

SCHEDULE 2

REQUIREMENTS

PART III

MAINTENANCE OF DEPENDANTS

11.—(1) The requirements referred to in regulation 18(1)(a) shall include the student’s requirements for the maintenance of dependants during the year and the amount of any such requirement (“dependants requirement”) shall be determined in accordance with this Part of this Schedule.

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

12.—(1) In this Part of this Schedule—

“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 whose guardian or custodian the student is 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, mobility allowance or disability living allowance under section 35, 37A or 37ZA of the Social Security Act 1975(1)**or under section 64, 72 or 73 of the Social Security Contributions and Benefits Act 1992(2)** 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 the student’s spouse, less—

(a) where the spouse holds an award in respect of a course of teacher training designated under regulation 10(1)(d)(iii), 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 17(b) or so much of those payments as relates to the part-time part of the course;

(b) where the spouse or the student make any payment which was previously made by the student in pursuance of an obligation incurred before the first year of the student’s course—

(1) 1975 c. 14; section 35 was amended by paragraph 63 of Schedule 15 to the National Health Service Act 1977 (c. 49), section 2 of the Social Security Act 1979 (c. 18), paragraph 8 of Schedule 1 to the Social Security Act 1988 (c. 7), paragraph 5 of Schedule 8 to the Social Security Act 1989 (c. 24) and section 2 of the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21); section 37A was inserted by section 22 of the Social Security Pensions Act 1975 (c. 60); section 37ZA was inserted by section 1(2) of the Disability Living Allowance and Disability Working Allowance Act 1991.

(2) 1992 c. 4.

(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, 1521, 1984/1154, 1687, 1985/1201, 1986/592, 1987/165, 1988/248, 2248, 1989/156, 1990/250, 1308, 1991/766, 1992/710 and 3208).

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- (i) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;
- (ii) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;
- (c) any allowance payable to the spouse by an adoption agency **in accordance with regulations made pursuant to section 57A** of the Adoption Act 1976(4) ;
- (d) any guardian’s allowance to which the spouse is entitled under section 38 of the Social Security Act 1975(5)**or under section 77 of the Social Security Contributions and Benefits Act 1992**;
- (e) where a child in the care of a local authority is boarded out with the spouse any payment made to the spouse in pursuance of section 23 of the Children Act 1989(6) ; and
- (f) any payments made to the spouse pursuant to an order made under section 34 of the Children Act 1975(7)**or under section 15 of and Schedule 1 to the Children Act 1989**.

“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 England and Wales;
- (b) a course designated under sub-paragraph (d)(ii) of regulation 10(1); or
- (c) the full-time part of a course designated under sub-paragraph (d)(iii) or regulation 10(1) which is partly full-time and partly part-time;

“spouse”, except in the definition above 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 dependent child—

- (a) in the case of a person other than a child of the student, if his income exceeds by **£770** 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 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 sub-paragraph (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.

13.—(1) This paragraph shall apply in the case of a student with dependants.

(2) The dependants requirement of the student shall, subject to paragraphs 14 and 15, be—

(4) 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The relevant instruments are S.I. 1991/2030 and 2130.

(5) 1975 c. 14; section 38 was amended by paragraph 12 of Schedule 4 to the Child Benefit Act 1975 (c. 61) and by section 45 of the Social Security Act 1986 (c. 50).

(6) 1989 c. 41.

(7) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

- (a) if the student's spouse holds a statutory award and in calculating payments under it account is taken of the spouse's dependants 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 dependants;
 - (c) Z is so much of the sum ascertained by multiplying **£770** by the number of his dependants 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, **£1,750**; and
 - (b) in respect of each dependent child—
 - (i) under the age of 11 immediately before the beginning of the academic year, or born during that year, **£370**;
 - (ii) then aged 11 or over, but under 16, **£735**;
 - (iii) then aged 16 or over, but under 18, **£970**;
 - (iv) then aged 18 or over, **£1,400**;
- except that the only or eldest dependent child shall be disregarded for the purposes hereof if the student has neither an adult dependant nor a spouse who is, or but for paragraph **12(2)** would be, a dependant.

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

(2) The dependants requirement of the student (determined in accordance with paragraph **13(2)** (a) or (b)), shall be increased by **£610**.

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

(2) Notwithstanding anything in the foregoing paragraphs of this Part of this Schedule, the dependants requirement of the student shall be of such amount, if any, as the authority consider reasonable in all the circumstances, not exceeding the amount determined in accordance with those paragraphs.