

SCHEDULE 7

MAINTENANCE REQUIREMENTS

PART III

Maintenance of dependents

11.—(1) The requirements referred to in regulation 13(i)(a) shall include the student's requirements for the maintenance of dependents during the year and the amount of any such requirement ("dependents' requirement") shall be determined in accordance with this Part.

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

12.—(1) In this Part—

"adult dependent" 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 whether under or over compulsory school age, an illegitimate child, a person adopted in pursuance of adoption proceedings, a step-child and any child whose guardian or custodian the student is and who is dependent on him;

"dependent" means, in relation to a student, his dependent child, his spouse or an adult dependent, 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 child benefit, any attendance allowance under sections 64 to 67 or disability living allowance under sections 71 to 76 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, or any mobility supplement or constant attendance allowance provided for in an order made under section 12(i) of the Social Security (Miscellaneous Provisions) Act 1977(1) and in the case of a student's spouse, less—

- (a) 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(i), 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 12(1)(b) or so much of those payments as relates to the part-time part of the course;
- (b) where the spouse or the student makes any payment which was 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; and
- (c) any allowance payable to the spouse by an adoption agency in accordance with the Adoption (Northern Ireland) Order 1987(2);

(1) 1977 c. 5. The relevant order currently in force is the Naval, Military and Air Forces, Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883 amended by S.I. 1983/1116 and 1521, 1984/1154 and 1687, 1985/1201, 1986/592, 1987/165, 1988/248 and 2248, 1989/156, 1990/250 and 1308, 1991/766, 1992/710 and 3208, 1993/598 and 1994/772 and 1906)

(2) S.I. 1987/2203 (N.I. 22)

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- (d) where a child in the care of the Department of Health and Social Services or a Health and Social Services Board is boarded out with the spouse, any payment made to the spouse in pursuance of section 114(1) of the Children and Young Persons Act (Northern Ireland) 1968(3); and
- (e) any guardian's allowance to which the spouse is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“relevant award” means a statutory award in respect of a person's attendance at a full-time course of higher education or a comparable course outside Northern Ireland;

“spouse”, except in the definition of adult dependent, 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 dependent 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 dependent or as his dependent child—

- (a) in the case of a person other than a child of the student, if his income exceeds by £800 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 dependent or has an adult dependent, if the child's income exceeds by £800 or more the sum specified in paragraph 13(4)(b) and applicable to his age;
- (c) in the case of a child of a student not falling within head (b), if either—
 - (i) the child is the only or eldest child dependent on the student whose income exceeds by £800 or more the sum specified in paragraph 13(4)(a); or
 - (ii) the child's income exceeds by £800 or more the sum specified in paragraph 13(4)(b) and applicable to his age.

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

(2) Subject to paragraphs 14 and 15, the dependents 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 dependents' requirement, one half of the amount determined in accordance with sub-paragraphs (3) and (4);
- (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 dependents;
- (c) Z is so much of the sum ascertained by multiplying £800 by the number of his dependents as does not exceed Y.

(4) 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, £1,820;
- (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, £385;

(3) 1968 c. 34 (N.I.)

- (ii) then aged 11 years or over, but under 16, £765;
- (iii) then aged 16 years or over but under 18, £1,010;
- (iv) then aged 18 years or over, £1,460,34

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

14.—(1) This paragraph shall apply in the case of a student with dependents who maintains a home for himself and a dependent at a place other than that at which he resides while attending the course.

(2) The student's dependents requirement (determined in accordance with paragraph 13(2)(a) or (b)) shall be increased by £635.

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

(2) Notwithstanding anything in the foregoing paragraphs of this Part, the student's dependents 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.