts falling within any of the following sub-paragraphs (unless already deducted in determining a person's taxable income)—

- (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⁽¹⁾, 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 (7), any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums deducted do not exceed the deductions which would be made if the whole of P's income were in fact income for the purposes of the Income Tax Acts;

(c) where P is a parent student or P holds a statutory award, £1,130.

(2) The Secretary of State may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain P's residual income for the financial year beginning immediately before the relevant year ("the current financial year") if the Secretary of State is satisfied that the aggregate of the residual incomes of P and the eligible student's parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of—

(a) the residual income of P in the prior financial year applicable to P; and

(b) the residual income of the eligible student's parent in the prior financial year applicable to the parent.

(3) In the event that sub-paragraph (2) or this paragraph was applied in the previous academic year of the current course, the Secretary of State may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain P's residual income for the current financial year if the Secretary of State is satisfied that the aggregate of the residual incomes of P and the eligible student's parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of P and the eligible student's parent in the previous financial year.

(4) In an academic year immediately following one in which the Secretary of State has ascertained P's residual income for the current financial year under sub-paragraph (2) or, where applicable, under sub-paragraph (3), the Secretary of State must ascertain P's residual income in the preceding financial year.

(5) In an academic year immediately following one in which the Secretary of State has ascertained P's residual income for the previous financial year under sub-paragraph (4), the Secretary of State must ascertain P's residual income in the prior financial year.

(6) Where P satisfies the Secretary of State that P's income is wholly or mainly derived from the profits of a business or profession carried on by P then any reference in this Schedule to a prior financial year in relation to P means the earliest period of twelve months which ends after the start of the financial year immediately preceding the preceding financial year and in respect of which accounts are kept relating to that business or profession.

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

(a) P is not resident or domiciled in the United Kingdom, or where P's income is computed as for the purposes of the income tax legislation of another Member State, not so resident or domiciled in that Member State;

(1) 2004 c. 12. Section 188 was amended by paragraph 2 of Schedule 18 to, and paragraph 1 of Schedule 27 to, the Finance Act 2007 (c. 11), section 52 of the finance Act 2013 (c. 29), paragraph 13 of Schedule 7 to the Finance Act 2014 (c. 26)

- (b) the income does not arise in the United Kingdom, or where P's income is computed 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 for which is exempt from tax in pursuance of any legislation,

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

(8) Where P'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 P's income for the purposes of this Schedule is the sterling value of that income determined in accordance with the average rate published by Her Majesty's Revenue and Customs for the calendar year which ends before the end of the prior financial year.

(9) Where the Secretary of State determines that P and the eligible student's parent are separated for the duration of the relevant year, P's residual income is not taken into account in determining the household income.

(10) Where the Secretary of State determines that P and the eligible student's parent have separated in the course of the relevant year, P's residual income is determined by reference to P's residual income under sub-paragraph (1) divided by 52 and multiplied by the number of complete weeks in the relevant year for which the Secretary of State determines that P and the eligible student's parent are not separated.”.

- (4) In Schedule 6 (financial assessment – part-time students)—
 - (a) in paragraph 1(1)(l) (definition of “taxable income”)—
 - (i) omit “and” after “regulation 157C”;
 - (ii) for “sub-paragraphs (2), (3) and (4)” substitute “(2) to (4A)”;
 - (iii) after “prior financial year” insert “and, in relation to paragraph 7, in respect (subject to sub-paragraphs (2) to (5) of paragraph 7) of the prior financial year”;
 - (b) in paragraph 3 (calculation of household income – part-time students)—
 - (i) in sub-paragraph (1)(b), at the end, insert “(subject to sub-paragraph (3))”;
 - (ii) after sub-paragraph (2) insert—

“(3) 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 (b) of sub-paragraph (1) 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.”;
 - (c) in paragraph 5 (calculation of parent's residual income)—
 - (i) for sub-paragraphs (2) to (4) substitute—

“(2) The Secretary of State may, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain A's residual income for the financial year beginning immediately before the relevant year (“the current financial year”) if the Secretary of State is satisfied that—

 - (a) where the eligible part-time student's household income is determined by reference to A alone, the residual income of A in the current financial

- year is likely to be not more than 85% of the sterling value of A's residual income in the prior financial year;
- (b) where the eligible part-time student's household income is determined by reference to the residual income of both parents, the aggregate of the residual incomes of A and the other parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of A and the other parent in the prior financial year; or
 - (c) where the eligible part-time student's household income is determined by reference to the residual income of A and A's partner, the aggregate of the residual incomes of A and A's partner in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of—
 - (i) the residual income of A in the prior financial year applicable to A; and
 - (ii) the residual income of A's partner in the prior financial year applicable to A's partner.
- (3) In the event that sub-paragraph (2) or this paragraph was applied in the previous academic year of the current course, the Secretary of State may, 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 if the Secretary of State is satisfied that—
- (a) where the eligible part-time student's household income is determined by reference to A alone, the residual income of A in the current financial year is likely to be not more than 85% of the sterling value of A's residual income in the previous financial year;
 - (b) where the eligible part-time student's household income is determined by reference to the residual income of both parents, the aggregate of the residual incomes of A and the other parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of A and the other parent in the previous financial year; or
 - (c) where the eligible part-time student's household income is determined by reference to the residual income of A and A's partner, the aggregate of the residual incomes of A and A's partner in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of A and A's partner in the previous financial year.
- (4) In an academic year immediately following one in which the Secretary of State has ascertained A's residual income for the current financial year under sub-paragraph (2) or, where applicable, under sub-paragraph (3), the Secretary of State must ascertain A's residual income in the preceding financial year.
- (4A) In an academic year immediately following one in which the Secretary of State has ascertained A's residual income for the previous financial year under sub-paragraph (4), the Secretary of State must ascertain A's residual income in the prior financial year.”;
- (ii) in sub-paragraph (5), for “prior financial year”, in the second place it occurs, substitute “financial year immediately preceding the preceding financial year”;
- (d) in paragraph 6 (calculation of eligible part-time student's partner's residual income)—
- (i) in sub-paragraph (1)—
 - (aa) for “(2), (3) and (4)” substitute “(2) and (3)”;

- (bb) before “income” insert “residual”;
- (cc) for “(7), (8) and (9)” substitute “(2)(b) and (c), (3)(b) and (c), (8), (9) and (10)”;
- (ii) in sub-paragraph (2), before “income” in the first place it occurs, insert “residual”;
- (iii) in sub-paragraph (3), before “income” in each place it occurs, insert “residual”;
- (iv) omit sub-paragraph (4);
- (e) for paragraph 7 (calculation of parent’s partner’s residual income) substitute—

“Calculation of parent’s partner’s residual income

7.—(1) For the purposes of determining the residual income of an eligible part-time student’s parent’s partner (“P”), there is deducted from the taxable income of P the aggregate of any amounts falling within any of the following sub-paragraphs (unless already deducted in determining a person’s taxable income)—

- (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 (7), any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums deducted do not exceed the deductions which would be made if the whole of P’s income were in fact income for the purposes of the Income Tax Acts;
- (c) where P is a parent student or P holds a statutory award, £1,130.

(2) The Secretary of State may, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain P’s residual income for the financial year beginning immediately before the relevant year (“the current financial year”) if the Secretary of State is satisfied that the aggregate of the residual incomes of P and the eligible part-time student’s parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of—

- (a) the residual income of P in the prior financial year applicable to P; and
- (b) the residual income of the eligible part-time student’s parent in the prior financial year applicable to the parent.

(3) In the event that sub-paragraph (2) or this paragraph was applied in the previous academic year of the current course, the Secretary of State may, for the purpose of enabling the eligible part-time student to attend the course without hardship, ascertain P’s residual income for the current financial year if the Secretary of State is satisfied that the aggregate of the residual incomes of P and the eligible part-time student’s parent in the current financial year is likely to be not more than 85% of the sterling value of the aggregate of the residual incomes of P and the eligible part-time student’s parent in the previous financial year.

(4) In an academic year immediately following one in which the Secretary of State has ascertained P’s residual income for the current financial year under sub-paragraph (2) or, where applicable, under sub-paragraph (3), the Secretary of State must ascertain P’s residual income in the preceding financial year.

(5) In an academic year immediately following one in which the Secretary of State has ascertained P's residual income for the previous financial year under sub-paragraph (4), the Secretary of State must ascertain P's residual income in the prior financial year.

(6) Where P satisfies the Secretary of State that P's income is wholly or mainly derived from the profits of a business or profession carried on by P, then any reference in this Schedule to a prior financial year in relation to P means the earliest period of twelve months which ends after the start of the financial year immediately preceding the preceding financial year and in respect of which accounts are kept relating to that business or profession.

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

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

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

(8) Where P'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 P's income for the purposes of this Schedule is the sterling value of that income determined in accordance with the average rate published by Her Majesty's Revenue and Customs for the calendar year which ends before the end of the prior financial year.

(9) Where the Secretary of State determines that P and the eligible part-time student's parent are separated for the duration of the relevant year, P's residual income is not taken into account in determining the household income.

(10) Where the Secretary of State determines that P and the eligible part-time student's parent have separated in the course of the relevant year, P's residual income is determined by reference to P's residual income under sub-paragraph (1) divided by 52 and multiplied by the number of complete weeks in the relevant year for which the Secretary of State determines that P and the eligible student's parent are not separated.”