
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Child Support Maintenance Calculation Regulations 2012

PART 4

THE MAINTENANCE CALCULATION RULES

CHAPTER 2

RATES OF CHILD SUPPORT MAINTENANCE

Flat Rate

44.—(1) The following benefits, pensions or allowances are prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the 1991 Act⁽¹⁾ (that is the benefits, pensions or allowances that qualify the non-resident parent for the flat rate)—

- (a) under the Social Security Contributions and Benefits Act 1992⁽²⁾—
 - (i) bereavement allowance under section 39B⁽³⁾,
 - (ii) category A retirement pension under section 44⁽⁴⁾,
 - (iii) category B retirement pension under section 48C⁽⁵⁾,
 - (iv) category C and category D retirement pension under section 78⁽⁶⁾,
 - (v) incapacity benefit under section 30A⁽⁷⁾,
 - (vi) carer's allowance under section 70⁽⁸⁾,
 - (vii) maternity allowance under section 35⁽⁹⁾,

(1) Paragraph 4 of Schedule 1 was amended by paragraphs 1 and 2 of Schedule 4 to the 2008 Act.

(2) 1992 c. 4.

(3) Section 39B was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by sections 254(1) and 261(4) of, and paragraph 21 of Schedule 24, and Schedule 30, to the Civil Partnership Act 2004 (c. 33).

(4) Section 44 was amended by section 6 of, and paragraphs 2 and 3 of the Schedule 4 to, the Social Security (Consequential Provisions) Act 1992 (c.6), section 190 of, and paragraph 38 of Schedule 8 to, the Pension Schemes Act 1993 (s.48), section 128(1) and (2) of the Pensions Act 1995 (c.26), section 68 of the Social Security Act 1998 (c.14), sections 30(2) and 35(1) and (5) to (7) of the 2000 Act, section 6 of, and paragraphs 1 and 10 of the Schedule 1 to, the National Insurance Contributions Act 2002 (c.19), sections 1(4), 11(5)(c) and 12(2) of, and paragraph 1 of Schedule 1 and paragraph 5 of Schedule 2 to, the Pensions Act 2007 (c.22), section 3(1) and (3) of the National Insurance Contributions Act 2008 (c.16) and article 4 of S.I. 2012/780.

(5) Section 48C was inserted by section 126 of, and paragraph 3(1) of Schedule 4 to, the Pensions Act 1995 (c.26). It was amended by sections 70 and 84(1) of, and paragraphs 2 and 7 of Schedule 8 and paragraphs 14 and 21 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c.30) and sections 35(1) and (12) and 39(1)(a) and (2)(b) of the 2000 Act, and section 11(5) (c) of, and paragraph 10 of Schedule 2 to, the Pensions Act 2007 (c.22) and by S.I. 2005/2053.

(6) Section 78 was amended by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c.21) and sections 4(3) and 27(2) of, and paragraph 13 of Schedule 1, and Part 2 of Schedule 7 to, the Pensions Act 2007 (c.22).

(7) Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 (c.18). It was amended by section 64 of the Welfare Reform and Pensions Act 1999 (c.30) and section 254(1) of, and paragraph 14 of Schedule 24 to, the Civil Partnership Act 2004 (c.33).

(8) Section 70 was amended by S.I.s 1994/2556, 2002/1457 and 2011/2426.

(9) Section 35 was amended by section 2 of the Still-Birth (Definition) Act 1992 (c.92), section 67 of the Social Security Act 1998 (c.14), section 53(1) and (2) of the Welfare Reform and Pensions Act 1999 (c.30), section 53 of, and paragraphs 2 and 4 of Schedule 7 to, the Employment Act 2002 (c.22) and section 11(1) of, and paragraph 6 of Schedule 1 to, the Work and Families Act 2006 (c.18) and by S.I. 1994/1230.

- (viii) severe disablement allowance under section 68**(10)**,
- (ix) industrial injuries benefit under section 94,
- (x) widowed mother's allowance under section 37**(11)**,
- (xi) widowed parent's allowance under section 39A**(12)**, and
- (xii) widow's pension under section 38**(13)**;
- (b) contribution-based jobseeker's allowance under the Jobseekers Act 1995**(14)**;
- (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);
- (e) a war disablement pension within the meaning of section 150(2) of the Social Security Contributions and Benefits Act 1992**(15)** or a pension which is analogous to such a pension paid by the government of a country outside Great Britain;
- (f) a war widow's pension, war widower's pension or surviving civil partner's war pension within the meaning of that section**(16)**;
- (g) a payment under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004**(17)** (compensation schemes for armed and reserve forces); and
- (h) contributory employment and support allowance.

(2) The following benefits are prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the 1991 Act (that is the benefits that qualify the non-resident parent for the flat rate if received by the non-resident parent or their partner)—

- (a) income support;
- (b) income-based jobseeker's allowance;
- (c) income-related employment and support allowance; and
- (d) state pension credit.

(3) Where the conditions referred to in paragraph 4(2) of Schedule 1 to the 1991 Act are satisfied (that is where an income-related benefit is payable to the non-resident parent or their partner and a maintenance calculation is in force in respect of each of them) the flat rate of maintenance payable is half the flat rate that would otherwise apply.

(4) In paragraph (1)(d) "training allowance" means a payment under section 2 of the Employment and Training Act 1973**(18)** or section 2 of the Enterprise and New Towns (Scotland) Act 1990**(19)** which is paid to a person for their maintenance while they are undergoing training.

-
- (10)** Section 68 was repealed by section 65 of the Welfare Reform and Pensions Act 1999 with savings in [S.I. 2000/2958](#).
 - (11)** Section 37 was amended by sections 254(1) and 261(4) of, and paragraph 18 of Schedule 24, and Schedule 30, to, the Civil Partnership Act 2004 ([c.33](#)), section 1(3) of, and paragraphs 1 and 2 of Schedule 1 to, the Child Benefit Act 2005 ([c.6](#)) and sections 50 and 67 of, and Schedule 8 to, the Welfare Reform Act 2007 ([c.5](#)).
 - (12)** Section 39A was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 ([c.30](#)). It was amended by sections 254(1) and 261(4) of, and paragraph 20 of Schedule 24, and Schedule 30, to, the Civil Partnership Act 2004 ([c.33](#)), section 1(3) of, and paragraphs 1 and 3 of Schedule 1 to, the Child Benefit Act 2005 ([c.6](#)) and section 51 of the Welfare Reform Act 2007 ([c.5](#)).
 - (13)** Section 38 was amended by sections 254(1) and 261(4) of, and paragraph 19 of Schedule 24, and Schedule 30, to, the Civil Partnership Act 2004 ([c.33](#)) and section 13(2) of, and paragraph 40 of Schedule 1 to, the Pensions Act 2007 ([c.22](#)).
 - (14)** [1995 c.18](#).
 - (15)** Relevant amendments were made to section 150(2) by section 722 of, and paragraphs 169 and 180(1) and (3) of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 ([c.1](#)).
 - (16)** Relevant amendments were made to section 150 by section 722 of, and paragraphs 169 and 180(1) and (4) of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 ([c.1](#)) and section 254(1) of, and paragraph 49 of Schedule 24 to, the Civil Partnership Act 2004 ([c.33](#)).
 - (17)** [2004 c.32](#).
 - (18)** [1973 c.50](#). Section 2 was substituted by section 25(1) of the Employment Act 1988 ([c.19](#)). It was amended by section 29(4) of, and Part 1 of Schedule 7 to, the Employment Act 1989 ([c.38](#)).

(19) [1990 c.35](#). Section 2 was amended by sections 47 and 51 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act [1993 \(c.19\)](#), and section 211(1) of, and paragraphs 19 and 20 of Schedule 26 to, the Equality Act [2010 \(c.15\)](#) (as inserted by [S.I. 2010/2279](#)) and by [S.I.1999/1820](#).