

SCHEDULE 1

Regulation 8

ELIGIBLE STUDENTS

PART 1

Interpretation

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

“Directive 2004/38” (“*Cyfarwydddeb 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⁽¹⁾;

“EEA Agreement” (“*Cytundeb yr AEE*”) means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽²⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽³⁾;

“EEA frontier self-employed person” (“*person hunangyflogedig y ffin o'r AEE*”) has the meaning given by sub-paragraph (2);

“EEA frontier worker” (“*gweithiwr y ffin o'r AEE*”) has the meaning given by sub-paragraph (3);

“EEA migrant worker” (“*gweithiwr mudol o'r AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwladolyn yr AEE*”) means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” (“*person hunangyflogedig o'r AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (“*Gwladwriaeth yr AEE*”) means a Member State of the European Economic Area;

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

“EU national” (“*Gwladolyn yr UE*”) means a national of a Member State of the European Union;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the European Union, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“family member”, (“*aelod o deulu*”) 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) his or her spouse or civil partner;
 - (ii) his or her child or the child of his or her spouse or civil partner; or
 - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;

⁽¹⁾ OJ L158, 30.04.2004, pp.77—123.

⁽²⁾ Cm. 2073.

⁽³⁾ Cm. 2183.

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

“right of permanent residence” (*“hawl i breswyllo'n barhaol”*) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” (*“person hunangyflogedig”*) 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” (*“wedi setlo”*) has the meaning given by section 33(2A) of the Immigration Act 1971(4);

“Swiss Agreement” (*“Cytundeb y Swistir”*) means the Agreement between the European Community 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 21 June 1999(5) and which came into force on 1 June 2002;

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

“Swiss frontier employed person” (*“person cyflogedig Swisaidd y ffin”*) has the meaning given in sub-paragraph (4);

“Swiss frontier self-employed person” (*“person hunangyflogedig Swisaidd y ffin”*) has the meaning given in sub-paragraph (5);

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

(5) Cm. 4904.

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

“Turkish worker” (“*gweithiwr Twrcaidd*”) means a Turkish national who on the relevant date—

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

“United Kingdom national” (“*gwladolyn y Deyrnas Unedig*”) means a person who falls to be treated as a national of the United Kingdom for the purposes of the EU Treaties;

“worker” (“*gweithiwr*”) 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” (“*person hunangyflogedig y ffin o'r AEE*”) means an EEA national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.

(3) “EEA frontier worker” (“*gweithiwr y ffin o'r AEE*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week.

(4) “Swiss frontier employed person” (“*person cyflogedig Swisaidd y ffin*”) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her 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” (“*person hunangyflogedig Swisaidd y ffin*”) means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her 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” (“*rhiant*”) includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” (“*plentyn*”) is to be construed accordingly.

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

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

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is or was temporarily employed outside the area in question.

(8) For the purposes of sub-paragraph (7), temporary employment outside of Wales, the United Kingdom and Islands, the territory comprising the European Economic Area and Switzerland 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 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 Wales 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) subject to paragraph (2), 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—

- (a) who is settled in the United Kingdom on the relevant date by reason of having acquired the right of permanent residence;
- (b) who is ordinarily resident in Wales 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) who, in a case where his or her 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 and persons with leave to enter or remain

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 he or she was recognised as a refugee; and

- (c) who is ordinarily resident in Wales 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 his or her application for asylum;
 - (c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
 - (d) who is ordinarily resident in Wales 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 his or her 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 his or her application for asylum;
 - (d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
 - (e) who is ordinarily resident in Wales on the relevant date.
- 5.—(1) A person—
 - (a) with leave to enter or remain;
 - (b) who is ordinarily resident in Wales 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 his or her application for asylum;
 - (c) who is ordinarily resident in Wales 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 his or her 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 his or her application for asylum;
 - (d) who is ordinarily resident in Wales 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—

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- (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 Wales 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.
- (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 Wales 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. 1 12/8 on the freedom of movement of workers⁽⁶⁾, 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 Wales 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 the United Kingdom 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 his or her ordinary residence referred to in paragraph (b) 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 has exercised a right of residence if he or she 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 he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

⁽⁶⁾ OJ No L257, 19.10.1968, p.2 (OJ/SE 1968 (ii) p.475).

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 Wales 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 to 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 Wales 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 where his or her 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 Wales 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 first academic year of the course; and
- (d) in a case where his or her 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) is ordinarily resident in Wales 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 first academic year of the course.

SCHEDULE 2

Regulation 27

STUDENT'S CONTRIBUTION

PART 1

Interpretation

1.—(1) In this Schedule—

“EEA State” (“*Gwladwriaeth yr AEE*”) has the meaning given by paragraph 1 of Part 1 of Schedule 1;

“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 Part 2 of this Schedule is computed for the purposes of the income tax legislation which applies to it;

“household income” (“*incwm yr aelwyd*”) has the meaning given in paragraph 2;

“Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;

“parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”), “mother” (“*mam*”) and “father” (“*tad*”) are to be construed accordingly;

“partner” (“*partner*”) in relation to an eligible student means any of the following—

- (i) the spouse of the eligible student;
- (ii) the civil partner of the eligible student;
- (iii) a person ordinarily living with the eligible student as if he or she were the spouse of the student where the eligible student is aged 25 or over on the first day of the relevant year and he or she begins the designated course on or after 1 September 2000;
- (iv) a person ordinarily living with the student as if that person were the student’s civil partner where the eligible student is aged 25 or over on the first day of the relevant year and he or she begins the designated course on or after 1 September 2005;

“preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;

“relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;

“residual income” (“*incwm gweddillio*”) means taxable income after the application of paragraph 3 (in the case of an eligible student) and paragraph 4 (in the case of a student’s partner);

“taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 3, in respect of an academic year for which support is sought 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—

- (a) the Income Tax Acts;
- (b) the income tax legislation of another EEA State or Switzerland which applies to the 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 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(7) 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(8) which includes provision made by virtue of Parts 6 and 7 of that Schedule.

PART 2

Calculation of contribution

Household income

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

(2) The household income is—

- (a) in the case of an eligible student who has a partner, the residual income of the student aggregated with the residual income of that student's partner; or
- (b) in the case of an eligible student who does not have a partner, the residual income of that 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 student or his or her partner.

Calculation of the student's residual income

3.—(1) For the purpose of determining the residual income of an eligible student, there is to be deducted from his or her 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 any academic year of the eligible student's course, provided that such remuneration does not include any sums paid in respect of any period for which he or she has leave of absence or is relieved of normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life assurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988(9) or under section 188 of the Finance Act 2004(10), or where the student's income is computed for the purpose 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 eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is—

- (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(11).

(7) 1973 c. 18; section 23 was amended by the Administration of Justice Act 1982 (c. 53), section 18. Section 25B was inserted by the Pensions Act 1995 (c. 26), section 116(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.

(8) 2004 c. 33, paragraph 25 of Schedule 5 was modified by S.I.2006/1934.

(9) 1988 c. 1.

(10) 2004 c. 12.

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

Calculation of eligible student's partner's residual income

4.—(1) For the purposes of determining the taxable income of an eligible student's partner, 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),

are not to be made or permitted.

(2) For the purpose of determining the residual income of an eligible student's partner, there is to 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 paid by the student 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 of the Income and Corporation Taxes Act 1988 or under section 188 of the Finance Act 2004, or where the student's 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 (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted are not to exceed the deductions which would be made if the whole of the eligible student's partner's income were in fact income for the purposes of the Income Tax Acts; and
- (c) in the case of an eligible student's partner who holds a statutory award, £1,130.

(3) Where the Welsh Ministers are satisfied that the income of the eligible student's partner 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 his or her income in the preceding financial year the Welsh Ministers must, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.

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

(5) Where the eligible student's partner satisfies the Welsh Ministers that his or her income is wholly or mainly derived from the profits of a business or profession carried on by him or her, then any reference in this Part of the Schedule to a preceding financial year is to be read as a reference to 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 an eligible student's partner is in receipt of any income which does not form part of that partner'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—

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- (a) the partner is not resident, ordinarily resident or domiciled in the United Kingdom, or where his or her 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 the partner'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,

his or her taxable income for the purpose of this Schedule is to be computed as though the income under this sub-paragraph were part of his or her 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.

(7) Where the income of the eligible student's partner is computed as for the purposes of the income tax legislation of another EEA State or Switzerland, it is to be computed under the provisions of this Schedule in the currency of that EEA State or Switzerland and the income of the eligible student's partner 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 student and his or her partner were 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 student and his or her partner separated in the course of the relevant year, the partner's income is determined by reference to his or her 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 student and his or her partner were not separated.

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

Calculation of contribution

- 5.—(1) An eligible student's contribution is to be calculated in accordance with this regulation.
- (2) In relation to an eligible student who has a partner, the contribution is—
- (a) where the household income is £23,680 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £23,680; and
 - (b) in any case where the household income is less than £23,680, nil.
- (3) In relation to an eligible student who does not have a partner, the contribution is—
- (a) where the household income is £11,025 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £11,025; and
 - (b) where the household income is less than £11,025, nil.
- (4) The amount of contribution is not to exceed £7,992.