

SCHEDULES

SCHEDULE 3

Calculation of income

PART 5

Net income of dependants

Net income of dependants

20. This Part makes provision about the calculation of the net income of the following dependants—

- (a) an eligible student's adult dependant, for the purposes of determining whether an eligible student qualifies for adult dependants grant (see regulation 71);
- (b) an eligible student's dependent children, for the purposes of calculating the amount of grant for dependants payable to the student (see regulation 77).

Net income

21.—(1) The net income of a dependant is the dependant's income from all sources for the relevant year reduced by the amount of income tax and social security contributions payable in respect of that year but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a dependant's disability or incapacity;
- (b) child benefit payable under Part 9 of the Social Security Contributions and Benefits Act 1992 ^{M1};
- (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 ^{M2};
- (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992 ^{M3};
- (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 ^{M4} or section 81 of the Social Services and Well-being (Wales) Act 2014 ^{M5};
- (f) any payment made to the dependant under section 110(6) of the Social Services and Well-being (Wales) Act 2014 or section 23C(5A) of the Children Act 1989 ^{M6};
- (g) 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—
 - (i) section 24 of that Act ^{M7}, or

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- (ii) section 104 of the Social Services and Well-being (Wales) Act 2014 in so far as that section applies to category 5 and 6 young persons within the meaning of that Act;
- (h) any child tax credit to which the dependant is entitled under Part 1 of the Tax Credits Act 2002 ^{M8};
- (i) in the case of a dependant who is entitled to an award of universal credit under Part 1 of the Welfare Reform Act 2012 ^{M9}—
 - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013 ^{M10}, in respect of the fact that the dependant has limited capability for work and work-related activity;
 - (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations ^{M11} (the child element).
- (2) For the purposes of this paragraph, payments made to the eligible student towards a dependent child's maintenance are treated as the dependent child's income.
- (3) In this paragraph, “relevant year” means—
 - (a) in respect of an eligible student's adult dependant, the current academic year;
 - (b) in respect of an eligible student's dependent child, the applicable financial year determined under paragraph 22.

Marginal Citations

- M1** 1992 c.4.
- M2** 2002 c. 38. Section 2 was amended by S.I. 2016/413 (W. 131). Section 4 was amended by S.I. 2010/1158; the Health and Social Care Act 2012 (c. 7), **Schedule 5**, paragraphs 104 and 105; and by S.I. 2013/160.
- M3** Section 77 was amended by the Child Benefit Act 2005, section 1(3), Schedule 1, Part 1, paragraphs 1 and 4, the Tax Credits Act 2002, Schedule 6, the Civil Partnership Act 2004, section 254(1), Schedule 24, Part 3, paragraph 34.
- M4** 1989 c.41. Section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), **Schedule 16**, paragraph 12, the Care Standards Act 2000 (c. 14), **Schedule 4**, paragraph 14, the Children Act 2004 (c. 31), **section 49(3)**, the Children and Young Persons Act 2008 (c. 23), **sections 8** and 39 and Schedule 3, paragraphs 1 and 7 and the Children and Families Act 2014 (c. 6), **Schedule 2 paragraph 30**.
- M5** 2014 anaw 4.
- M6** Subsections (5A) to (5C) of section 23C of the Children Act 1989 were inserted, in relation to England, by section 21 of the Children and Young Persons Act 2008 and S.I. 2009/268 and S.I. 2009/2273 refer. Subsections (5A) to (5C) were inserted into section 23C in relation to Wales and S.I. 2010/1329 (W. 112) (C.81) and S.I. 2011/824 (W. 123) (C. 32) refer.
- M7** Section 24 was amended by the Children (Leaving Care) Act 2000 (c. 35), **section 4(1)**, the Adoption and Children Act 2002 (c. 38), **section 139** and Schedule 3, paragraph 60, S.I. 2007/961 (W.85), paragraph 20(2)(b), S.I. 2010/1158, **Schedule 2**, paragraph 2, the Health and Social Care Act 2012 (c. 7), **section 55** and Schedule 5, paragraph 49 and S.I. 2016/413 (W.131), regulation 81.
- M8** 2002 c. 21.
- M9** 2012 c.5.
- M10** S.I. 2013/376. Regulation 27 was amended by S.I. 2017/204, **regulation 4**.
- M11** Regulation 24 of S.I. 2013/376, as amended by S.I. 2014/2088 and the Welfare Reform and Work Act 2016 (c.7), **section 14**, makes further provision about the child element of an award.

Applicable financial years: calculating net income of an eligible student's dependent children

22.—(1) This paragraph specifies the applicable financial year for the purposes of calculating the net income of an eligible student's dependent child (“C”).

- (2) Unless paragraph (3) or (5) applies, the applicable financial year is PY-1.
- (3) Where the Welsh Ministers are satisfied that C's net income for CY is likely to be at least 15% lower than C's net income for PY-1, the applicable financial year is CY.
- (4) Sub-paragraph (5) applies where the applicable financial year for the previous academic year was the financial year beginning immediately before the first day of the previous academic year.
- (5) Where this paragraph applies, the applicable financial year is to be determined as follows—
 - (a) if the Welsh Ministers are satisfied that C's net income for CY is likely to be at least 15% lower than C's net income for PY, the applicable financial year is CY;
 - (b) otherwise, the applicable financial year is PY.

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