
DRAFT STATUTORY INSTRUMENTS

2000 No.

**The Child Support (Maintenance Calculations
and Special Cases) Regulations 2000**

PART II

CALCULATION OF CHILD SUPPORT MAINTENANCE

Calculation of amounts

2.—(1) Where any amount is to be considered in connection with any calculation made under these Regulations or under Schedule 1 to the Act, it shall be calculated as a weekly amount and, except where the context otherwise requires, any reference to such an amount shall be construed accordingly.

(2) Subject to paragraph (3), where any calculation made under these Regulations or under Schedule 1 to the Act results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded.

(3) Where the calculation of the basic rate of child support maintenance or the reduced rate of child support maintenance results in a fraction of a pound that fraction shall be treated as a pound if it is either one half or exceeds one half, otherwise it shall be disregarded.

(4) In taking account of any amounts or information required for the purposes of making a maintenance calculation, the Secretary of State shall apply the dates or periods specified in these Regulations as applicable to those amounts or information, provided that if he becomes aware of a material change of circumstances occurring after such date or period, but before the effective date, he shall take that change of circumstances into account.

(5) Information required for the purposes of making a maintenance calculation in relation to the following shall be the information applicable at the effective date—

- (a) the number of qualifying children;
- (b) the number of relevant other children;
- (c) whether the non-resident parent receives a benefit, pension or allowance prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Act;
- (d) whether the non-resident parent or his partner receives a benefit prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the Act; and
- (e) whether paragraph 5(a) of Schedule 1 to the Act applies to the non-resident parent.

Reduced Rate

3. The reduced rate is an amount calculated as follows—

$F+(A \times T)$

where—

F is the flat rate liability applicable to the non-resident parent under paragraph 4 of Schedule 1 to the Act;

A is the amount of the non-resident parent's net weekly income between £100 and £200; and

T is the percentage determined in accordance with the following Table—

	1 qualifying child of the non-resident parent			2 qualifying children of the non-resident parent			3 or more qualifying children of the non-resident parent					
Number of relevant other children of the non-resident parent	1	2	3 or more	0	1	2	3 or more	0	1	2	3 or more	
T (%)	25	20.5	19	17.5	35	29	27	25	45	37.5	35	32.5

Flat rate

4.—(1) The following benefits, pensions and allowances are prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Act—

(a) under the Contributions and Benefits Act—

- (i) bereavement allowance under section 39B(1);
- (ii) category A retirement pension under section 44(2);
- (iii) category B retirement pension under section 48C(3);
- (iv) category C and category D retirement pensions under section 78(4);
- (v) incapacity benefit under section 30A(5);
- (vi) invalid care allowance under section 70;
- (vii) maternity allowance under section 35(6);
- (viii) severe disablement allowance under section 68(7);
- (ix) industrial injuries benefit under section 94;
- (x) widowed mother's allowance under section 37;
- (xi) widowed parent's allowance under section 39A; and
- (xii) widow's pension under section 38;

- (1) Sections 39A and 39B were inserted by section 55 of the Welfare Reform and Pensions Act 1999 (c. 30).
- (2) Section 44 was amended by paragraph 32 of Schedule 8 to the Pension Schemes Act 1993 (c. 48), sections 1–3, 5, 6, 8–10 of and Schedule 1 to, the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 127–134 of, and Schedules 1 and 2 to, the Pensions Act 1995 (c. 26) and by sections 30(2) and 35(5)–(7) of the Child Support, Pensions and Social Security Act 2000. Section 44(4) was substituted by section 68 of the Social Security Act 1998 (c. 47).
- (3) Section 48C was inserted by paragraph 7 of Schedule 8 to the Welfare Reform and Pensions Act 1999.
- (4) Section 78 was amended by section 127–134 of, and Schedules 4 and 5 to, the Pensions Act 1995.
- (5) Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994.
- (6) Section 35 was amended by section 67 of the Social Security Act 1988, section 2 of the Still-Birth Definition Act 1992 (c. 29) and by section 53 of the Welfare Reform and Pensions Act 1999. Sections 35(1) and (1A) were substituted by section 53 of the Welfare Reform and Pensions Act 1999.
- (7) Section 68 is prospectively repealed with savings by section 65 of, and Part IV of Schedule 13 to, the Welfare Reform and Pensions Act 1999.

- (b) contribution-based jobseeker's allowance under section 1 of the Jobseekers Act;
 - (c) a social security benefit paid by a country other than the United Kingdom;
 - (d) a training allowance (other than work-based training for young people or, in Scotland, Skillseekers training); and
 - (e) a war disablement pension or war widow's pension within the meaning of section 150(2) of the Contributions and Benefits Act⁽⁸⁾ or a pension which is analogous to such a pension paid by the government of a country outside Great Britain.
- (2) The benefits prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the Act are—
- (a) income support under section 124 of the Contributions and Benefits Act; and
 - (b) income-based jobseeker's allowance under section 1 of the Jobseekers Act.
- (3) Where the non-resident parent is liable to pay a flat rate by virtue of paragraph 4(2) of Schedule 1 to the Act—
- (a) if he has one partner, then the amount payable by the non-resident parent shall be half the flat rate; and
 - (b) if he has more than one partner, then the amount payable by the non-resident parent shall be the result of apportioning the flat rate equally among him and his partners.

Nil rate

5. The rate payable is nil where the non-resident parent is—
- (a) a student;
 - (b) a child within the meaning given in section 55(1) of the Act;
 - (c) a prisoner;
 - (d) a person who is 16 or 17 years old and—
 - (i) in receipt of income support or income-based jobseeker's allowance; or
 - (ii) a member of a couple whose partner is in receipt of income support or income-based jobseeker's allowance;
 - (e) a person receiving an allowance in respect of work-based training for young people, or in Scotland, Skillseekers training;
 - (f) a person in a residential care home or nursing home who—
 - (i) is in receipt of a pension, benefit or allowance specified in regulation 4(1) or (2); or
 - (ii) has the whole or part of the cost of his accommodation met by a local authority;
 - (g) a patient in hospital who is in receipt of income support whose applicable amount includes an amount under paragraph 1(a) or (b) of Schedule 7 to the Income Support Regulations (patient for more than 6 weeks);
 - (h) a person in receipt of a benefit specified in regulation 4(1) the amount of which has been reduced in accordance with the provisions of regulations 4(d) and 6 of the Social Security Hospital In-Patients Regulations 1975 (circumstances in which personal benefit is to be adjusted and adjustment of personal benefit after 52 weeks in hospital)⁽⁹⁾; or
 - (i) a person who would be liable to pay the flat rate because he satisfies the description in paragraph 4(1)(c) of Schedule 1 to the Act but his net weekly income, inclusive of—

⁽⁸⁾ Section 150(2) was amended by section 132 of, and paragraph 13 of Schedule 4 to, the Pensions Act 1995.

⁽⁹⁾ S.I.1975/555. Regulation 4(d) has been amended by regulation 2(3)(b) of S.I. 1987/1683 and regulation 6 has been amended by section 18(1) of the Social Security Act 1986 (c. 50), regulation 3 of S.I. 1977/1963, regulation 2 of S.I. 1987/31 and regulation 2 of S.I. 1987/1683.

- (aa) any benefit, pension or allowance that he receives which is prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Act; and
- (bb) any benefit that he or his partner receives which is prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the Act,

is less than £5 a week.

Apportionment

6. If, in making the apportionment required by regulation 4(3) or paragraph 6 of Part I of Schedule 1 to the Act, the effect of the application of regulation 2(2) (rounding) would be such that the aggregate amount of child support maintenance payable by a non-resident parent would be different from the aggregate amount payable before any apportionment, the Secretary of State shall adjust that apportionment so as to eliminate that difference; and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which she would have received if no adjustment had been made under this paragraph.

Shared care

7.—(1) For the purposes of paragraphs 7 and 8 of Part I of Schedule 1 to the Act a night will count for the purposes of shared care where the non-resident parent—

- (a) has the care of a qualifying child overnight; and
- (b) the qualifying child stays at the same address as the non-resident parent.

(2) For the purposes of paragraphs 7 and 8 of Part I of Schedule 1 to the Act, a non-resident parent has the care of a qualifying child when he is looking after the child.

(3) Subject to paragraph (4), in determining the number of nights for the purposes of shared care, the Secretary of State shall consider the 12 month period ending with the relevant week and for this purpose “relevant week ” has the same meaning as in the definition of day to day care in regulation 1 of these Regulations.

(4) The circumstances in which the Secretary of State may have regard to a number of nights over less than a 12 month period are where there has been no pattern for the frequency with which the non-resident parent looks after the qualifying child for the 12 months preceding the relevant week, or the Secretary of State is aware that a change in that frequency is intended, and in that case he shall have regard to such lesser period as may seem to him to be appropriate, and the Table in paragraph 7(4) and the period in paragraph 8(2) of Schedule 1 to the Act shall have effect subject to the adjustment described in paragraph (5).

(5) Where paragraph (4) applies, the Secretary of State shall adjust the number of nights in that lesser period by applying to that number the ratio which the period of 12 months bears to that lesser period.

(6) Where a child is a boarder at a boarding school, or is a patient in a hospital, the person who, but for those circumstances, would otherwise have care of the child overnight shall be treated as providing that care during the periods in question.