STATUTORY INSTRUMENTS

1975 No. 1225

EDUCATION, ENGLAND AND WALES

The Students' Dependants' Allowances Regulations 1975

Made - - - -	*23rd July* 1975
Laid before Parliament	*5th August* 1975
Coming into Operation	*1st September* 1975

The Secretary of State for Education and Science, in exercise of the powers conferred by section 3(*a*) of the Education Act 1962**(a)** and section 3 of the Education Act 1973**(b)** and vested in him **(c)**, hereby makes the following regulations:—

Citation, commencement, construction and interpretation

1.—(1) These regulations may be cited as the Students' Dependants' Allowances Regulations 1975 and shall come into operation on 1st September 1975.

(2) These regulations (except regulation 7) shall be construed together with the Local Education Authorities Awards Regulations 1975**(d)** ("the principal regulations").

(3) In these regulations "spouse" includes a woman who cohabits with a man student as his wife and a man who cohabits with a woman student as her husband.

(4) The Interpretation Act 1889**(e)** shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament; and section 38(2) (effect of repeals) of that Act shall have effect in relation to the regulations revoked by these regulations as if they were enactments repealed by an Act.

Power to pay allowances

2.—(1) Subject to regulation 3 below, the Secretary of State may pay an allowance in respect of any eligible dependant to a student to whom paragraph 12 of Schedule 1 to the principal regulations does not apply.

(2) References in these regulations to the eligible dependant of a student mean—

(*a*) a wife or husband with whom the student is living if—

(i) they have a dependent child; and

(ii) the wife or husband does not hold a statutory award;

(*b*) a wife or husband with whom the student is living and in respect of whom there is for the time being in force a certificate by a registered medical practitioner that she or he is incapable of being gainfully employed for a period of at least eight weeks;

(a) 1962 c. 12.
(b) 1973 c. 16.
(c) S.I. 1964/490 (1964 I, p. 800).
(d) S.I. 1975/1207 (1975 II, p. 4142).
(e) 1889 c. 63.

(*c*) a child who is dependent on the student, unless either—

(i) the parents do not live together and the child resides with the other parent; or

(ii) the student's spouse holds a statutory award and in calculating payments under it account is taken of that child.

Exceptions

3. No allowance shall be payable to a student if by virtue of regulation 23(1) proviso (withholding of payment to student in default) of the principal regulations a grant equal to the minimum payment is paid to him or if by virtue of regulation 19 (assisted students) of those regulations no payment is made to him under those regulations.

Amount of allowance

4.—(1) Subject to paragraphs (4) and (5) below, an allowance shall be payable at the weekly rate specified below for any week or incomplete part of a week in which—

(*a*) the student attends the course at the establishment or is pursuing any course of study of a kind mentioned in paragraph 6 of Schedule 1 to the principal regulations ("weeks of attendance"); and

(*b*) there is an eligible dependant of the student:

provided that this paragraph shall be read without sub-paragraph (*a*) in its application to a student who is not living with a spouse.

(2) The weekly rate of an allowance shall, subject to paragraph (3) below, be the amount by which the aggregate of—

(*a*) one fifty-second of the amount for the time being prescribed by any appropriate provision of the principal regulations as the requirements of a student for the maintenance of a wife, husband or child; and

(*b*) (if a student maintains a home for himself and an eligible dependant in the United Kingdom at a place other than that at which he resides during the course) the sum equal to the fraction of which the numerator is the amount for the time being prescribed by the principal regulations as the requirements of a student who maintained such a home for himself and a dependant to whom these regulations apply and the denominator is the number of weeks of attendance in the year—

exceeds one fifty-second of the annual income of the student's family (within the meaning of regulation 5 below).

(3) If an allowance is payable by virtue of these regulations to both the student and the student's spouse the weekly rate shall be half the amount ascertained in accordance with paragraph (2) above.

(4) In the case of any student to whom the minimum payment is paid by virtue of regulation 13, 16(*a*)(ii) or 18(1) of the principal regulations, the rate of the allowance shall be reduced—

(*a*) if his requirements as assessed in accordance with the principal regulations exceed his resources as so assessed, by one fifty-second of the amount by which the excess falls short of £50;

(*b*) if those requirements do not exceed those resources, by 96p.

(5) No allowance shall be paid for any week in which the capital resources of the student's household (assessed in accordance with Part III of Schedule 2

to the Supplementary Benefit Act 1966)(a) amount to £1,200 or more.

(6) For the purposes of this regulation a student shall be treated as having attended at an establishment, or as having pursued a course of study, for a part of a week if he attends at an establishment, or pursues such a course, on four consecutive days; and, in determining whether he has attended the establishment or pursued the course, any period during which he is absent on account of illness shall be ignored.

Income of student's family

5.—(1) For the purposes of these regulations the income of the student's family in any year shall be taken to be the aggregate of—

(*a*) any sums which are disregarded in calculating the student's income for the purposes of the principal regulations, except—

(i) the first £160 of any scholarship, bursary or similar endowment awarded in respect of his attendance at the establishment;

(ii) remuneration for work done in vacations;

(iii) any benefit under the Supplementary Benefit Act 1966;

(iv) family allowances;

(v) (in the case of a sandwich student) any payment made to him by his employer in respect of any period of experience;

(vi) any attendance allowance under section 35 of the Social Security Act 1975(b); and

(vii) any allowance granted to him in pursuance of a scheme under section 19 of the Housing Finance Act 1972(c);

(*b*) the income (reduced by income tax, family allowances and national insurance contributions and disregarding the income specified in paragraph (2) below) of a spouse or child who is a member of the same household; and

(*c*) (in the case of any student to whom the minimum payment is paid) the amount (if any) by which his resources as assessed in accordance with the principal regulations exceed his requirements as so assessed.

(2) The income referred to in paragraph (1)(*b*) above is—

(*a*) except in a case falling within sub-paragraph (*c*) below, in respect of the earned income of the spouse whichever is the less of £160 and half that income;

(*b*) any payment under a statutory award; and

(*c*) all income of a person who attends a course designated by or under any provision of the principal regulations except regulation 6(1)(*d*)(iii) or a full-time course of further education which is not designated by or under those regulations.

Supplementary

6.—(1) An allowance may be paid in instalments.

(2) An allowance, and an instalment of an allowance, may be paid before the end of the year by reference to which, in accordance with regulation 4 above, it falls to be assessed; and any overpayment in any year may, and any underpayment in any year shall, be corrected by way of deduction from or addition

(a) 1966 c. 20.
(b) 1975 c. 14.
(c) 1972 c. 47.

to any allowance payable in the next following year or, if no such allowance is payable, by repayment to or payment by the Secretary of State.

Application to recognised students

7. These regulations shall apply to a person to whom a grant is for the time being paid in pursuance of regulation 34(1) of the Training of Teachers Regulations 1967**(a)** (grants to recognised students) and in its application to such a person any reference above to a provision of the principal regulations shall be construed as a reference to that provision as applied by regulation 34(2) of the Training of Teachers Regulations 1967.

Revocation of regulations

8. The Students' Dependants' Allowances Regulations 1973**(b)** are hereby revoked.

Given under the Official Seal of the Secretary of State for Education and Science on 23rd July 1975.

Fred Mulley,
(L.S.) Secretary of State for Education and Science.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations reproduce with amendments the regulations which enable the Secretary of State to pay allowances in respect of the wife, husband or child, of a student attending a course to which section 1 of the Education Act 1962 applies who is not entitled to any payment in respect of his or her dependants under the provisions regulating the payment of grants to students attending such courses. These regulations increase the rate of allowance payable in respect of the children of a one-parent family; they also contain provisions consequential on the Local Education Authorities Awards Regulations 1975 and make other minor changes.

(a) S.I. 1967/792 (1967 II, p. 2319). **(b)** S.I. 1973/1234 (1973 II, p. 3686).

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