
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 37

The Education (Student Support)
Regulations (Northern Ireland) 2009

PART 5

GRANTS FOR LIVING AND OTHER COSTS

CHAPTER 4

GRANTS FOR DEPENDANTS

Interpretation of Chapter 4

43.—(1) In regulations 46 to 49—

- (a) subject to sub-paragraph (n), “adult dependant” means, in relation to an eligible student, an adult person dependent on the student other than the student’s child, the student’s partner (including a spouse or civil partner from whom the Department considers the student is separated) or the student’s former partner;
- (b) “child” in relation to an eligible student includes any child of the student’s partner who is dependent on the student and any child for whom the student has parental responsibility who is dependent on the student;
- (c) “dependant” means, in relation to an eligible student, the student’s partner, the student’s dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
- (d) “dependent” means wholly or mainly financially dependent;
- (e) “dependent child” means, in relation to an eligible student, a child dependent on the student;
- (f) “lone parent” means an eligible student who does not have a partner and who has a dependent child or dependent children;
- (g) “net income” has the meaning given in paragraph (2);
- (h) subject to sub-paragraphs (i), (j), (k), (l) and (m), “partner” means any of the following—
 - (i) the spouse of an eligible student;
 - (ii) the civil partner of an eligible student;
 - (iii) a person ordinarily living with an eligible student as if that person were the student’s spouse where an eligible student falls within paragraph 2(1)(a) of Schedule 5 and began the specified designated course on or after 1st September 2000;
 - (iv) a person ordinarily living with an eligible student as if that person were the student’s civil partner where an eligible student falls within paragraph 2(1)(a) of Schedule 5 and began the specified designated course on or after 1st September 2005;

- (i) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (h) is not to be treated as a partner if—
 - (i) in the opinion of the Department, that person and the eligible student are separated; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible student;
 - (j) for the purposes of the definition of “adult dependant”, a person is to be treated as a partner if that person would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom that person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5;
 - (k) for the purposes of the definitions of “child” and “lone parent”, a person is to be treated as a partner if that person would be a partner under sub-paragraph (h) but for the date on which the eligible student began the specified designated course or the fact that the eligible student with whom that person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5;
 - (l) for the purposes of regulation 47—
 - (i) sub-paragraph (i) does not apply; and
 - (ii) a person is to be treated as a partner if that person would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom that person is ordinarily living does not fall within paragraph (2)(1)(a) of Schedule 5;
 - (m) for the purposes of determining whether a person is the former partner of an eligible student’s partner, “partner” in relation to an eligible student’s partner means—
 - (i) the spouse of an eligible student’s partner;
 - (ii) the civil partner of an eligible student’s partner;
 - (iii) where the eligible student began the specified designated course on or after 1st September 2000, a person (“A”) ordinarily living with an eligible student’s partner (“B”) as if A were B’s spouse;
 - (iv) where the eligible student began the specified designated course on or after 1st September 2005, a person “A” ordinarily living with an eligible student’s partner “B” as if A were B’s civil partner;
 - (n) subject to sub-paragraph (o), for the purposes of the definitions of “adult dependant” and “dependent child”, the Department may treat an adult person or child as dependent on an eligible student if the Department is satisfied that the adult person or child—
 - (i) is not dependent on—
 - (aa) the eligible student; or
 - (bb) the student’s partner; but
 - (ii) is dependent on the eligible student and the student’s partner together;
 - (o) the Department must not treat an adult person (“A”) as dependent on an eligible student in accordance with sub-paragraph (n), if A is—
 - (i) the spouse or civil partner of the eligible student’s partner (including a spouse or civil partner from whom the Department considers the eligible student’s partner is separated); or
 - (ii) the former partner of the eligible student’s partner.
- (2) Subject to paragraph (3), a dependant’s net income is the dependant’s income from all sources for the academic year in question reduced by the amount of income tax and social security contributions payable in respect of it but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a disability, incapacity or limited capability for work to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1);
- (c) any financial support payable to the dependant by an adoption agency in accordance with regulations made under Article 59A of the Adoption (Northern Ireland) Order 1987(2);
- (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(3);
- (e) in the case of a dependant with whom a child being looked after by an authority is placed, any payment made to that dependant in pursuance of Article 27 of the Children (Northern Ireland) Order 1995(4);
- (f) any payments made to the dependant under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995 in respect of a person who is not the dependant's child or any assistance given by an authority pursuant to Article 35 of that Order; and
- (g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002(5).

(3) Where an eligible student or the student's partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's course, the partner's net income is the net income calculated in accordance with paragraph (2) reduced by—

- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Department the obligation had been reasonably incurred; or
- (b) such lesser amount, if any, as the Department considers appropriate if, in the opinion of the Department, a lesser obligation could reasonably have been incurred.

(4) For the purposes of paragraph (2), where the dependant is a dependent child and payments are made to the eligible student towards the child's maintenance, those payments are to be treated as the child's income.

General

44.—(1) The grant for dependants consists of the following elements—

- (a) adult dependants' grant;
- (b) childcare grant;
- (c) parents' learning allowance.

(2) The qualifying conditions for each element and the amounts payable are set out in regulations 46 to 49.

Grant for students who have left care

45.—(1) An eligible student shall qualify for a grant under this regulation in connection with his attendance on a designated course if the conditions in paragraph (2) are satisfied.

(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. 1995/755) (N.I.2)

(3) Section 77 was amended by Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 88 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 30 of Schedule 1 to the Child Benefit Act (c. 6)

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

(5) 2002 c. 21; section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24 and there are amendments not relevant to these Regulations

- (2) The conditions referred to in paragraph (1) are—
- (a) the eligible student is under the age of 21 on the first day of the course;
 - (b) the eligible student has left care, that is to say he last ceased to fall within paragraph 2(1)(f) of Schedule 5 before 1st September 2005; and
 - (c) in the opinion of the Department, the eligible student is subject to greater financial hardship by virtue of falling within paragraph 2(1)(f) of Schedule 5 than he would otherwise have been.
- (3) Subject to paragraph (4), the amount of grant shall be such amount as the Department considers appropriate in the circumstances.
- (4) The maximum amount of grant is £100 for each week or part of a week in an academic year which—
- (a) falls within the longest vacation taken; and
 - (b) during no part of which week the student attends his course.

Adult dependants' grant

- 46.**—(1) An eligible student qualifies for an adult dependants' grant in connection with the student's attendance on a designated course in accordance with this regulation.
- (2) The adult dependants' grant is available in respect of one dependant of an eligible student who is either—
- (a) the eligible student's partner; or
 - (b) an adult dependant whose net income does not exceed £3,796.
- (3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 49, the basic amount being—
- (a) £2,642; or
 - (b) where the person in respect of whom the eligible student is applying for adult dependants' grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,642 as the Department considers reasonable in the circumstances.

Childcare grant

- 47.**—(1) An eligible student ("A") qualifies for a childcare grant in connection with A's attendance on a designated course in accordance with this regulation.
- (2) Subject to paragraphs (3) and (4), the childcare grant is available in respect of an academic year in which A incurs prescribed childcare charges for—
- (a) a dependent child who is under the age of 15 immediately before the beginning of the academic year; or
 - (b) a dependent child who has special educational needs within the meaning of Article 3 of the Education (Northern Ireland) Order 1996⁽⁶⁾ and is under the age of 17 immediately before the beginning of the academic year.
- (3) A does not qualify for a childcare grant if A or A's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002⁽⁷⁾.
- (4) A does not qualify for a childcare grant if the prescribed childcare charges that A incurs for A's child are paid or to be paid by A to A's partner.

(6) S.I. 1996/274 (N.I. 1)

(7) 2002 c. 21 to which there are amendments not relevant to these Regulations

- (5) Subject to paragraph (6), the basic amount of childcare grant for each week is—
- (a) for one dependent child, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £148.75 per week; or
 - (b) for two or more dependent children, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £255 per week

except that A does not qualify for any such grant in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.

- (6) For the purposes of calculating the basic amount of childcare grant—
- (a) a week runs from Monday to Sunday; and
 - (b) where a week in respect of which prescribed childcare charges are incurred falls partly within and partly outside the academic year in respect of which childcare grant is payable under this regulation, the maximum weekly amount of grant is calculated by multiplying the relevant maximum weekly amount in paragraph (5) by the number of days of that week falling within the academic year and dividing the product by seven.

(7) In this regulation “prescribed childcare charges” means childcare charges of a description prescribed for the purposes of section 12 of the Tax Credits Act 2002⁽⁸⁾.

Parents’ learning allowance

48.—(1) An eligible student (“A”) qualifies in connection with A’s attendance on a designated course for the parents’ learning allowance if A has one or more dependants who are dependent children.

(2) The amount of parents’ learning allowance payable in respect of an academic year is calculated in accordance with regulation 49, the basic amount being £1,508.

Calculations

49.—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which the eligible student qualifies under regulations 46 to 48 is the amount of that element remaining after applying, until it is extinguished, an amount equal to $A - B$ as follows and in the following order—

- (a) to reduce the basic amount of the adult dependants’ grant where the eligible student qualifies for that element under regulation 46;
- (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 47; and
- (c) to reduce the basic amount of the parents’ learning allowance where the eligible student qualifies for that element under regulation 48.

(2) Subject to paragraphs (4), (5) and (13), where B is greater than or equal to A , the basic amount of each element of the grant for dependants for which the eligible student qualifies is payable.

(3) Where $A - B$ is equal to or exceeds the aggregate of the basic amounts of the elements of the grant for dependants for which the eligible student qualifies, the amount payable in respect of each element is nil.

⁽⁸⁾ Regulation 14 of the Working Tax Credit (Entitlement and Maximum Amount) Regulations 2002 (S.I. 2002/2005; as amended by S.I. 2003/701, S.I. 2003/2815, S.I. 2004/762, S.I. 2004/1276, S.I. 2004/2663, S.I. 2005/769, S.I. 2005/2919, S.I. 2006/766, S.I. 2007/824, S.I. 2007/2479 and S.I. 2008/604) sets out the charges that are prescribed for the purposes of section 12 of the Tax Credits Act 2002

(4) The amount of adult dependants' grant calculated under paragraph (1) in respect of an adult dependant is reduced by one half where—

- (a) the eligible student's partner—
 - (i) is an eligible student; or
 - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which that partner is entitled under the statutory award.

(5) The amount of childcare grant calculated under paragraph (1) is reduced by one half where—

- (a) the eligible student's partner—
 - (i) is an eligible student; or
 - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which that partner is entitled under the statutory award.

(6) Where the amount of the parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than £50, the amount of parents' learning allowance payable is £50.

(7) In this regulation—

A is the aggregate of the net income of each of the eligible student's dependants; and

B is—

- (a) £1,159 where the eligible student has no dependent child;
- (b) £3,473 where the eligible student is not a lone parent and has one dependent child;
- (c) £4,627 where the eligible student—
 - (i) is not a lone parent and has more than one dependent child; or
 - (ii) is a lone parent and has one dependent child;
- (d) £5,792 where the eligible student is a lone parent and has more than one dependent child.

(8) Paragraphs (9) to (12) apply where, in the course of the academic year, any of the following occurs—

- (a) there is a change in the number of the eligible student's dependants;
- (b) a person becomes or ceases to be a dependant of the eligible student;
- (c) the eligible student becomes or ceases to be a lone parent;
- (d) a student becomes eligible for support as a result of an event referred to in regulation 18.

(9) For the purposes of determining the respective values of *A* and *B* and whether adult dependants' grant or parents' learning allowance is payable, the Department must determine the following in relation to each relevant quarter by reference to the student's circumstances in the relevant quarter—

- (a) how many dependants the eligible student is to be treated as having;
- (b) who those dependants are;
- (c) whether the student is to be treated as a lone parent.

(10) The amount of grant for dependants for the academic year is the aggregate of the amounts of adult dependants' grant and parents' learning allowance calculated in respect of each relevant quarter under paragraph (11) and the amount of any childcare grant for the academic year.

(11) The amount of adult dependants' grant and parents' learning allowance in respect of a relevant quarter is one third of what that grant or allowance would be for the academic year if the student's circumstances in the relevant quarter as determined under paragraph (9) applied for the duration of the academic year.

(12) In this regulation, a "relevant quarter" means—

- (a) in the case of a person referred to in paragraph (8)(d), a quarter which begins after the relevant event occurs other than a quarter during which, in the opinion of the Department, the longest of any vacation occurs;
- (b) otherwise, a quarter other than the one quarter during which, in the opinion of the Department, the longest of any vacation occurs.

(13) A deduction may be made in accordance with Part 9 from the amount payable in respect of a particular element of the grant for dependants calculated under this Part.