

Draft Regulations laid before Parliament under section 52(2) of the Child Support Act 1991 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

FAMILY LAW

CHILD SUPPORT

The Child Support Maintenance (Changes to Basic Rate Calculation and Minimum Amount of Liability) Regulations 2012

Made - - - - *******

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 52(4) of, and paragraph 10A(1) of Schedule 1 to, the Child Support Act 1991(1):

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 52(2)(2) of that Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support Maintenance (Changes to Basic Rate Calculation and Minimum Amount of Liability) Regulations 2012 and shall come into force as set out below.

(2) This regulation comes into force on the day on which paragraph 3 of Schedule 4 to the Child Maintenance and Other Payments Act 2008(3) comes into force for the first time.

(3) Regulation 2 (change to calculation of the basic rate) comes into force in relation to a particular case on the day on which paragraph 3 of Schedule 4 to the Child Maintenance and Other Payments Act 2008 comes into force in relation to that type of case, immediately after that paragraph comes into force.

(4) Regulation 3 (minimum amount of liability where non-resident parent party to other maintenance arrangement) comes into force in relation to a particular case on the day on which

(1) 1991 c. 48. Schedule 1 was substituted by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 1(3); paragraph 10A(1) was amended by the Child Maintenance and Other Payments Act 2008 (c. 6) ("the 2008 Act"), Schedule 7, paragraph 1(30).
(2) Section 52(2) was substituted by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 25.
(3) 2008 c. 6.

paragraph 5 of Schedule 4 to the Child Maintenance and Other Payments Act 2008 comes into force in relation to that type of case, immediately after that paragraph comes into force.

Change to calculation of the basic rate

2. In Schedule 1 to the Child Support Act 1991, sub-paragraph (3) of paragraph 2(4) shall have effect as if, for “12%”, “16%” and “19%” in that sub-paragraph, there were substituted “11%”, “14%” and “16%” respectively.

Minimum amount of liability where non-resident parent party to other maintenance arrangement

3. In Schedule 1 to the Child Support Act 1991, sub-paragraph (2) of paragraph 5A(5) shall have effect as if for “£7” in that sub-paragraph there were substituted “£5”.

Signed by the authority of the Secretary of State for Work and Pensions

Date

Name
Parliamentary Under-Secretary of State
Department for Work and Pensions

(4) 1991 c. 48. Paragraph 2 was substituted by the 2008 Act, Schedule 4, paragraph 3.
(5) Paragraph 5A was inserted by the 2008 Act, Schedule 4, paragraph 5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the provisions in Schedule 1 to the Child Support Act 1991 (c. 48) (“the 1991 Act”) relating to the calculation of the basic rate of maintenance and the minimum amount of liability where the non-resident parent is party to another maintenance arrangement.

Paragraph 3 of Schedule 4 to the Child Maintenance and Other Payments Act 2008 (c. 6) (“the 2008 Act”) substitutes a new paragraph 2 of Schedule 1 to the 1991 Act. Under paragraph 2, the basic rate is calculated by applying a percentage to the non-resident parent’s gross weekly income. For the purposes of this calculation, paragraph 2(3) provides that, where the non-resident parent has one or more relevant other children, the non-resident parent’s weekly income is reduced by a given percentage.

Where paragraph 3 comes into force in relation to a particular case, regulation 2 provides that paragraph 2(3) of Schedule 1 to the 1991 Act has effect in relation to that case as if, for the percentage reductions of 12% (1 relevant other child), 16% (2 relevant other children) and 19% (3 or more relevant other children), there were substituted the percentages of 11%, 14% and 16% respectively.

Under paragraph 4 of Schedule 1 to the 1991 Act, the flat rate of maintenance is £5 a week and, under other provisions of Schedule 1, the minimum amount of liability for various purposes is also £5 a week.

Paragraph 5 of Schedule 4 to the 2008 Act inserts a new paragraph 5A into Schedule 1 of the 1991 Act. Paragraph 5A provides that, where a non-resident parent is party to another maintenance agreement, the minimum amount of liability is £7 a week (however, it is proposed that, on the initial commencement of paragraph 5 of Schedule 4, the flat rate of maintenance and the minimum amount of liability will be £5 a week).

Where paragraph 5 comes into force in relation to a particular case, regulation 3 provides that paragraph 5A(2) of Schedule 1 to the 1991 Act has effect in relation to that case as if for the figure of £7 there were substituted the figure of £5. The net effect is that the minimum amount of liability under paragraph 5A is £5 a week.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.