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STATUTORY INSTRUMENTS

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**2009 No. 1555**

**The Education (Student Support) Regulations 2009**

**PART 10**

**SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES**

**Interpretation of regulation 121**

**122.**—(1) For the purposes of regulation 121—

(a) subject to sub-paragraph (b), “partner” means any of the following—

- (i) the spouse of an eligible distance learning student;
- (ii) the civil partner of an eligible distance learning student;
- (iii) a person ordinarily living with an eligible distance learning student as if that person were the student’s spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which that student is being assessed for support and where that student began the specified designated distance learning course before 1st September 2005;
- (iv) a person ordinarily living with an eligible distance learning student as if that person were the student’s spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1st September 2005;

(b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—

- (i) in the opinion of the Secretary of State, that person and the eligible distance learning student are separated; or
- (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;

(c) “relevant income” has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible distance learning student’s relevant income is equal to the student’s financial resources in the preceding financial year less—

- (i) £2,000 in respect of the student’s partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or the student’s partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or the student’s partner.

(3) Where the Secretary of State is satisfied that an eligible distance learning student’s financial resources in the preceding financial year are greater than the student’s financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, the Secretary of State may assess that student’s financial resources by reference to those resources in the current financial year.

(4) In this regulation—

- (a) “child” in relation to an eligible distance learning student includes any child of the student’s partner and any child for whom the student has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;
- (e) “financial resources in a financial year” means the aggregate of the student’s income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner;
- (f) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002<sup>(1)</sup>;
- (g) “preceding financial year” means the financial year immediately preceding the current financial year;
- (h) “specified designated distance learning course” means the course in respect of which the person is applying for support or, where the student’s status as an eligible distance learning student has been transferred to the current designated distance learning course as a result of one or more transfers of that status by the Secretary of State from a distance learning course (the “initial course”) in connection with which the Secretary of State determined the student to be an eligible distance learning student pursuant to regulations made under section 22 of the 1998 Act, the specified designated distance learning course means the initial course.

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(1) 2002 c.21; section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24.