

SCHEDULE 7

Maintenance requirements

Part III

Maintenance of dependants

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 child benefit, any attendance allowance under sections 64 to 67(1), severe disablement allowance under section 68(2) 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(1) of the Social Security (Miscellaneous Provisions) Act 1977(3) 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(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 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;
- (c) any allowance payable to the spouse by an adoption agency in accordance with regulations made pursuant to Article 59A of the Adoption (Northern Ireland) Order 1987(4);
- (d) any guardian’s allowance to which the spouse is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(1) Section 64 was modified by paragraph 19 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9)

(2) Section 68 was amended by Article 11 of, and paragraph 18 of Schedule 1, and Schedule 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and S.R. 1994 No. 370

(3) 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, 1994/772 and 1906, 1995/766 and 1996/732 and 1638)

(4) 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. 22)); the relevant Regulations are S.R. 1996/438

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (e) where a child in the care of a Health and Social Services Board or a Health and Social Services Trust⁽⁵⁾ is boarded out with the spouse, any payment made to the spouse in pursuance of Article 27 of the Children (Northern Ireland) Order 1995⁽⁶⁾; and
- (f) any payments made to the spouse pursuant to an order made under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995 in respect of a person who is not the spouse's child;

“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” 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 £860 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 subparagraph (2) would be, his dependant or has an adult dependant, if the child's income exceeds by £860 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), unless either—
 - (i) the child is the only or eldest child dependent on the student whose income exceeds by £860 or more the sum specified in paragraph 13(4)(a); or
 - (ii) the child's income exceeds by £860 or more the sum specified in paragraph 13(4)(b) and applicable to his age.

(5) 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 1994 (S.I. 1994/429 (N.I. 2))

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