

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 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;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992(1);
- (c) any allowance payable to his spouse by an adoption agency in accordance with regulations made under section 57A of the Adoption Act 1976(2);
- (d) any guardian’s allowance to which his spouse is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (e) in the case of a spouse with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989(3);
- (f) any payments made to his spouse in pursuance of an order made under section 34 of the Children Act 1975(4), or under section 15 of and Schedule 1 to the Children Act 1989 or any assistance given by a local authority pursuant to section 24 of that Act, in respect of a person who is not the spouse’s child;

(1) 1992 c. 4.

(2) 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 2742.

(3) 1989 c. 41.

(4) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

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- (g) where the spouse holds an award in respect of a course of teacher training designated under regulation 10(1)(b)(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(1)(b) or so much of those payments as related to the part-time part of the course;
- (h) where the spouse or the student make any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first year of the student's course—
 - (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;

“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) of 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 17) 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 **£975** 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 to 17, be—
 - (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), (4), and (5);
 - (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 **£975** by the number of his dependants as does not exceed Y.
- (4) Subject to sub-paragraph (5), 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, **£2,225**;
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, **£465**;
- (ii) then aged 11 or over, but under 16, **£930**;
- (iii) then aged 16 or over, but under 18, **£1,240**;
- (iv) then aged 18 or over, **£1,780**;
- 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.
- (5) Where the student has not made an election under paragraph 4 of Schedule 4, the sum of **£255** will be payable in respect of either:
- (i) an only or eldest dependent child whose income does not exceed **£3,455**, where the dependants requirement in respect of that child is calculated by reference to sub-paragraph (4)(a); or
- (ii) a dependent child whose income does not exceed the amount applicable to his age by more than **£1,230**, where the dependants requirement in respect of that child is calculated by reference to sub-paragraph (4)(b).
- (6) Where the student has not made an election under paragraph 4 of Schedule 4, the dependants requirement under this paragraph **in respect of dependent children** shall be increased by **£510** in respect of expenditure on travel, books and equipment for the purpose of attending his course.

14.—(1) Subject to the following sub-paragraphs, where the student has not made an election under paragraph 4 of Schedule 4, the dependants requirement of the student shall, in respect of each year, be increased in respect of childcare costs for each dependent child where the childcare is provided by an approved or registered childcare provider, if—

- (a) the child is under the age of 15 immediately before the beginning of the academic year; or
- (b) the child has registered special educational needs within the meaning of the Education Act 1996(5) and is under the age of 17 immediately before the beginning of the academic year.

(2) For the purpose of this paragraph and notwithstanding the provisions of paragraph 12(3), a child shall be treated as a dependent child of a student even if the child's income exceeds by **£975** or more the relevant sum specified in paragraph 13(4)(a) or (b).

(3) The dependants requirement for each week for which a student shall be eligible under paragraph (1) is:

- (a) where the academic year begins in the autumn, for the period of 40 weeks beginning on the first day of the first term of the academic year:
- (i) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114.75 per week; or
- (ii) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170 per week;

(5) 1996 c. 56, section 312.

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- (b) where the academic year begins in the winter, spring or summer, for each week of each term of the academic year and the Christmas and Easter vacations beginning on the first day of the first term of the academic year—
 - (i) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114.75 per week; or
 - (ii) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170 per week; and
 - (c) for any other week of the academic year to which sub-paragraphs (a) or (b) do not apply including a week of the summer vacation, except each week falling within the period between the end of the course and the end of the academic year in which the course ends:
 - (i) for one dependent child, 70 per cent. of the costs of the childcare, subject to a maximum amount of £94.50 per week; or
 - (ii) for two or more dependent children, 70 per cent. of the costs of the childcare, subject to a maximum amount of £140 per week.
- (4) With reference to the calculation set out in paragraph 13, where the amount (Y–Z) exceeds X, the amount payable under sub-paragraph (3) shall be reduced by the amount of that excess.
- (5) Where the income of a dependent child of the student exceeds by **£975** or more the sum specified in paragraph 13(4)(a) or (b), the amount payable under sub-paragraph (3) shall be reduced by the amount of his income less **£975**.
- (6) If the student’s spouse holds a statutory award and in calculating payments under it account is taken of the spouse’s dependants requirement, the amount calculated under sub-paragraph (3) shall be reduced by one half.
- (7) Where a student has in any academic year attended his course—
 - (a) in the case of a course provided at the University of Oxford or Cambridge, for a period of 25 weeks 3 days; or
 - (b) in the case of any other course, for a period of 30 weeks 3 daysand he attends for a further period and the period of 40 weeks referred to in sub-paragraph (3)(a) has expired, the relevant amounts referred to in sub-paragraph (3)(a) shall apply for each week or part week of such attendance.
- (8) In this paragraph—
“approved childcare provider” means a childcare provider within the meaning of the Tax Credit (New Category of Childcare Provider) Regulations 1999(6), who has been approved in accordance with those regulations;
“registered childcare provider” means a person who **acts as a child minder or provides day care** and is registered within the meaning of section 79F of the Children Act 1989(7), (**grant or refusal of** registration of child minders and persons providing day care for young children).
- 15.**—(1) Subject to sub-paragraph (3), this paragraph shall apply in the case of a student with a dependent child where an amount is included in respect of the child in determining the dependants requirement under paragraph 13 and the child is either
 - (a) aged 3 or 4 during the relevant school year, or

(6) S.I. 1999/3110, made in exercise of the powers conferred by sections 15(1) and 15(4) of the Tax Credits Act 1999 (c. 10).

(7) 1989 c. 41; section 79F was inserted by the Care Standards Act 2000 (c. 14), section 79(1).

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- (b) attends a school maintained by a local education authority or a city technology college or a city college for the technology of the arts⁽⁸⁾ or a city academy⁽⁹⁾ during the relevant school year.
- (2) The dependants requirement of the student (determined in accordance with paragraph 13(2)(a) or (b)), shall be increased by—
- (a) **£255** for each dependent child aged 3 or over on 31st December in the relevant school year, but under the age of 11 immediately before the beginning of the relevant school year;
 - (b) **£170** for each dependent child whose third birthday falls after 31st December but on or before 31st March in the relevant school year;
 - (c) **£85** for each dependent child whose third birthday falls after 31st March but before the end of the relevant school year;
 - (d) **£275** for each dependent child of compulsory school age who is aged 11 or over immediately before the beginning of the relevant school year.
- (3) This paragraph shall not apply where the dependent child receives school meals free of charge under section 512 or 512A of the Education Act 1996⁽¹⁰⁾ or where similar provision is made for him pursuant to an agreement made between the Secretary of State and a person who establishes and maintains a city technology college or a city college for the technology of the arts or a city academy under section 482 of that Act.
- (4) In this paragraph “relevant school year” means :
- (a) in the case of a child who attends a school (of a kind referred to in sub-paragraph 1(b)), the school year (within the meaning of Section 579(1) of the Education Act 1996⁽¹¹⁾) whose beginning is closest to the beginning of the academic year in respect of which the dependants requirement under this Part of this Schedule is being assessed; and
 - (b) in the case of a child aged 3 or 4 who does not attend such a school, the period of twelve months beginning on 1st September, falling closest to the beginning of the academic year in respect of which the dependants requirement under this Part of this Schedule is being assessed.

16. 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, the dependants requirement of the student (determined in accordance with paragraph 13(2)(a) or (b)) shall be increased by either:

- (a) **£520**; or
- (b) where he has made an election under paragraph 4 of Schedule 4, **£775**.

17.—(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.

⁽⁸⁾ City technology colleges and city colleges for the technology of the arts are established pursuant to section 482 of the Education Act 1996 (c. 56).

⁽⁹⁾ City academies are established pursuant to section 482 of the Education Act 1996 (c. 56) as amended by the Learning and Skills Act 2000 (c. 21), section 130.

⁽¹⁰⁾ 1996 c. 56. Section 512A was inserted by section 116 of the School Standards and Framework Act 1998 (c. 31).

⁽¹¹⁾ The definition of “school year” was inserted by the Education Act 1997 (c. 44) Schedule 7, paragraph 43.