
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Child Support Maintenance Calculation Regulations 2012

PART 5

VARIATIONS

CHAPTER 2

GROUND FOR VARIATION: SPECIAL EXPENSES

Boarding school fees

66.—(1) Subject to the following paragraphs of this regulation and regulation 68 (thresholds), the maintenance element of boarding school fees, incurred or reasonably expected to be incurred by the non-resident parent, constitutes special expenses for the purposes of paragraph 2(2) of Schedule 4B to the 1991 Act.

(2) Where the Secretary of State considers that the maintenance element of the boarding school fees cannot be distinguished with reasonable certainty from the total fees, the Secretary of State may instead determine the amount of the maintenance element and any such determination is not to exceed 35% of the total fees.

(3) Where—

- (a) the non-resident parent has, at the date on which the variation application is made, received, or at that date is in receipt of, financial assistance from any source in respect of the boarding school fees; or
- (b) the boarding school fees are being paid in part by the non-resident parent and in part by another person,

a portion of the expenses incurred by the non-resident parent in respect of the boarding school fees, calculated in accordance with paragraph (4), constitutes special expenses for the purposes of paragraph 2(2) of Schedule 4B to the 1991 Act.

(4) For the purposes of paragraph (3), the portion in question is calculated as follows—

- (a) find the amount (A) that results from deducting from the amount of the boarding school fees the financial assistance, or the amount that another person is paying, as referred to in paragraph (3);
- (b) find the amount that bears the same proportion to A as the maintenance element of the fees referred to in paragraph (1) bears to the total fees referred to in that paragraph, and that amount is the portion in question.

(5) No variation on this ground may reduce by more than 50% the income to which the Secretary of State would otherwise have had regard in the calculation of maintenance liability.

(6) For the purposes of this regulation, “boarding school fees” means the fees payable in respect of attendance at a recognised educational establishment providing full-time education, which is not advanced education, for children under the age of 20 and where some or all of the pupils, including the qualifying child, are resident during term time.

(7) For the purposes of paragraph (6)—

“recognised educational establishment” means an establishment recognised by the Secretary of State for the purposes of that paragraph as being, or as comparable to, a university, college or school;

“advanced education” means education for the purposes of—

- (a) a course in preparation for a degree, a diploma of higher education, a higher national diploma or a teaching qualification; or
- (b) any other course which is of a standard above ordinary national diploma including a national diploma or national certificate of Edexcel, a general certificate of education (advanced level) or Scottish national qualifications at higher or advanced higher level.