

1990 No. 353**EDUCATION****Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1990**

Made 28th September 1990

Coming into operation 26th October 1990

The Department of Education in exercise of the powers conferred on it by Articles 50(1) and (2) and 134(1) of the Education and Libraries (Northern Ireland) Order 1986(a) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1990.

(2) These Regulations shall come into operation on 26th October 1990 and shall have effect on and from 1st September 1990.

Revocation

2. Subject to the provisions of regulation 10 the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1973(b) and the Maintenance Allowances (Pupils over Compulsory School Age) (Amendment) Regulations (Northern Ireland) 1983(c) are hereby revoked.

Interpretation

3. In these Regulations—

“the Order” means the Education and Libraries (Northern Ireland) Order 1986;

“parent” includes a guardian or any other person who normally maintains the pupil.

Eligibility criteria

4. Subject to the provisions of these Regulations a board shall pay a maintenance allowance in respect of a pupil who—

(a) has attained the upper limit of compulsory school age;

(b) is following a full-time course at a grant-aided school or institution of further education;

(a) S.I. 1986/594 (N.I. 3)

(b) S.R. & O. (N.I.) 1973 No. 426

(c) S.R. 1983 No. 421

- (c) has not been awarded under the provisions of Article 50 or 51 of the Order any other award which includes provision for his maintenance; and
- (d) is ordinarily resident in its area.

Amount of allowance

5. The amount of the maintenance allowance shall be determined in accordance with the Schedule and the allowance shall be paid at such times and in such manner as the board may determine.

Terms and conditions

6.—(1) Subject to the provisions of these Regulations a maintenance allowance shall be payable from the beginning of the day following that on which the pupil attains the upper limit of compulsory school age or, if later, 1st September 1990 and shall normally be payable for a period of twelve months but, subject to reassessment, shall be renewable for a further period or periods so long as is necessary in the opinion of the board to enable the pupil to complete the course in respect of which the allowance is granted.

(2) The board may at any time terminate a maintenance allowance if it is satisfied, after consultation with the principal of the school or institution of further education that the conduct, progress or attendance of the pupil is not satisfactory.

7. An application for a maintenance allowance shall be made annually in such form, contain such information, be accompanied by such documents and be submitted by such date as the board shall require.

8. It is a condition of the payment of an allowance under these Regulations that the parent of a pupil in respect of whom a maintenance allowance is claimed shall inform the board of any change in his financial circumstances; and if the board has reason to believe that such a change has occurred or if the parent represents that such a change has occurred the board shall give the parent an opportunity of submitting a revised application and thereafter shall reconsider and if necessary adjust the value of or cancel the allowance.

9. It is a condition of the payment of an allowance under these Regulations that the parent of a pupil in respect of whom an allowance is being paid shall inform the board immediately of any change in his place of residence.

Transitional provision

10. Without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954(a) where a maintenance allowance is being paid at 31st August 1990 under the provisions of the Regulations set out in regulation 2 the allowance shall continue to be paid under the provisions of these

(a) 1954 c. 33 (N.I.)

Regulations; and the value of any such continuing allowance shall be determined under the provisions of these Regulations or under the provisions of the Regulations set out in regulation 2 whichever is the more favourable to the pupil.

Sealed with the Official Seal of the Department of Education on 28th September 1990.

(L.S.)

E. M. Power

Assistant Secretary

1. The amount of a maintenance allowance shall be determined in accordance with the following table:

<i>Balance of parental income</i>	<i>Maintenance allowance payable for full year</i>
	£
Not exceeding £2,800	520
Exceeding £2,800 but not exceeding £3,400	400
Exceeding £3,400 but not exceeding £4,000	300
Exceeding £4,000 but not exceeding £4,600	200
Exceeding £4,600 but not exceeding £5,200	100

2.—(1) To determine the balance of parental income there shall be deducted from gross income:

- (a) an annual allowance of £450 in respect of each wholly dependent child up to the age of 18 years other than the pupil for whom an allowance is being determined;
- (b) an annual allowance of £735 in respect of each wholly dependent relative normally living as a member of the household other than the pupil for whom an allowance is being determined and dependent children falling within head (a) provided that the amount shall be reduced by the amount of any income which the relative may receive from other sources;
- (c) fees payable under regulation 7 of the Grammar Schools (Fees) Regulations (Northern Ireland) 1990(a) in the period of twelve months beginning on the day before the first day of the period in respect of which the maintenance allowance being determined would be payable; and
- (d) the following annual outgoings on the basis of outgoings (on a weekly or other period basis as the case may be) at the time of determination:
 - (i) the gross amount of any sums payable as interest (including interest on a mortgage) in respect of which relief is given under the Income Tax Acts in respect of a loan to the parent;
 - (ii) half of the gross amount of any premium payable under a policy of life insurance in respect of which relief is given under section 266 of the Income and Corporation Taxes Act 1988(b) (life policy and certain other premiums).

(2) In sub-paragraph (1) “the Income Tax Acts” has the same meaning as in Schedule 1 to the Interpretation Act 1978(c).

3. To determine gross income there shall, subject to paragraph 4, be taken into account the annual income from all sources of both parents determined for the purpose of these Regulations on the basis of income (on a weekly or other period basis as the case may be) at the time of determination:

(a) S.R. 1990 No. 302
(b) 1988 c. 1
(c) 1978 c. 30

Provided that—

- (a) all payments made under Article 33 of the Social Security (Northern Ireland) Order 1986(a) and gifts from charitable funds shall be disregarded; and
- (b) where any attendance allowance under section 35, any constant attendance allowance under section 61, any disablement pension under section 57, any unemployment supplement under section 58, and any exceptionally severe disablement allowance under section 63 of the Social Security (Northern Ireland) Act 1975(b) are payable, the first £5 a week of the aggregate income from those sources shall be disregarded.

4. Where the parents do not normally reside together the board shall take account of the income of the person who normally maintains the pupil for whom a maintenance allowance is being sought.

- 5. The amount of a maintenance allowance shall be reassessed annually,

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- (a) S.I. 1986/1888 (N.I. 18); Article 33(2)(a) was amended by Article 3 of the Social Fund (Maternity and Funeral Expenses) (Northern Ireland) Order 1987 (S.I. 1987/464 (N.I. 8)). Article 33 was further amended by paragraphs 1 to 6 of Schedule 3 to, and repealed in part by Schedule 5 to, the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)) and amended by Article 12(1) and (2) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))
 - (b) 1975 c. 15; section 35 was amended by Article 3 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), paragraph 8 of Part II of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), Article 3(1) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)), and paragraph 5 of Schedule 8 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)); subsections (3) and (4) of section 61 were inserted by paragraph 6 of Schedule 3 to the Social Security (Northern Ireland) Order 1986; section 57 was amended by Article 32(2) of the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)), paragraph 3 of Schedule 3 to the Social Security (Northern Ireland) Order 1986 and paragraph 11 of Schedule 7 to the Social Security (Northern Ireland) Order 1989 and repealed in part by Schedule 6 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and Schedule 10 to the Social Security (Northern Ireland) Order 1986

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which have effect retrospectively on and from 1st September 1990, replace the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1973 as amended ("the 1973 Regulations"). Retrospection is authorised by Article 50(2) of the Education and Libraries (Northern Ireland) Order 1986, S.I. 1986/594 (N.I. 3).

The principal changes of substance, as compared with the 1973 Regulations, are described below.

The provision providing that the payment of a maintenance allowance shall be at the discretion of an education and library board in the case of a pupil who is resident in its area solely or mainly for the purpose of receiving education has been omitted. In addition the discretionary power of a board to pay a maintenance allowance in the case of a pupil who is not ordinarily resident in its area has also been omitted.

The 1973 Regulations provided for differing rates of allowances according to whether a pupil was 16 years, 17 years or 18 years and over. These Regulations provide for a single scale of allowances applicable to all eligible pupils over the upper limit of compulsory school age.

The income bands for determining the amount of a maintenance allowance are altered with safeguarding for those in receipt of allowances on 31st August 1990.

The amounts which are deductible from gross parental income in respect of other dependants to determine the balance of parental income, in relation to which allowances are calculated, are increased by a factor ranging from 5% to 13%. The deductible amount in respect of a dependent relative, other than a child up to the age of 18 years, is no longer subject to adjustment downwards to the amount of a parental contribution assessable in respect of a scholarship held by the relative. The power of a board to deduct at its discretion exceptional items of expenditure from parental income has been omitted but provision is made for deductions in respect of Social Fund payments, certain life insurance premiums and certain grammar school fees. The deduction from parental income in respect of certain social security benefits is increased from £1 per week to £5 per week.