

SCHEDULE 6

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—

- (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 Social Security 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 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

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

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

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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 £905 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 more 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.