SCHEDULE 6

Requirements

Part III

Maintenance of Dependants

11.—(1) The requirements referred to in regulation 12(1)(*a*) shall include the student's requirements for the maintenance of dependants during the year and the amount of any such requirement ("dependants' requirement") shall be determined in accordance with this Part.

(2) Where a student's requirements for the maintenance of dependants are different in respect of different parts of a year, his dependants' requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

12.—(1) In this Part—

"adult dependant" means, in relation to a student, an adult person dependent on the student not being his child, his spouse or a person living with him as his spouse or his former spouse, subject however to sub-paragraphs (2) and (3);

"child", in relation to a student, includes a person adopted in pursuance of adoption proceedings, a step-child and any child for whom the student has parental responsibility and who is dependent on him;

"dependant" means, in relation to a student, his dependent child, his spouse or an adult dependant, subject however to sub-paragraphs (2) and (3);

"income" means income for the year from all sources (reduced by income tax and social security contributions) but disregarding—

(a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the person is subject which is not subject to income tax under the Income Tax Acts or, where the income is subject to the tax legislation of another member State, which would not be subject to tax under that legislation if it made provision equivalent to those Acts;

(b) child benefit payable under Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**);

(c) any allowance payable to his spouse by an adoption agency in accordance with regulations made in pursuance of Article 59A of the Adoption (Northern Ireland) Order 1987(**2**);

(d) any guardian's allowance to which his spouse is entitled under section 77 of the Contributions and Benefits (Northern Ireland) Act 1992;

(e) in the case of a spouse with whom a child in the care of a Health and Social Services Board or a Health and Social Services Trust(**3**) is boarded out, any payment made to him in pursuance of Article 27(2)(*a*) of the Children (Northern Ireland) Order 1995(**4**);

(f) any payments made to his spouse in pursuance of an order made under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995, or any assistance given by

(**1**) 1992 c. 7

(**2**) S.I.1987/2203 (N.I. 22); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/775 (N.I. 22)); the relevant Regulations are S.R. 1996/438

(**3**) Health and Social Services Trust (HSST) means an HSS trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194) (N.I.1)) by which functions are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order (S.I. 1994/429) (N.I. 2))

(**4**) S.I. 1995/755 (N.I. 2)

a Health and Social Services Board or a Health and Social Services Trust pursuant to Articles 35 and 36 of that Order, in respect of a person who is not the spouse's child;

(g) where the spouse holds an award in respect of a course of teacher training specified in paragraph (*c*) in the definition of "course of initial teacher training" in regulation 3(1), being a part-time course or a course which is partly full-time and partly part-time, the payments in respect of maintenance made to the spouse in pursuance of regulation 11(1)(*b*) or so much of those payments as relates to the part-time part of the course;

(h) where the spouse or the student makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first year of his course—

(i) if, in the opinion of the board, the obligation had been reasonably so incurred, an amount equal to the payment in question;

(ii) if, in its opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to it appropriate;

"relevant award" means a statutory award in respect of a person's attendance at—

(a) a full-time course of higher education or a comparable course outside Northern Ireland;

(b) a course of teacher training specified in paragraph (*b*) in the definition of "course of initial teacher training" in regulation 3(1);

(c) the full-time part of a course of teacher training specified in paragraph (*c*) in the definition of "course of initial teacher training" in regulation 3(1), which is partly full-time and partly part-time;

"spouse", except in the definition of adult dependant, shall not include a student's spouse if they have ceased ordinarily to live together whether or not an order for their separation has been made by any court.

(2) A person, including the student's spouse, shall not be treated as a dependant of the student during any period for which that person—

(a) holds a relevant award; or

(b) (save for the purposes of paragraph 15) is ordinarily living outside the United Kingdom.

(3) A person shall not be treated as a student's adult dependant or as his dependant child—

(a) in the case of a person other than a child of the student, if his income exceeds by £950 or more the sum specified in paragraph 13(4)(*a*);

(b) in the case of a child of a student who either has a spouse who is, or but for sub-paragraph (2) would be, his dependant or has an adult dependant, if the child's income so exceeds the sum specified in paragraph 13(4)(*b*) as applicable to his age;

(c) in the case of a child of a student not falling within head (*b*), unless either—

(i) the child is the only or eldest child dependent on the student whose income does not so exceed the sum specified in paragraph 13(4)(*a*); or

(ii) the child's income does not so exceed the sum specified in paragraph 13(4)(*b*) as applicable to his age.

13.—(1) This paragraph shall apply in the case of all students with dependants.

(2) Subject to paragraphs 14 to 17, the dependants requirement of the student shall be—

(a) if the student's spouse holds a statutory award and in calculating payments under it account is taken of the spouse's dependants requirement, one half of the amount determined in accordance with sub-paragraphs (3), (4) and (5);

(b) in any other case, the whole of the amount so determined.

(3) The amount referred to in sub-paragraph (2) shall be the amount which is X − (Y − Z) where—

(a) X is the aggregate of the relevant sums specified in sub-paragraph (4);

(b) Y is the aggregate of the income of the student's dependants;

(c) Z is so much of the sum ascertained by multiplying £950 by the number of his dependants as does not exceed Y.

(4) Subject to sub-paragraph (5), the relevant sums referred to in sub-paragraph (3) are—

(a) except where the student has a spouse who is the holder of a relevant award, £2,175; and

(b) in respect of each dependent child—

(i) under the age of 11 years immediately before the beginning of the academic year, or born during that year, £455;

(ii) then aged 11 years or over, but under 16, £910;

(iii) then aged 16 years or over, but under 18, £1,210;

(iv) then aged 18 years or over, £1,740,

except that the only or eldest dependent child shall be disregarded for the purposes hereof if the student has neither an adult dependant nor a spouse who is, or but for paragraph 12(2) would be, a dependant.

(5) Where the student has not made an election under paragraph 4 of Schedule 8, the sum of £250 will be payable in respect of either:

(i) an only or eldest dependent child whose income does not exceed £3,375, where the dependants requirement in respect of that child is calculated by reference to sub-paragraph (4)(*a*); or

(ii) a dependent child whose income does not exceed the amount applicable to his age by more than £1,200, where the dependants requirement in respect of that child is calculated by reference to sub-paragraph (4)(*b*).

(6) Where the student has not made an election under paragraph 4 of Schedule 8, the dependants requirement under this paragraph shall be increased by £500 in respect of expenditure on travel, books and equipment for the purpose of attending his course.

14.—(1) Subject to the following sub-paragraphs, where the student has not made an election under paragraph 4 of Schedule 8, the dependants requirement of the student shall, in respect of each year, be increased in respect of childcare costs for each dependent child where the childcare is provided by an approved or registered childcare provider, if—

(a) the child is under the age of 15 immediately before the beginning of the academic year; or

(b) the child has registered special educational needs within the meaning of the Education (Northern Ireland) Order 1996(**5**) under the age of 17 immediately before the beginning of the academic year.

(2) For the purpose of this paragraph and notwithstanding the provisions of paragraph 12(3), a child shall be treated as a dependent child of a student even if the child's income exceeds by £950 or more the relevant sum specified in paragraph 13(4)(*a*) or (*b*).

(3) The dependants requirement of the student shall be increased for each week as follows:

(a) for the period of 40 weeks beginning on the first day of the first term of the year:

(i) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114·75 per week; or

(ii) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170 per week; and

(**5**) S.I. 1996/274 (N.I. 1)

(b) for any other period of the year, except the period between the end of the course and the end of the year in which the course ends:

(i) for one dependent child, 70 per cent. of the costs of the childcare, subject to a maximum amount of £94·50 per week; or

(ii) for two or more dependent children, 70 per cent. of the costs of the childcare, subject to a maximum amount of £140 per week.

(4) With reference to the calculation set out in paragraph 13, where the amount (Y − Z) exceeds X, the amount payable under sub-paragraph (3) shall be reduced by the amount of that excess.

(5) Where the income of a dependent child of the student exceeds by £950 or more the sum specified in paragraph 13(4)(*a*) or (*b*), the amount payable under sub-paragraph (3) shall be reduced by the amount of his income less £950.

(6) If the student's spouse holds a statutory award and in calculating payments under it account is taken on the spouse's dependants requirement, the amount calculated under sub-paragraph (3) shall be reduced by one half.

(7) Where a student has in any academic year attended his course—

(a) in the case of a course provided at the University of Oxford or Cambridge, for a period of 25 weeks 3 days; or

(b) in the case of any other course, for a period of 30 weeks 3 days

and he attends for a further period and the period of 40 weeks referred to in sub-paragraph (3)(*a*) has expired, the relevant amounts referred to in sub-paragraph (3)(*a*) shall apply for each such week or part week of such attendance.

(8) In this paragraph "approved childcare provider" means a childcare provider within the meaning of the Tax Credit (New Category of Childcare Provider) Regulations 1999(**6**), who has been approved in accordance with those regulations;

"registered childcare provider" means a person who provides childcare and is registered within the meaning of Articles 118, 119 and 120 of the Children (Northern Ireland) Order 1995(**7**), (registration of child minders and persons providing day care for young children).

15.—(1) Subject to sub-paragraph (3), this paragraph shall apply in the case of a student with a dependent child where an amount is included in respect of the child in determining the dependants requirement under paragraph 13 and the child is either—

(a) aged 3 or 4 during the relevant school year, or

(b) attends a grant-aided school during the relevant school year.

(2) The dependants requirement of the student (determined in accordance with paragraph 13(2)(*a*) or (*b*)), shall be increased by—

(a) £250 for each dependent child (whether or not he attends a grant-aided school) aged 3 or over on 31st December in the relevant school year, but under the age of 11 immediately before the beginning of the relevant school year;

(b) £166 for each dependent child (whether or not he attends a grant-aided school) whose 3rd birthday falls after 31st December but on or before 31st March in the relevant school year;

(c) £83 for each dependent child (whether or not he attends a grant-aided school) whose third birthday falls after 31st March but before the end of the relevant school year;

(d) £270 for each dependent child of compulsory school age who is aged 11 or over immediately before the beginning of the relevant school year.

(**6**) S.I. 1999/33110, made in exercise of the powers conferred by sections 15(1) and 15(4) of the Tax Credits Act 1999 (c. 10)
(**7**) S.I. 1995 No. 755 (N.I. 2)

(3) Paragraph (1) shall not apply where the dependent child receives school meals free of charge under arrangements approved by the Department of Education in accordance with Articles 58 and 59 of the Order.

(4) In this paragraph—

"grant-aided school" has the meaning assigned to it by the Order;

"relevant school year" means:

(a) in the case of a child who attends a grant-aided school, the school year whose beginning is closest to the beginning of the academic year in respect of which the dependants requirement under this Part is being assessed; and

(b) in the case of a child aged 3 or 4 who does not attend such a school, the period of twelve months beginning on 1st September, falling closest to the beginning of the academic year in respect of which the dependants requirement under this Part is being assessed; and

"school year" means the period from 1st August to 31st July.

16. In the case of a student with dependants who maintains a home for himself and a dependant at a place other than that at which he resides while attending the course, the student's dependants requirement (determined in accordance with paragraph 13(2)(*a*) or (*b*)) shall be increased by either:

(a) £510; or

(b) where he has made an election under paragraph 4 of Schedule 8, £760.

17.—(1) This paragraph shall apply in the case of a student who maintains a dependant outside the United Kingdom.

(2) Notwithstanding anything in the foregoing paragraphs of this Part, the student's dependants requirement shall be such amount, if any, as the board considers reasonable in all the circumstances, not exceeding the amount determined in accordance with those paragraphs.