
STATUTORY INSTRUMENTS

1992 No. 1815

**The Child Support (Maintenance Assessments
and Special Cases) Regulations 1992**

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 and shall come into force on 5th April 1993.

(2) In these Regulations unless the context otherwise requires—

“the Act” means the Child Support Act 1991;

[^{F1}“care home” has the meaning assigned to it by section 3 of the Care Standards Act 2000;]

[^{F1}“care home service” has the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;]

[^{F2}“Child Benefit Rates Regulations” means the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976;]

[^{F3}“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;]

“claimant” means a claimant for income support;

“Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992^{M1};

[^{F4}“Contributions and Benefits (Northern Ireland) Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;]

“council tax benefit” has the same meaning as in the Local Government Finance Act 1992^{M2};

[^{F5}“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;]

“course of advanced education” means

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- (a) a full-time course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a Diploma of Higher Education, a higher national diploma, a higher national diploma or higher national certificate of the Business and [^{F6}Technology] Education Council or the Scottish Vocational Education Council or a teaching qualification; or
- (b) any other full-time course which is a course of a standard above that of an ordinary national diploma, a national diploma or national certificate of the Business and [^{F6}Technology] Education Council or the Scottish Vocational Education Council, the advanced level of the General Certificate of Education, a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies;

“covenant income” means the gross income payable to a student under a Deed of Covenant by a parent;

“day” includes any part of a day;

[^{F7}“day to day care” means—

- (a) care of not less than 104 nights in total during the 12 month period ending with the relevant week; or
- (b) where, in the opinion of the [^{F8}Secretary of State, a period other than 12 months] is more representative of the current arrangements for the care of the child in question, care during that period is not less in total than the number of nights which bears the same ratio to 104 nights as that period bears to 12 months,

and for the purpose of this definition—

- (i) where a child is a boarder at a boarding school, or is an in-patient in a hospital, the person who, but for those circumstances, would otherwise provide day to day care of the child shall be treated as providing day to day care during the periods in question;]
- [^{F9}(ii) in relation to an application for child support maintenance, “relevant week” shall have the meaning ascribed to it in head (ii) of sub-paragraph (a) of the definition of “relevant week” in this paragraph;]
- [^{F10}(iii) in a case where notification is given under regulation 24 of the Maintenance Assessment Procedure Regulations to the relevant persons on different dates, “relevant week” means the period of seven days immediately preceding the date of the latest notification;]

[^{F11}“Departure Direction and Consequential Amendments Regulations” means the Child Support Departure Direction and Consequential Amendments Regulations 1996;]

^{F12}
...

^{F13}
...

“earnings” has the meaning assigned to it by paragraph [^{F14}1, 2A or 3], as the case may be, of Schedule 1;

[^{F15}“earnings top-up” means the allowance paid by the Secretary of State under the rules specified in the Earnings Top-up Scheme;

“The Earnings Top-up Scheme” means the Earnings Top-up Scheme 1996;]

“effective date” means the date on which a maintenance assessment takes effect for the purposes of the Act;

“eligible housing costs” shall be construed in accordance with Schedule 3;

“employed earner” has the same meaning as in section 2(1)(a) of the Contributions and Benefits Act [^{F16}except that it shall include a person gainfully employed in Northern Ireland];

[^{F17}“family” means—

- (a) [^{F18}a couple] (including the members of a polygamous marriage);
- (b) [^{F18}a couple] (including the members of a polygamous marriage) and any child or children living with them for whom at least one member of that couple has day to day care;
- (c) where a person who is not a member of [^{F18}a couple] has day to day care of a child or children, that person and any such child or children;

and for the purposes of this definition a person shall not be treated as having day to day care of a child who is a member of that person's household where the child in question is being looked after by a local authority within the meaning of section 22 of the Children Act 1989 or, in Scotland, where the child is boarded out with that person by a local authority under the provisions of section 21 of the Social Work (Scotland) Act 1968;]

^{F13} ...

"grant" means any kind of educational grant or award and includes any scholarship, exhibition, allowance or bursary but does not include a payment made under section 100 of the Education Act 1944^{M3} or section 73 of the Education (Scotland) Act 1980^{M4};

"grant contribution" means any amount which a Minister of the Crown or an education authority treats as properly payable by another person when assessing the amount of a student's grant and by which that amount is, as a consequence, reduced;

"home" means—

- (a) the dwelling in which a person and any family of his normally live; or
- (b) if he or they normally live in more than one home, the principal home of that person and any family of his,

and for the purpose of determining the principal home in which a person normally lives no regard shall be had to residence in [^{F19}a care home or an independent hospital or to the provision of a care home service or an independent health care service] during a period which does not exceed 52 weeks or, where it appears to the [^{F20}Secretary of State] that the person will return to his principal home after that period has expired, such longer period as [^{F21}the Secretary of State] considers reasonable to allow for the return of that person to that home;

"housing benefit" has the same meaning as in section 130 of the Contributions and Benefits Act;

"Housing Benefit Regulations" means the Housing Benefit (General) Regulations 1987^{M5};

"Income Support Regulations" means the Income Support (General) Regulations 1987^{M6};

[^{F22}"independent health care service" has the meaning assigned to it by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;]

[^{F22}"independent hospital" has the meaning assigned to it by section 2 of the Care Standards Act 2000;]

[^{F23}"Independent Living (1993) Fund" means the charitable trust of that name established by a deed made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;]

[^{F24}"Independent Living (Extension) Fund" means the charitable trust of that name established by a deed made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;]

[^{F25}"the Jobseekers Act" means the Jobseekers Act 1995;]

"Maintenance Assessment Procedure Regulations" means the Child Support (Maintenance Assessment Procedure) Regulations 1992^{M7};

^{F26} ...

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“non-dependant” means a person who is a non-dependant for the purposes of either—

- (a) regulation 3 of the Income Support Regulations; or
- (b) regulation 3 of the Housing Benefit Regulations,

or who would be a non-dependant for those purposes if another member of the household in which he is living were entitled to income support or housing benefit as the case may be;

^{F27} ...

“occupational pension scheme” has the same meaning as in section ^{F28}section 1 of the Pension Schemes Act 1993];

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

“parent with care” means a person who, in respect of the same child or children, is both a parent and a person with care;

“partner” means—

- (a) in relation to a member of ^{F29}a couple] who are living together, the other member of that couple;
- (b) in relation to a member of a polygamous marriage, any other member of that marriage with whom he lives;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a young offender institution within the meaning of the Criminal Justice Act 1982 ^{M8} as amended by the Criminal Justice Act 1988 ^{M9}) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975^{M10};

“person” does not include a local authority;

“personal pension scheme” has the same meaning as in ^{F30}section 1 of the Pensions Schemes Act 1993] and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988^{M11};

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and in respect of which any ceremony of marriage took place under the law of a country which at the time of that ceremony permitted polygamy;

^{F31}“Primary Care Trust” means a Primary Care Trust established under section 16A of the National Health Service Act 1977;]

“prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person whose detention is under the Mental Health Act 1983 ^{M12} or ^{F32}Part 5, 6 or 7 or section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 52D or 52M of the Criminal Procedure (Scotland) Act 1995];

^{F33}“profit-related pay” means any payment by an employer calculated by reference to actual or anticipated profits;]

^{F34}“qualifying transfer” has the meaning assigned to it in Schedule 3A;]

“relevant child” means a child of an absent parent or a parent with care who is a member of the same family as that parent;

“relevant Schedule” means Schedule 2 to the Income Support Regulations (income support applicable amounts);

^{F35}“relevant week” means—

- (a) in relation to an application for child support maintenance—

- (i) in the case of the applicant, the period of seven days immediately preceding the date on which the appropriate maintenance assessment application form (being an effective application within the meaning of regulation 2(4) of the Maintenance Assessment Procedure Regulations) is submitted to the Secretary of State;
 - (ii) in the case of a person to whom a maintenance assessment enquiry form is given or sent as the result of such an application, the period of seven days immediately preceding the date on which that form is given or sent to him or, as the case may be, the date on which it is treated as having been given or sent to him under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;
- (b) where a decision (“the original decision”) is to be—
- (i) revised under section 16 of the Act; or
 - (ii) superseded by a decision under section 17 of the Act on the basis that the original decision was made in ignorance of, or was based upon a mistake as to some material fact or was erroneous in point of law,
- the period of seven days which was the relevant week for the purposes of the original decision;
- (c) where a decision (“the original decision”) is to be superseded by a decision under section 17 of the Act—
- (i) on an application made for the purpose on the basis that a material change of circumstances has occurred since the original decision was made, the period of seven days immediately preceding the date on which that application was made;
 - (ii) subject to paragraph (b), in a case where a relevant person is given notice under regulation 24 of the Maintenance Assessment Procedure Regulations, the period of seven days immediately preceding the date of that notification;

except that where, under paragraph 15 of Schedule 1 to the Act, the Secretary of State makes separate maintenance assessments in respect of different periods in a particular case, because he is aware of one or more changes of circumstances which occurred after the date which is applicable to that case under paragraph (a), (b) or (c) the relevant week for the purposes of each separate assessment made to take account of each such change of circumstances, shall be the period of seven days immediately preceding the date on which notification was given to the Secretary of State of the change of circumstances relevant to that separate maintenance assessment;]

F27 ...

“retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium;

“self-employed earner” has the same meaning as in section 2(1)(b) of the Contributions and Benefits Act [^{F36}except that it shall include a person gainfully employed in Northern Ireland otherwise than in employed earner’s employment (whether or not he is also employed in such employment)];

[^{F37}“state pension credit” means the social security benefit of that name payable under the State Pension Credit Act 2002;]

“student” means a person, other than a person in receipt of a training allowance, who is aged less than 19 and attending a full-time course of advanced education or who is aged 19 or over and attending a full-time course of study at an educational establishment; and for the purposes of this definition—

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- (a) a person who has started on such a course shall be treated as attending it throughout any period of term or vacation within it, until the last day of the course or such earlier date as he abandons it or is dismissed from it;
- (b) a person on a sandwich course (within the meaning of paragraph 1(1) of Schedule 5 to the ^{F38}Education (Mandatory Awards) (No. 2) Regulations 1993]) shall be treated as attending a full-time course of advanced education or, as the case may be, of study;

“student loan” means a loan which is made to a student pursuant to arrangements made under section 1 of the Education (Student Loans) Act 1990^{M13};

^{F39} ...

“training allowance” has the same meaning as in regulation 2 of the Income Support Regulations;

^{F26} ...

“weekly council tax” means the annual amount of the council tax in question payable in respect of the year in which the effective date falls, divided by 52;

“^{F40}work-based training for young people or, in Scotland, Skillseekers training]” means—

- (a) arrangements made under section 2 of the Employment and Training Act 1973 ^{M14} or section 2 of the Enterprise and New Towns (Scotland) Act 1990^{M15}; or
- (b) arrangements made by the Secretary of State for persons enlisted in Her Majesty’s forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966 ^{M16} (power of Defence Council to make regulations as to engagement of persons in regular forces);

for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.

^{F41}“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;]

“year” means a period of 52 weeks;

^{F42}(2A) Where any provision of these Regulations requires the income of a person to be estimated and that or any other provision of these Regulations requires that the amount of such estimated income is to be taken into account for any purpose after deducting from it a sum in respect of income tax or of primary Class 1 contributions under the Contributions and Benefits Act ^{F43}or, as the case may be, the Contributions and Benefits (Northern Ireland) Act] or of contributions paid by that person towards an occupational or personal pension scheme, then ^{F44}subject to sub-paragraph (e)–

- (a) the amount to be deducted in respect of income tax shall be calculated by applying to that income the rates of income tax applicable at the ^{F45}relevant week] less only the personal relief to which that person is entitled under Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 (personal relief); but if the period in respect of which that income is to be estimated is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis ^{F46}and the amount of income to which each tax rate applies shall be determined on the basis that the ratio of that amount to the full amount of the income to which each tax rate applies is the same as the ratio of the proportionate part of that personal relief to the full personal relief];
- (b) the amount to be deducted in respect of Class 1 contributions under the Contributions and Benefits Act ^{F43}or, as the case may be, the Contributions and Benefits (Northern Ireland) Act] shall be calculated by applying to that income the appropriate primary percentage applicable in the relevant week; and
- (c) the amount to be deducted in respect of contributions paid by that person towards an occupational ^{F47}... pension scheme shall be one-half of the sums so ^{F48}paid; and]]

- [^{F49}(d) the amount to be deducted in respect of contributions towards a personal pension scheme shall be one half of the contributions paid by that person or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured on that person's home, 37.5 per centum of those contributions;
- (e) in relation to any bonus or commission which may be included in that person's income—
- (i) the amount to be deducted in respect of income tax shall be calculated by applying to the gross amount of that bonus or commission the rate or rates of income tax applicable in the relevant week;
- (ii) the amount to be deducted in respect of primary Class 1 contributions under the Contributions and Benefit Act [^{F43}or, as the case may be, the Contributions and Benefits (Northern Ireland) Act]^{F50} ... shall be calculated by applying to the gross amount of that bonus or commission the appropriate main primary percentage applicable in the relevant week [^{F51}but no deduction shall be made in respect of the portion (if any) of the bonus or commission which, if added to estimated income, would cause such income to exceed the upper earnings limit for Class 1 contributions as provided for in section 5(1)(b) of the Contributions and Benefits Act [^{F43}or, as the case may be, the Contributions and Benefits (Northern Ireland) Act]]; and
- (iii) the amount to be deducted in respect of contributions paid by that person in respect of the gross amount of that bonus or commission towards an occupational pension scheme shall be one half of any sum so paid.]
- (3) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered Part is to the Part of these Regulations bearing that number;
- (b) to a numbered Schedule is to the Schedule to these Regulations bearing that number;
- (c) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.
- (4) [^{F52}These Regulations are subject to the provisions of Parts VIII and IX of the Departure Direction and Consequential Amendments Regulations and] the regulations in Part II and the provisions of the Schedules to these Regulations are subject to the regulations relating to special cases in Part III.

Textual Amendments

- F1** Words in reg. 1(2) inserted (5.11.2003) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 2003 \(S.I. 2003/2779\)](#), regs. 1, **4(2)(c)**
- F2** Words in reg. 1(2) inserted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **7**
- F3** Words in reg. 1(2) inserted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(2)(a)**
- F4** Words in reg. 1(2) inserted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **10(2)(a)(b)**
- F5** Words in reg. 1(2) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 4 para. 2(2)(a)** (with art. 3)
- F6** Word in reg. 1(2) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **19(2)(a)**

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- F7** Words in reg. 1(2) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(2)(i)**
- F8** Words in reg. 1(2) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **14(1)(a)(i)**
- F9** Words in reg. 1(2) substituted (22.1.1996) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995 (S.I. 1995/3261), regs. 1(2), **40(2)(a)**
- F10** Words in reg. 1(2) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **14(1)(a)(ii)**
- F11** Words in reg. 1(2) inserted (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **42(2)(a)** (with reg. 59)
- F12** Words in reg. 1(2) omitted (19.1.1998) b.v.o (S.I. 1996/2907) 68(2) being revoked by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **30**
- F13** Words in reg. 1(2) omitted (6.4.2003) by virtue of The Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/328), regs. 1(3)(d), **6(2)(b)**
- F14** Words in reg. 1(2) substituted (4.10.1999) by The Child Support (Miscellaneous Amendments) Regulations 1999 (S.I. 1999/977), regs. 1(1), **6(2)(a)** (with reg. 7)
- F15** Words in reg. 1(2) added (7.10.1996) by The Child Support (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1945), regs. 1(2), **18(2)**
- F16** Words in reg. 1(2) added (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **42(2)(b)** (with reg. 59)
- F17** Words in reg. 1(2) substituted (5.8.1996) by The Child Support (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1945), regs. 1, **18(3)**
- F18** Words in reg. 1(2) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 4 para. 2(2)(b)** (with art. 3)
- F19** Words in reg. 1(2) substituted (5.11.2003) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 (S.I. 2003/2779), regs. 1, **4(2)(a)**
- F20** Words in reg. 1(2) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **14(1)(b)(i)**
- F21** Words in reg. 1(2) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **14(1)(b)(ii)**
- F22** Words in reg. 1(2) inserted (5.11.2003) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 (S.I. 2003/2779), regs. 1, **4(2)(d)**
- F23** Words in reg. 1(2) inserted (5.4.1993) by The Child Support (Miscellaneous Amendments) Regulations 1993 (S.I. 1993/913), regs. 1(1), **19(2)(c)(i)**
- F24** Words in reg. 1(2) inserted (5.4.1993) by The Child Support (Miscellaneous Amendments) Regulations 1993 (S.I. 1993/913), regs. 1(1), **19(2)(c)(ii)**
- F25** Words in reg. 1(2) inserted (7.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345), regs. 1, **6(2)**
- F26** Words in reg. 1(2) omitted (5.12.2005) by virtue of The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 4 para. 2(2)(c)** (with art. 3)
- F27** Words in reg. 1(2) omitted (5.11.2003) by virtue of The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 (S.I. 2003/2779), regs. 1, **4(2)(b)**
- F28** Words in reg. 1(2) substituted (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **42(2)(c)** (with reg. 59)
- F29** Words in reg. 1(2) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 4 para. 2(2)(d)** (with art. 3)
- F30** Words in reg. 1(2) substituted (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **10(2)(c)**

- F31** Words in reg. 1(2) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), regs. 1, 11, **Sch. 8**
- F32** Words in reg. 1(2) substituted (E.W.N.I.) (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 1(1), **Sch. 2 para. 15**; (S) (S.I. 2005/445), Sch. para. 18
- F33** Words in reg. 1(2) inserted (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **10(2)(d)**
- F34** Words in reg. 1(2) inserted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(2)(ii)**
- F35** Words in reg. 1(2) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **14(1)(c)**
- F36** Words in reg. 1(2) added (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **42(2)(e)** (with reg. 59)
- F37** Words in reg. 1(2) inserted (5.11.2003) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 (S.I. 2003/2779), regs. 1, **4(2)(e)**
- F38** Words in reg. 1(2) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(2)(iii)**
- F39** Words in reg. 1(2) omitted (5.4.1993) by virtue of The Child Support (Miscellaneous Amendments) Regulations 1993 (S.I. 1993/913), regs. 1(1), **19(2)(e)**
- F40** Words in reg. 1(2) substituted (6.4.1999) by The Child Support (Miscellaneous Amendments) Regulations 1999 (S.I. 1999/977), regs. 1(1), **6(2)(b)** (with reg. 7)
- F41** Words in reg. 1(2) substituted (6.4.2003) by The Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/328), regs. 1(3)(d), **6(2)(c)**
- F42** Reg. 1(2A) inserted (5.4.1993) by The Child Support (Miscellaneous Amendments) Regulations 1993 (S.I. 1993/913), regs. 1(1), **19(3)**
- F43** Words in reg. 1(2A) inserted (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **10(3)(a)**
- F44** Words in reg. 1(2A) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(3)(a)**
- F45** Words in reg. 1(2A) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(3)(b)**
- F46** Words in reg. 1(2A)(a) added (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **42(3)** (with reg. 59)
- F47** Words in reg. 1(2A) omitted (18.4.1995) by virtue of The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(3)(c)**
- F48** Words in reg. 1(2A) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(3)(c)**
- F49** Reg. 1(2A)(d)(e) inserted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **41(3)(d)**
- F50** Words in reg. 1(2A)(e)(ii) omitted (13.1.1997) by virtue of The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **10(3)(b)**
- F51** Words in reg. 1(2A)(e)(ii) inserted (22.1.1996) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995 (S.I. 1995/3261), regs. 1(2), **40(3)**
- F52** Words in reg. 1(4) inserted (2.12.1996) by The Child Support Departure Direction and Consequential Amendments Regulations 1996 (S.I. 1996/2907), regs. 1(1), **68(3)**

Marginal Citations

- M1** 1992 c.4.
M2 1992 c.14.
M3 1944 c.31.
M4 1980 c.44.
M5 S.I. 1987/1971; the relevant amending instruments are S.I. 1988/1444, 1989/416 and 1991/503, 2910.

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Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

- M6** S.I. 1987/1967; the relevant amending instruments are S.I. 1988/663, 1228, 1445, 2022; 1989/534, 1034, 1678; 1990/547, 1168, 1776; 1991/236, 387, 503, 1559.
- M7** S.I. 1992/1813.
- M8** 1982 c.48.
- M9** 1988 c.33.
- M10** S.I. 1975/555; the relevant amending instruments are S.I. 1977/1693 and 1987/1683.
- M11** 1988 c.1.
- M12** 1983 c.20.
- M13** 1990 c.6; section 1 is amended by the Further and Higher Education (Scotland) Act 1992 (c.37), **Schedule 9**.
- M14** 1973 c.50; section 2 is substituted by the Employment Act 1988 (c.19), **section 25(1)**.
- M15** 1990 c.35.
- M16** 1966 c.45.

PART II

CALCULATION OR ESTIMATION OF CHILD SUPPORT MAINTENANCE

Calculation or estimation of amounts

2.—(1) Where any amount [^{F53}is to be considered in connection with any calculation made under these Regulations], it shall be calculated or estimated as a weekly amount and, except where the context otherwise requires, any reference to such an amount shall be construed accordingly.

(2) Subject to [^{F54}regulations 11(6) and (7) and 13(2) and [^{F55}regulation 8A(5)] of the Maintenance Assessment Procedure Regulations], where any calculation made under [^{F56}the Act or] these Regulations 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) [^{F57}The Secretary of State] shall calculate the amounts to be taken into account for the purposes of these Regulations by reference, as the case may be, to the dates, weeks, months or other periods specified herein provided that if he becomes aware of a material change of circumstances occurring after such date, week, month or other period but before the effective date, he shall take that change of circumstances into account.

Textual Amendments

- F53** Words in reg. 2(1) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **43** (with reg. 59)
- F54** Words in reg. 2(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **42**
- F55** Words in reg. 2(2) substituted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The Child Support \(Miscellaneous Amendments\) \(No. 3\) Regulations 1995 \(S.I. 1995/3265\)](#), regs. 1(1), **3**
- F56** Words in reg. 2(2) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **42**
- F57** Words in reg. 2(3) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **15**

Calculation of AG

3.—(1) The amounts to be taken into account for the purposes of calculating AG in the formula set out in paragraph 1(2) of Schedule 1 to the Act are—

(a) with respect to each qualifying child, an amount equal to the amount specified in column (2) of paragraph 2 of the relevant Schedule for a person of the same age (income support personal allowance for child or young person);

[^{F58}(b) with respect to a person with care of one or more qualifying children—

(i) where one or more of those children is aged less than 11, an amount equal to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25);

(ii) where none of those children are aged less than 11 but one or more of them is aged less than 14, an amount equal to 75 per centum of the amount specified in head (i) above; and

(iii) where none of those children are aged less than 14 but one or more of them is aged less than 16, an amount equal to 50 per centum of the amount specified in head (i) above;]

[^{F59}(c) an amount equal to the amount specified in paragraph 3(1)(b) of the relevant Schedule.]

^{F60}(d)

(2) The amounts referred to in paragraph (1) shall be the amounts applicable at the effective date.

Textual Amendments
F58 Reg. 3(1)(b) substituted (7.2.1994) by [The Child Support \(Miscellaneous Amendments and Transitional Provisions\) Regulations 1994 \(S.I. 1994/227\)](#), regs. 1, **4(2)**
F59 Reg. 3(1)(c) substituted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(3), **44** (with reg. 59)
F60 Reg. 3(1)(d) omitted (7.4.1997) by virtue of [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **8(b)**

Basic rate of child benefit

4. For the purposes of paragraph 1(4) of Schedule 1 to the Act “basic rate” means the rate of child benefit which is specified in [^{F61}regulation 2(1)(a)(i) or 2(1)(b) of the Child Benefit Rates Regulations (weekly rate for only, elder or eldest child and for other children)] applicable to the child in question at the effective date.

Textual Amendments
F61 Words in reg. 4 substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **9**

The general rule

5. For the purposes of paragraph 2(1) of Schedule 1 to the Act—

(a) the value of C, otherwise than in a case where the other parent is the person with care, is nil; and

(b) the value of P is 0.5.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

The additional element

6.—^{F62}(1) For the purposes of the formula in paragraph 4(1) of Schedule 1 to the Act, the value of R is—

- (a) where the maintenance assessment in question relates to one qualifying child, 0.15;
- (b) where the maintenance assessment in question relates to two qualifying children, 0.20; and
- (c) where the maintenance assessment, in question relates to three or more qualifying children, 0.25.]

(2) For the purposes of the alternative formula in paragraph 4(3) of Schedule 1 to the Act—

- (a) the value of Z is ^{F63}1.5];
- (b) the amount for the purposes of paragraph (b) of the definition of Q is the same as the amount specified in ^{F64}regulation ^{F65}3(1)(c)] (income support family premium) in respect of each qualifying child.

Textual Amendments

- F62** Reg. 6(1) substituted (7.2.1994) by [The Child Support \(Miscellaneous Amendments and Transitional Provisions\) Regulations 1994 \(S.I. 1994/227\)](#), regs. 1, **4(3)**
- F63** Word in reg. 6(2)(a) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **43** (with regs. 62, 64)
- F64** Words in reg. 6(2)(b) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **10**
- F65** Word in reg. 6(2)(b) substituted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(3), **45** (with reg. 59)

Net income: calculation or estimation of N

7.—(1) Subject to the following provisions of this regulation, for the purposes of the formula in paragraph 5(1) of Schedule 1 to the Act, the amount of N (net income of absent parent) shall be the aggregate of the following amounts—

- (a) the amount, determined in accordance with Part I of Schedule 1, of any earnings of the absent parent;
 - (b) the amount, determined in accordance with Part II of Schedule 1, of any benefit payments under the Contributions and Benefits Act ^{F66}or the Jobseekers Act] paid to or in respect of the absent parent;
 - (c) the amount, determined in accordance with Part III of Schedule 1, of any other income of the absent parent;
 - (d) the amount, determined in accordance with Part IV of Schedule 1, of any income of a relevant child which is treated as the income of the absent parent;
 - (e) any amount, determined in accordance with Part V of Schedule 1, which is treated as the income of the absent parent.
- (2) Any amounts referred to in Schedule 2 shall be disregarded.
- (3) Where an absent parent's income consists—
- (a) only of a ^{F67}work-based training for young people or, in Scotland, Skillseekers training] allowance; or
 - (b) in the case of a student, only of grant, an amount paid in respect of grant contribution or student loan or any combination thereof; or

(c) only of prisoner’s pay,

then for the purposes of determining N such income shall be disregarded.

(4) Where a parent and any other person are beneficially entitled to any income but the shares of their respective entitlements are not ascertainable the [F68Secretary of State] shall estimate their respective entitlements having regard to such information as is available but where sufficient information on which to base an estimate is not available the parent and that other person shall be treated as entitled to that income in equal shares.

(5) Where any income normally received at regular intervals has not been received it shall, if it is due to be paid and there are reasonable grounds for believing it will be received, be treated as if it had been received.

Textual Amendments

F66 Words in reg. 7(1)(b) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(6)(7)(a)**

F67 Words in reg. 7(3)(a) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(3)** (with reg. 7)

F68 Words in reg. 7(4) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **16**

Net income: calculation or estimation of M

8. For the purposes of paragraph 5(2) of Schedule 1 to the Act, the amount of M (net income of the parent with care) shall be calculated in the same way as N is calculated under regulation 7 but as if references to the absent parent were references to the parent with care.

Exempt income: calculation or estimation of E

9.—(1) For the purposes of paragraph 5(1) of Schedule 1 to the Act, the amount of E (exempt income of absent parent) shall, subject to paragraphs (3) and (4), be the aggregate of the following amounts—

- (a) an amount equal to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25);
- (b) an amount in respect of housing costs determined in accordance with regulations 14 to [F6916 and 18];

[F70(bb) where applicable, an amount in respect of a qualifying transfer of property determined in accordance with Schedule 3A;]

^{F71}(c)

(d) where, if the parent were a claimant aged less than 60, the conditions in paragraph 11 of the relevant Schedule (income support disability premium) would be satisfied in respect of him, an amount equal to the amount specified in column (2) of paragraph 15(4)(a) of that Schedule (income support disability premium);

(e) where—

(i) if the parent were a claimant, the conditions in paragraph 13 of the relevant Schedule (income support severe disability premium) would be satisfied, an amount equal to the amount specified in column (2) of paragraph 15(5)(a) of that Schedule (except that no such amount shall be taken into account in the case of an absent parent in

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- respect of whom [^{F72}a carer's allowance] under section 70 of the Contributions and Benefits Act is payable to some other person);
- (ii) if the parent were a claimant, the conditions in paragraph 14ZA of the relevant Schedule (income support carer premium) would be satisfied in respect of him, an amount equal to the amount specified in column (2) of paragraph 15(7) of that Schedule;
- [^{F73}(iii) if the parent were a claimant, the conditions in paragraph 13A of the relevant Schedule (income support enhanced disability premium) would be satisfied in respect of him, an amount equal to the amount specified in paragraph 15(8)(b) of that Schedule;]
- (f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied in respect of a relevant child of that parent, ^{F74}... the amount specified in [^{F75}sub-paragraph (b) of] that paragraph or, where those conditions would be satisfied only by virtue of the case being one to which paragraph (2) applies, half that amount;
- (g) in respect of each relevant child—
- (i) an amount equal to the amount of the personal allowance for that child, specified in column (2) of paragraph 2 of the relevant Schedule (income support personal allowance) or, where paragraph (2) applies, half that amount;
- (ii) if the conditions set out in paragraph 14(b) and (c) of the relevant Schedule (income support disabled child premium) are satisfied in respect of that child, an amount equal to the amount specified in column (2) of paragraph 15(6) of the relevant Schedule or, where paragraph (2) applies, half that amount;
- [^{F76}(iii) if the conditions set out in paragraph 13A of the relevant Schedule (income support enhanced disability premium) are satisfied in respect of that child, an amount equal to the amount specified in paragraph 15(8)(a) of that Schedule or, where paragraph (2) applies, half that amount;]
- [^{F77}(h) where the absent parent or his partner is resident in a care home or an independent hospital or is being provided with a care home service or an independent health care service, the amount of fees paid in respect of that home, hospital or service, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home, hospital or service, as the case may be, the net amount of such fees after deduction of housing benefit;]
- [^{F78}(i) where applicable, an amount in respect of travelling costs determined in accordance with Schedule 3B.]
- (2) This paragraph applies where—
- (a) the absent parent has a partner;
- (b) the absent parent and the partner are parents of the same relevant child; and
- (c) the income of the partner, calculated under regulation 7(1) [^{F79}(but excluding the amount mentioned in sub-paragraph (d) of that regulation)] as if that partner were an absent parent to whom that regulation applied, exceeds the aggregate of—
- (i) the amount specified in column 2 of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25);
- (ii) half the amount of the personal allowance for that child specified in column (2) of paragraph 2 of the relevant Schedule (income support personal allowance);
- (iii) half the amount of any income support disabled child premium specified in column (2) of paragraph 15(6) of that Schedule in respect of that child; [^{F80}and]

(iv) half the amount of any income support family premium specified in paragraph ^{F81}3^{F82}(1)(b) of the relevant Schedule] except where such premium is payable irrespective of that child; ^{F80} ...

^{F83}(v) where a departure direction has been given on the grounds that a case falls within regulation 27 of the Departure Direction and Consequential Amendments Regulations (partner’s contribution to housing costs), the amount of the housing costs which corresponds to the percentage of the housing costs mentioned in regulation 40(7) of those Regulations.]

^{F84}(v)

(3) Where an absent parent does not have day to day care of any relevant child for 7 nights each week but does have day to day care of one or more such children for fewer than 7 nights each week, ^{F85}any amount] to be taken into account under sub-paragraphs (1)(c) ^{F86}or (f)] shall be reduced so that they bear the same proportion to the amounts referred to in those sub-paragraphs as the average number of nights each week in respect of which such care is provided has to 7.

(4) Where an absent parent has day to day care of a relevant child for fewer than 7 nights each week, any amounts to be taken into account under sub-paragraph (1)(g) in respect of such a child shall be reduced so that they bear the same proportion to the amounts referred to in that sub-paragraph as the average number of nights each week in respect of which such care is provided has to 7.

(5) The amounts referred to in paragraph (1) are the amounts applicable at the effective date.

Textual Amendments

- F69** Words in reg. 9(1)(b) substituted (5.8.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1, **19**
- F70** Reg. 9(1)(bb) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **44(2)(a)** (with reg. 62)
- F71** Reg. 9(1)(c) omitted (6.4.1998) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(3), **47(2)(a)** (with reg. 59)
- F72** Words in reg. 9(1)(e)(i) substituted (1.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(c), **6(3)**
- F73** Reg. 9(1)(e)(iii) added (30.4.2002) by [The Child Support \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1204\)](#), regs. 3(a), **5(a)**
- F74** Words in reg. 9(1)(f) omitted (6.4.1998) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(3), **47(2)(b)** (with reg. 59)
- F75** Words in reg. 9(1)(f) inserted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **11(2)(b)(ii)**
- F76** Reg. 9(1)(g)(iii) added (30.4.2002) by [The Child Support \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1204\)](#), regs. 3(a), **5(b)**
- F77** Reg. 9(1)(h) substituted (5.11.2003) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 2003 \(S.I. 2003/2779\)](#), regs. 1, **4(3)**
- F78** Reg. 9(1)(i) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **44(2)(b)** (with reg. 62)
- F79** Words in reg. 9(2)(c) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **20**
- F80** Word in reg. 9(2)(c)(iii) inserted and word omitted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **44(3)(i)-(ii)**
- F81** Words in reg. 9(2)(c)(iv) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **11(3)**
- F82** Word in reg. 9(2)(c)(iv) inserted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(3), **47(3)** (with reg. 59)

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- F83** Reg. 9(2)(c)(v) added (2.12.1996) by [The Child Support Departure Direction and Consequential Amendments Regulations 1996 \(S.I. 1996/2907\)](#), regs. 1(1), **68(4)**
- F84** Reg. 9(2)(c)(v) and word omitted (18.4.1995) by virtue of [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **44(3)(ii)**
- F85** Words in reg. 9(3) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **11(4)(a)**
- F86** Words in reg. 9(3) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **11(4)(b)**

Exempt income: calculation or estimation of F

10. For the purposes of paragraph 5(2) of Schedule 1 to the Act, the amount of F (exempt income of parent with care) shall be calculated in the same way as E is calculated under regulation 9 but as if references to the absent parent were references to the parent with care ^{F87}except that—

- (a) sub-paragraph (bb) of paragraph (1) of that regulation shall not apply unless at the time of the making of the qualifying transfer the parent with care would have been the absent parent had the Child Support Act 1991 been in force at the date of the making of the transfer; and
- (b) paragraph (3) and (4) of that regulation shall apply only where the parent with care shares day to day care of the child mentioned in those paragraphs with one or more other persons.]

Textual Amendments

- F87** Reg. 10(a)(b) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **45** (with reg. 62)

^{F88}Assessable income: [^{F89}working tax credit] paid to or in respect of a parent with care or an absent parent

10A.—(1) Subject to paragraph (2), where [^{F90}working tax credit] is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Act, be taken to have no assessable income.

- (2) Paragraph (1) shall apply to an absent parent only if—
 - (a) he is also a parent with care; and
 - (b) either—
 - (i) a maintenance assessment in respect of a child in relation to whom he is a parent with care is in force; or
 - (ii) the [^{F91}Secretary of State] is considering an application for such an assessment to be made.]

Textual Amendments

- F88** Reg. 10A added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **11**
- F89** Words in reg. 10A heading substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(4)**
- F90** Words in reg. 10A(1) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(4)**

F91 Words in reg. 10A(2)(b)(ii) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), 16

[^{F92}Assessable income: state pension credit paid to or in respect of a parent with care or an absent parent

10B. Where state pension credit is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Act, be taken to have no assessable income.]

Textual Amendments

F92 Reg. 10B inserted (5.11.2003) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 2003 \(S.I. 2003/2779\)](#), regs. 1, 4(4)

Protected income

11.—(1) For the purposes of paragraph 6 of Schedule 1 to the Act the protected income level of an absent parent shall, [^{F93}subject to paragraphs (3), (4)[^{F94}, (6) and (6A)],] be the aggregate of the following amounts—

- (a) where—
 - (i) the absent parent does not have a partner, an amount equal to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25 years);
 - (ii) the absent parent has a partner, an amount equal to the amount specified in column (2) of paragraph 1(3)(c) of the relevant Schedule (income support personal allowance for a couple where both members are aged not less than 18 years);
 - (iii) the absent parent is a member of a polygamous marriage, an amount in respect of himself and one of his partners, equal to the amount specified in sub-paragraph (ii) and, in respect of each of his other partners, an amount equal to the difference between the amounts specified in sub-paragraph (ii) and sub-paragraph (i);
- (b) an amount in respect of housing costs determined in accordance with regulations 14, 15, 16 and 18, or, in a case where the absent parent is a non-dependant member of a household who is treated as having no housing costs by [^{F95}regulation 15(4)], the non-dependant amount which would be calculated in respect of him under [^{F96}paragraphs (1), (2) and (9) of regulation 63 of the Housing Benefit Regulations (non-dependant deductions) if he were a non-dependant in respect of whom a calculation were to be made under those paragraphs (disregarding any other provision of that regulation)];

^{F97}(c)

- (d) where, if the parent were a claimant, the conditions in paragraph 11 of the relevant Schedule (income support disability premium) would be satisfied, an amount equal to the amount specified in column (2) of paragraph 15(4) of that Schedule (income support disability premium);
- (e) where, if the parent were a claimant, the conditions in paragraph 13 or 14ZA of the relevant Schedule (income support severe disability and carer premiums) would be satisfied in respect of either or both premiums, an amount equal to the amount or amounts specified in column (2) of paragraph 15(5) or, as the case may be, (7) of that Schedule in respect of that or those premiums (income support premiums);

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- (f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied ^{F98}..., the amount specified in [^{F99} sub-paragraph (b) of] that paragraph;
- (g) in respect of each child who is a member of the family of the absent parent—
- (i) an amount equal to the amount of the personal allowance for that child, specified in column (2) of paragraph 2 of the relevant Schedule (income support personal allowance);
 - (ii) if the conditions set out in paragraphs 14(b) and (c) of the relevant Schedule (income support disabled child premium) are satisfied in respect of that child, an amount equal to the amount specified in column (2) of paragraph 15(6) of the relevant Schedule;
- (h) where, if the parent were a claimant, the conditions specified in Part III of the relevant Schedule would be satisfied by the absent parent in question or any member of his family in relation to any premium not otherwise included in this regulation, an amount equal to the amount specified in Part IV of that Schedule (income support premiums) in respect of that premium;
- [^{F100}(i) where the absent parent or his partner is resident in a care home or an independent hospital or is being provided with a care home service or an independent health care service, the amount of fees paid in respect of that home, hospital or service, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home, hospital or service, as the case may be, the net amount of such fees after deduction of housing benefit;]
- [^{F101}(j) where—
- (i) the absent parent is, or that absent parent and any partner of his are, the only person or persons resident in, and liable to pay council tax in respect of, the home of which housing costs are included under sub-paragraph (b), the amount of weekly council tax for which he is liable in respect of that home, less any applicable council tax benefit;
 - (ii) where other persons are resident with the absent parent in, and liable to pay council tax in respect of, the home for which housing costs are included under sub-paragraph (b), an amount representing the share of the weekly council tax in respect of that home applicable to the absent parent, determined by dividing the total amount of council tax due in that week by the number of persons liable to pay it, less any council tax benefit applicable to that share, provided that, if the absent parent is required to pay and pays more than that share because of default by one or more of those other persons, the amount of the purposes of this regulation shall be the amount of weekly council tax the absent parent pays, less any council tax benefit applicable to such amount;]
- (k) an amount of [^{F102}£30.00;]
- [^{F103}(kk) an amount in respect of travelling costs determined in accordance with Schedule 3B;]
- (l) where the income of—
- (i) the absent parent in question;
 - (ii) any partner of his; and
 - (iii) any child or children for whom an amount is included under sub-paragraph (g)(i);
- exceeds the sum of the amounts to which reference is made in sub-paragraphs [^{F104}(a) to (kk)], [^{F105}15 per centum] of the excess.
- (2) For the purposes of sub-paragraph (l) of paragraph (1) "income" shall be calculated—

- (a) in respect of the absent parent in question or any partner of his, in the same manner as N (net income of absent parent) is calculated under regulation 7 except—
- (i) there shall be taken into account the basic rate of any child benefit and any maintenance which in either case is in payment in respect of any member of the family of the absent parent;
 - (ii) there shall be deducted the amount of any maintenance under a maintenance order which the absent parent or his partner is paying in respect of a child in circumstances where an application for a maintenance assessment could not be made in accordance with the Act in respect of that child; ^{F106} ...
 - ^{F107}(iii) to the extent that it falls under sub-paragraph (b), the income of any child in that family shall not be treated as the income of the parent or his partner and Part IV of Schedule 1 shall not apply; ^{F108} ...]
 - ^{F109}(iv) paragraph 27 of Schedule 2 shall apply as though the reference to paragraph 3(2) and (4) of Schedule 3 were omitted;
 - (v) there shall be deducted the amount of any maintenance which is being paid in respect of a child by the absent parent or his partner under an order requiring such payment made by a court outside Great Britain; and]
 - ^{F110}(vi) there shall be taken into account any child tax credit which is payable to the absent parent or his partner; and]
- (b) in respect of any child in that family, as being the total of ^{F111}that child's relevant income (within the meaning of paragraph 23 of Schedule 1), there being disregarded any maintenance in payment to or in respect of him,] but only to the extent that such income does not exceed the amount included under sub-paragraph (g) of paragraph (1) (income support personal allowance for a child and income support disabled child premium) reduced, as the case may be, under paragraph (4).

(3) Where an absent parent does not have day to day care of any child (whether or not a relevant child) for 7 nights each week but does have day to day care of one or more such children for fewer than 7 nights each week, ^{F112}any amount] to be taken into account under ^{F113}sub-paragraph (f)] of paragraph (1) (^{F114}... income support family premium) shall be reduced so that they bear the same proportion to the amounts referred to in those sub-paragraphs as the average number of nights each week in respect of which such care is provided has to 7.

(4) Where an absent parent has day to day care of a child (whether or not a relevant child) for fewer than 7 nights each week any amounts in relation to that child to be taken into account under sub-paragraph (g) of paragraph (1) (income support personal allowance for child and income support disabled child premium) shall be reduced so that they bear the same proportion to the amounts referred to in that sub-paragraph as the average number of nights in respect of which such care is provided has to 7.

(5) The amounts referred to in paragraph (1) shall be the amounts applicable at the effective date.

^{F115}(6) If the application of the above provisions of this regulation would result in the protected income level of an absent parent being less than 70 per centum of his net income, as calculated in accordance with regulation 7, those provisions shall not apply in his case and instead his protected income level shall be 70 per centum of his net income as so calculated.

^{F116}(6A) In a case to which paragraph (6) does not apply, if the application of paragraphs (1) to (5) and of regulation 12(1)(a) would result in the amount of child support maintenance payable being greater than 30 per centum of the absent parent's net income calculated in accordance with regulation 7, paragraphs (1) to (5) shall not apply in his case and instead his protected income level shall be 70 per centum of his net income as so calculated.]

(7) Where any calculation under paragraph (6) [^{F117}or (6A)] results in a fraction of a penny, that fraction shall be treated as a penny.]

Textual Amendments

- F93** Words in reg. 11(1) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(2)(a)**
- F94** Words in reg. 11(1) substituted (5.8.1996) by The Child Support (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1945), regs. 1, **20(2)**
- F95** Words in reg. 11(1)(b) substituted (22.1.1996) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995 (S.I. 1995/3261), regs. 1(2), **43(2)**
- F96** Words in reg. 11(1)(b) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(2)(b)**
- F97** Reg. 11(1)(c) omitted (6.4.1998) by virtue of The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(3), **49(2)(a)** (with reg. 59)
- F98** Word in reg. 11(1)(f) omitted (6.4.1998) by virtue of The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(3), **49(2)(b)** (with reg. 59)
- F99** Words in reg. 11(1)(f) inserted (7.4.1997) by The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803), regs. 1(b), **12(2)(b)(ii)**
- F100** Reg. 11(1)(i) substituted (5.11.2003) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 (S.I. 2003/2779), regs. 1, **4(5)**
- F101** Reg. 11(1)(j) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(2)(c)**
- F102** Sum in Reg. 11(1)(k) substituted (7.2.1994) by The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations 1994 (S.I. 1994/227), regs. 1, **4(4)**
- F103** Reg. 11(1)(kk) inserted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(2)(d)** (with reg. 62)
- F104** Words in reg. 11(1) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(2)(e)** (with reg. 62)
- F105** Words in reg. 11(1)(l) substituted (7.2.1994) by The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations 1994 (S.I. 1994/227), regs. 1, **4(5)**
- F106** Word in reg. 11(2)(a)(ii) omitted (18.4.1995) by virtue of The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(3)**
- F107** Reg. 11(2)(a)(iii) inserted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(4)** (with reg. 62)
- F108** Word in reg. 11(2)(a)(iii) omitted (22.1.1996) by virtue of The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995 (S.I. 1995/3261), regs. 1(2), **43(4)**
- F109** Reg. 11(2)(a)(iv)(v) added (22.1.1996) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995 (S.I. 1995/3261), regs. 1(2), **43(5)**
- F110** Reg. 11(2)(a)(vi) added (6.4.2003) by The Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/328), regs. 1(3)(d), **6(5)**
- F111** Words in reg. 11(2)(b) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(5)**
- F112** Words in reg. 11(3) substituted (7.4.1997) by The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803), regs. 1(b), **12(3)(a)**
- F113** Words in reg. 11(3) substituted (6.4.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **49(3)** (with reg. 59)
- F114** Words in reg. 11(3) omitted (7.4.1997) by virtue of The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803), regs. 1(b), **12(3)(c)**
- F115** Reg. 11(6)(7) added (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **46(6)** (with regs. 62, 64)

F116 Reg. 11(6A) added (5.8.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1, **20(3)**

F117 Words in reg. 11(7) inserted (5.8.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1, **20(4)**

Disposable income

12.—^{F118}(1) For the purposes of paragraph 6(4) of Schedule 1 to the Act (protected income), the disposable income of an absent parent shall be—

(a) except in a case to which regulation 11(6) [^{F119}or (6A)] applies, the aggregate of his income and any income of any member of his family calculated in like manner as under regulation 11(2); ^{F120}...

(b) [^{F121}subject to sub-paragraph (c),] in a case to which regulation 11(6) [^{F119}or (6A)] applies, his net income as calculated in accordance with regulation 7 [^{F122}; and]]

^{F123}(c) in a case to which regulation 11(6) applies and the absent parent is paying maintenance under an order of a kind mentioned in regulation 11(2)(a)(ii) or (v), his net income as calculated in accordance with regulation 7 less the amount of maintenance he is paying under that order.]

(2) Subject to paragraph (3), where a maintenance assessment has been made with respect to the absent parent and payment of the amount of that assessment would reduce his disposable income below his protected income level the amount of the assessment shall be reduced by the minimum amount necessary to prevent his disposable income being reduced below his protected income level.

(3) Where the prescribed minimum amount fixed by regulations under paragraph 7 of Schedule 1 to the Act is applicable (such amount being specified in regulation 13) the amount payable under the assessment shall not be reduced to less than the prescribed minimum amount.

Textual Amendments

F118 Reg. 12(1) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **47** (with regs. 62, 64)

F119 Words in reg. 12(1)(a)(b) inserted (5.8.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1, **21**

F120 Word in reg. 12(1)(a) omitted (13.1.1997) by virtue of [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **12(2)**

F121 Words in reg. 12(1)(b) inserted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **12(3)(a)**

F122 Word in reg. 12(1)(b) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **12(3)(b)**

F123 Reg. 12(1)(c) inserted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **12(4)**

The minimum amount

13.—(1) Subject to regulation 26, for the purposes of paragraph 7(1) of Schedule 1 to the Act the minimum amount shall be [^{F124}multiplied by] 5 per centum of the amount specified in paragraph 1(1)(e) of the relevant Schedule (income support personal allowance for single claimant aged not less than 25).

(2) Where [^{F125}the 5 per centum amount] calculated under paragraph (1) results in a sum other than a multiple of 5 pence, it shall be treated as the sum which is the next higher multiple of 5 pence.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

Textual Amendments

- F124** Words in reg. 13(1) inserted (8.4.1996) by [The Child Support \(Maintenance Assessments and Special Cases\) and Social Security \(Claims and Payments\) Amendment Regulations 1996 \(S.I. 1996/481\)](#), regs. 1(1), **2(2)**
- F125** Words in reg. 13(2) substituted (8.4.1996) by [The Child Support \(Maintenance Assessments and Special Cases\) and Social Security \(Claims and Payments\) Amendment Regulations 1996 \(S.I. 1996/481\)](#), regs. 1(1), **2(3)**

Eligible housing costs

14. Schedule 3 shall have effect for the purpose of determining the costs which are eligible to be taken into account as housing costs for the purposes of these Regulations.

Amount of housing costs

15.—(1) Subject to the provisions of this regulation and [^{F126}regulations 16 and 18], a parent’s housing costs shall be the aggregate of the eligible housing costs payable in respect of his home.

(2) Where a local authority has determined that a parent is entitled to housing benefit, the amount of his housing costs shall, subject to paragraphs (4) to (9), be the weekly amount treated as rent under regulations 10 and 69 of the Housing Benefit Regulations (rent and calculation of weekly amounts) less the amount of housing benefit.

(3) Where a parent has eligible housing costs and another person who is not a member of his family is also liable to make payments in respect of the home, the amount of the parent’s housing costs shall be his share of those costs [^{F127}but, where that other person does not make those payments in circumstances where head (a) of paragraph 4(2) of Schedule 3 applies, the eligible housing costs of that parent shall include the housing costs for which, because of that failure to pay, that parent is treated as responsible under that head].

[^{F128}[^{F129}(4)] A parent shall be treated as having no housing costs where he is a non-dependant member of a household and is not responsible for meeting housing costs except to another member, or other members, of that household.]

- ^{F130}(4)
- ^{F130}(5)
- ^{F130}(6)
- ^{F130}(7)
- ^{F130}(8)
- ^{F130}(9)

Textual Amendments

- F126** Words in reg. 15(1) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **48(2)** (with reg. 62)
- F127** Words in reg. 15(3) added (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **50** (with reg. 59)
- F128** Reg. 15(10) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **48(4)**

- F129** Reg. 15(4): reg. 15(10) renumbered as reg. 15(4) (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **44**
- F130** Reg. 15(4)-(9) omitted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **48(3)** (with reg. 62)

[^{F131} Weekly amount of housing costs

16.—(1) [^{F132}Where housing costs are payable by a parent]—

- (a) on a weekly basis, the amount of such housing costs shall subject to paragraph (2), be the weekly rate payable at the effective date;
- (b) on a monthly basis, the amount of such housing costs shall subject to paragraph (2), be the monthly rate payable at the effective date, multiplied by 12 and divided by 52;
- (c) by way of rent payable to a housing association, as defined in section 1(1) of the Housing Associations Act 1985 which is registered in accordance with section 5 of that Act, or to a local authority, on a free week basis, that is to say the basis that he pays an amount by way of rent for a given number of weeks in a 52 week period, with a lesser number of weeks in which there is no liability to pay (“free weeks”), the amount of such housing costs shall be [^{F133}the amount payable]—
 - (i) in the relevant week if it is not a free week; or
 - (ii) in the last week before the relevant week which is not a free week, if the relevant week is a free week;
- (d) on any other basis, the amount of such housing costs shall, subject to paragraph (2), be the rate payable at the effective date, multiplied by the number of payment periods, or the nearest whole number of payment periods (any fraction of one half being rounded up), falling within a period of 365 days and divided by 52.

(2) Where housing costs consist of payments on a repayment mortgage and the absent parent or parent with care has not provided information or evidence as to the rate of repayment of the capital secured and the interest payable on that mortgage at the effective date and that absent parent or parent with care has provided a statement from the lender, in respect of a period ending not more than 12 months prior to the first day of the relevant week, for the purposes of the calculation of exempt income under regulation 9 and protected income under regulation 11—

- (a) if the amount of capital repaid for the period covered by that statement is shown on it, the rate of repayment of capital owing under that mortgage shall be calculated by reference to that amount; and
- (b) if the amount of capital owing and the interest rate applicable at the end of the period covered by that statement are shown on it, the interest payable on that mortgage shall be calculated by reference to that amount and that interest rate.]

Textual Amendments

- F131** Reg. 16 substituted (5.8.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1, **22**
- F132** Words in reg. 16(1) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **51(a)** (with reg. 59)
- F133** Words in reg. 16(1)(c) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **51(b)** (with reg. 59)

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

Apportionment of housing costs: exempt income

17. ^{F134}For the purposes of calculating or estimating exempt income the amount of the housing costs of a parent shall be—

- (a) where the parent does not have a partner, the whole amount of the housing costs;
- (b) where the parent has a partner, the proportion of the amount of the housing costs calculated by multiplying those costs by—

$$0.75+(A\times 0.2)1.00+(B\times 0.2)$$

where—

A is the number of relevant children (if any); B is the number of children in that parent's family (if any);

- (c) where the parent is a member of a polygamous marriage the proportion of the amount of the housing costs calculated by multiplying those costs by—

$$0.75+(A\times 0.2)1.00+(X\times 0.25)+(B\times 0.2)$$

where—

A and B have the same meanings as in sub-paragraph (b); and

X is the number which is one less than the number of partners.]

Textual Amendments

F134 Reg. 17 revoked (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **50** (with reg. 64)

Excessive housing costs

18.—(1) Subject to paragraph (2), the amount of the housing costs of an absent parent which are to be taken into account—

- (a) under regulation 9(1)(b) shall not exceed the greater of £80·00 or half the amount of N as calculated or estimated under regulation 7;
- (b) under regulation 11(1)(b) shall not exceed the greater of £80·00 or half of the amount calculated in accordance with regulation 11(2).

(2) The restriction imposed by paragraph (1) shall not apply where—

- (a) the absent parent in question—
 - (i) has been awarded housing benefit (or is awaiting the outcome of a claim to that benefit);
 - (ii) has the day to day care of any child; or
 - (iii) is a person to whom a disability premium under paragraph 11 of the relevant Schedule applies in respect of himself or his partner or would so apply if he were entitled to income support and were aged less than 60;
- (b) the absent parent in question, following a divorce from, ^{F135}dissolution of a civil partnership with,] or the breakdown of his relationship with, his former partner, remains in the home he occupied with his former partner;
- (c) the absent parent in question has paid the housing costs under the mortgage, charge or agreement in question for a period in excess of 52 weeks before the date of the first application for child support maintenance in relation to a qualifying child of his and there

has been no increase in those costs other than an increase in the interest payable under the mortgage or charge or, as the case may be, in the amount payable under the agreement under which the home is held;

- (d) the housing costs in respect of the home in question would not exceed the amount set out in paragraph (1) but for an increase in the interest payable under a mortgage or charge secured on that home or, as the case may be, in the amount payable under any agreement under which it is held; or
- (e) the absent parent is responsible for making payments in respect of housing costs which are higher than they would be otherwise by virtue of the unavailability of his share of the equity of the property formerly occupied with his partner and which remains occupied by that former partner.

Textual Amendments

F135 Words in reg. 18(2)(b) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, Sch. 4 para. 2(3) (with art. 3)

PART III

SPECIAL CASES

Both parents are absent

19.—(1) Subject to regulation 27, where the circumstances of a case are that each parent of a qualifying child is an absent parent in relation to that child (neither being a person who is treated as an absent parent by regulation 20(2)) that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case—

- (a) where the application is made in relation to both absent parents, separate assessments shall be made under Schedule 1 to the Act in respect of each so as to determine the amount of child support maintenance payable by each absent parent;
- (b) subject to paragraph (3), where the application is made in relation to both absent parents, the value of C in each case shall be the assessable income of the other absent parent and where the application is made in relation to only one the value of C in the case of the other shall be nil;

^{F136}(c)

^{F137}(d) where the application is made in relation to one absent parent only, the amount of the maintenance requirement applicable in that case shall be one-half of the amount determined in accordance with paragraph 1(2) of Schedule 1 to the Act or, where regulation 23 applies (person caring for children of more than one absent parent), of the amount determined in accordance with paragraphs (2) to (3) of that regulation.]

(3) Where, for the purposes of paragraph (2)(b), information regarding the income of the other absent parent has not been submitted to the Secretary of State ^{F138}... within the period specified in regulation 6(1) of the Maintenance Assessment Procedure Regulations then until such information is acquired the value of C shall be nil.

(4) When the information referred to in paragraph (3) is acquired the [^{F139}Secretary of State] shall make a fresh assessment which shall have effect from the effective date in relation to that other

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

absent [^{F140}parent, or, from the effective date as determined by paragraph (2) of regulation 30 of the Maintenance Assessment Procedure Regulations, whichever is the later.]

Textual Amendments

- F136** Reg. 19(2)(c) omitted (6.4.1998) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(3), **52** (with reg. 59)
- F137** Reg. 19(2)(d) added (7.10.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1(2), **23** (with reg. 25(5))
- F138** Words in reg. 19(3) omitted (1.6.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **17(a)**
- F139** Words in reg. 19(4) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **17(b)**
- F140** Words in reg. 19(4) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(4)** (with reg. 7)

Persons treated as absent parents

20.—(1) Where the circumstances of a case are that—

- (a) two or more persons who do not live in the same household each provide day to day care for the same qualifying child; and
- (b) at least one of those persons is a parent of that child,

that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case a parent who provides day to day care for a child of his in the following circumstances is to be treated as an absent parent for the purposes of the Act and these Regulations—

- (a) a parent who provides such care to a lesser extent than the other parent, person or persons who provide such care for the child in question;
- (b) where the persons mentioned in paragraph (1)(a) include both parents and the circumstances are such that care is provided to the same extent by both but each provides care to a greater or equal extent than any other person who provides such care for that child—
 - (i) the parent who is not in receipt of child benefit for the child in question; or
 - (ii) if neither parent is in receipt of child benefit for that child, the parent who, in the opinion of the [^{F141}Secretary of State], will not be the principal provider of day to day care for that child.

(3) Subject to paragraphs (5) and (6), where a parent is treated as an absent parent under paragraph (2) child support maintenance shall be payable by that parent in respect of the child in question and the amount of the child support maintenance so payable shall be calculated in accordance with the formula set out in paragraph (4).

(4) The formula for the purposes of paragraph (3) is—

$$T = X - \left\{ (X + Y) \times \frac{J}{7 \times L} \right\}$$

where—

T is the amount of child support maintenance payable;

X is the amount of child support maintenance which would be payable by the parent who is treated as an absent parent, assessed under Schedule 1 to the Act as if paragraphs 6 and 7 of that Schedule did not apply, and, where the other parent is an absent parent, as if the value of C was the assessable income of the other parent;

Y is—

- (i) the amount of child support maintenance assessed under Schedule 1 to the Act payable by the other parent if he is an absent parent or which would be payable if he were an absent parent, and for the purposes of such calculation the value of C shall be the assessable income of the parent treated as an absent parent under paragraph(2); or,
- (ii) if there is no such other parent, shall be nil;

J is the total of the weekly average number of nights for which day to day care is provided by the person who is treated as the absent parent in respect of each child included in the maintenance assessment and shall be calculated to 2 decimal places;

L is the number of children who are included in the maintenance assessment in question.

(5) Where the value of T calculated under the provisions of paragraph (4) is less than zero, no child support maintenance shall be payable.

(6) The liability to pay any amount calculated under paragraph (4) shall be subject to the provision made for protected income and minimum payments under paragraphs 6 and 7 of Schedule 1 to the Act.

Textual Amendments

F141 Words in reg. 20(2)(b)(ii) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **16**

One parent is absent and the other is treated as absent

21.—(1) Where the circumstances of a case are that one parent is an absent parent and the other parent is treated as an absent parent by regulation 20(2), that case shall be treated as a special case for the purposes of the Act.

(2) For the purpose of assessing the child support maintenance payable by an absent parent where this case applies, each reference in Schedule 1 to the Act to a parent who is a person with care shall be treated as a reference to a person who is treated as an absent parent by regulation 20(2).

Multiple applications relating to an absent parent

22.—^{F142}(1) Where an application for a maintenance assessment has been made in respect of an absent parent and—

- (a) at least one other application for a maintenance assessment has been made in relation to the same absent parent (or a person who is treated as an absent parent by regulation 20(2)) but to different children; or
- (b) at least one maintenance assessment is in force in relation to the same absent parent or a person who is treated as an absent parent by regulation 20(2) but to different children,

that case shall be treated as a special case for the purposes of the Act.]

^{F143}(2) For the purposes of assessing the amount of child support maintenance payable in respect of each application where ^{F144}paragraph (1)(a)] applies ^{F145}or in respect of the application made

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in circumstances where paragraph (1)(b) applies], for references to the assessable income of an absent parent in the Act and in these Regulations^[F146], and subject to paragraph (2ZA),] there shall be substituted references to the amount calculated by the formula—

$$((A+T) \times BD)CS$$

where—

A is the absent parent's assessable income;

T is the sum of the amounts allowable in the calculation or estimation of his exempt income by virtue of Schedule 3A;

B is the maintenance requirement calculated in respect of the application in question;

D is the sum of the maintenance requirements as calculated for the purposes of each assessment relating to the absent parent in question; and

CS is the amount (if any) allowable by virtue of Schedule 3A in calculating or estimating the absent parent's exempt income in respect of a relevant qualifying transfer of property in respect of the assessment in question.]

^[F147](2ZA) Where a case falls within regulation 39(1)(a) of the Departure Direction and Consequential Amendment Regulations, for the purposes of assessing the amount of child support maintenance payable in respect of an application for child support maintenance before a departure direction in respect of the maintenance assessment in question is given, for references to the assessable income of an absent parent in the Act and in these Regulations there shall be substituted references to the amount calculated by the formula—

$$(A+T) \times BD$$

where A, T, B and D have the same meanings as in paragraph (2).]

^[F148](2A) Where paragraph (1)(b) applies, and a maintenance assessment has been made in respect of the application referred to in paragraph (1), each maintenance assessment in force at the time of that assessment shall be reduced using the formula for calculation of assessable income set out in paragraph (2) and each reduction shall take effect on the date specified in regulation 33(7) of the Maintenance Assessment Procedure Regulations.]

^[F149](2B) Where—

- (a) a case is treated as a special case for the purposes of the Act by virtue of paragraph (1);
- (b) more than one maintenance assessment is in force in respect of the absent parent; and

^[F150](c) any of those assessments falls to be replaced by a fresh assessment to be made by virtue of a revision under section 16 of the Act or a decision under section 17 of the Act superseding an earlier decision,]

the formula set out in paragraph (2) or, as the case may be, paragraph (2ZA) shall be applied to calculate or estimate the amount of child support maintenance payable under that fresh assessment.

(2C) Where a maintenance assessment falls within sub-paragraph (b) of paragraph (2B) but ^[F151]not within] sub-paragraph (c) of that paragraph, the formula set out in paragraph (2) or, as the case may be, paragraph (2ZA) shall be applied to determine whether that maintenance assessment should be increased or reduced as a result of the making of a fresh assessment under sub-paragraph (c) and any increase or reduction shall take effect from the effective date of that fresh assessment.]

(3) Where more than one maintenance assessment has been made with respect to the absent parent and payment by him of the aggregate of the amounts of those assessments would reduce his disposable income below his protected income level, the aggregate amount of those assessments shall be reduced (each being reduced by reference to the same proportion as those assessments bear to each other) by the minimum amount necessary to prevent his disposable income being reduced below his

protected income level provided that the aggregate amount payable under those assessments shall not be reduced to less than the minimum amount prescribed in regulation 13(1).

[^{F152}(4) Where the aggregate of the child support maintenance payable by the absent parent is less than the minimum amount prescribed in regulation 13(1), the child support maintenance payable shall be—

- (a) that prescribed minimum amount apportioned between the two or more applications in the same ratio as the maintenance requirements in question bear to each other; or
- (b) where, because of the application of regulation 2(2), such an apportionment produces an aggregate amount which is different from that prescribed minimum amount, that different amount.]

(5) Payment of each of the maintenance assessments calculated under this regulation shall satisfy the liability of the absent parent (or a person treated as such) to pay child support maintenance.

Textual Amendments

- F142** Reg. 22(1) substituted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **45(2)**
- F143** Reg. 22(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **51** (with reg. 62)
- F144** Words in reg. 22(2) substituted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **45(3)**
- F145** Words in reg. 22(2) inserted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **45(3)**
- F146** Words in reg. 22(2) inserted (2.12.1996) by [The Child Support Departure Direction and Consequential Amendments Regulations 1996 \(S.I. 1996/2907\)](#), regs. 1(1), **68(5)(a)**
- F147** Reg. 22(ZZA) inserted (2.12.1996) by [The Child Support Departure Direction and Consequential Amendments Regulations 1996 \(S.I. 1996/2907\)](#), regs. 1(1), **68(5)(b)**
- F148** Reg. 22(2A) inserted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **45(4)**
- F149** Reg. 22(2B)(2C) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **53** (with reg. 59)
- F150** Reg. 22(2B)(c) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **18(a)**
- F151** Words in reg. 22(2C) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **18(b)**
- F152** Reg. 22(4) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **23**

Person caring for children of more than one absent parent

23.—(1) Where the circumstances of a case are that—

- (a) a person is a person with care in relation to two or more qualifying children; and
- (b) in relation to at least two of those children there are different persons who are absent parents or persons treated as absent parents by regulation 20(2);

that case shall be treated as a special case for the purposes of the Act.

(2) [^{F153}Subject to paragraph (2A)] in calculating the maintenance requirements for the purposes of this case, for any amount which (but for this paragraph) would have been included under regulation 3(1)(b) [^{F154}or (c)] (amounts included in the calculation of AG) there shall be substituted

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an amount calculated by dividing the amount which would have been so included by the relevant number.

[^{F155}(2A) In applying the provisions of paragraph (2) to the amount which is to be included in the maintenance requirements under regulation 3(1)(b)—

- (a) first take the amount specified in head (i) of regulation 3(1)(b) and divide it by the relevant number;
- (b) then apply the provisions of regulation 3(1)(b) as if the references to the amount specified in column (2) of paragraph 1(1)(e) of the relevant Schedule were references to the amount which is the product of the calculation required by head (a) above, and as if, in relation to an absent parent, the only qualifying children to be included in the assessment were those qualifying children in relation to whom he is the absent parent.]

(3) [^{F156}In paragraph (2) and (2A)] “the relevant number” means the number equal to the total number of persons who, in relation to those children, are either absent parents or persons treated as absent parents by regulation 20(2) except that where in respect of the same child both parents are persons who are either absent parents or persons who are treated as absent parents under that regulation, they shall count as one person.

(4) Where the circumstances of a case fall within this regulation and the person with care is the parent of any of the children, for C in paragraph 2(1) of Schedule 1 to the Act (the assessable income of that person) there shall be substituted the amount which would be calculated under regulation 22(2) if the references therein to an absent parent were references to a parent with care.

Textual Amendments

- F153** Words in reg. 23(2) inserted (7.2.1994) by [The Child Support \(Miscellaneous Amendments and Transitional Provisions\) Regulations 1994 \(S.I. 1994/227\)](#), regs. 1, **4(6)**
- F154** Words in reg. 23(2) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **14**
- F155** Reg. 23(2A) added (7.2.1994) by [The Child Support \(Miscellaneous Amendments and Transitional Provisions\) Regulations 1994 \(S.I. 1994/227\)](#), regs. 1, **4(6)**
- F156** Words in reg. 23(3) substituted (7.2.1994) by [The Child Support \(Miscellaneous Amendments and Transitional Provisions\) Regulations 1994 \(S.I. 1994/227\)](#), regs. 1, **4(7)**

Persons with part-time care—not including a person treated as an absent parent

24.—(1) Where the circumstances of a case are that—

- (a) two or more persons who do not live in the same household each provide day to day care for the same qualifying child; and
- (b) those persons do not include any parent who is treated as an absent parent of that child by regulation 20(2),

that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case—

- (a) the person whose application for a maintenance assessment is being proceeded with shall, subject to paragraph (b), be entitled to receive all of the child support maintenance payable under the Act in respect of the child in question;
- (b) on request being made to the Secretary of State by—
 - (i) that person; or
 - (ii) any other person who is providing day to day care for that child and who intends to continue to provide that care,

the Secretary of State may make arrangements for the payment of any child support maintenance payable under the Act to the persons who provide such care in the same ratio as that in which it appears to the Secretary of State, that each is to provide such care for the child in question;

- (c) before making an arrangement under sub-paragraph (b), the Secretary of State shall consider all of the circumstances of the case and in particular the interests of the child, the present arrangements for the day to day care of the child in question and any representations or proposals made by the persons who provide such care for that child.

Care provided in part by a local authority

25.—(1) Where the circumstances of a case are that a local authority and a person each provide day to day care for the same qualifying child, that case shall be treated as a special case for the purposes of the Act.

(2) [^{F157}Subject to paragraph (3), in a case where this regulation applies]—

- (a) child support maintenance shall be calculated in respect of that child as if this regulation did not apply;
- (b) the amount so calculated shall be divided by 7 so as to produce a daily amount;
- (c) in respect of each night for which day to day care for that child is provided by a person other than the local authority, the daily amount relating to that period shall be payable by the absent parent (or, as the case may be, by the person treated as an absent parent under regulation 20(2));
- (d) child support maintenance shall not be payable in respect of any night for which the local authority provides day to day care for that qualifying child.

[^{F158}(3) In a case where more than one qualifying child is included in a child support maintenance assessment application and ad where this regulation applies to at least one of those children, child support maintenance shall be a calculated by applying the formula—

$S \times (A7 \times B)$

where—

S is the total amount of child support maintenance in respect of all qualifying children included in that maintenance assessment application, calculated as if this regulation did not apply;

A is the aggregate of the number of nights of day to day care for all qualifying children included in that maintenance assessment application provided in each week by a person other than the local authority;

B is the number of qualifying children in respect of whom the maintenance assessment application has been made.]

Textual Amendments

F157 Words in reg. 25(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **52(2)**

F158 Reg. 25(3) added (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **52(3)**

Cases where child support maintenance is not to be payable

26.—(1) Where the circumstances of a case are that—

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- (a) but for this regulation the minimum amount prescribed in regulation 13(1) would apply; and
- (b) any of the following conditions are satisfied—
- (i) the income of the absent parent includes one or more of the payments or awards specified in Schedule 4 or would include such a payment but for a provision preventing the receipt of that payment by reason of it overlapping with some other benefit payment or would, in the case of the payments referred to in paragraph (a) (i) or (iv) of that Schedule, include such a payment if the relevant contribution conditions for entitlement had been satisfied;
 - (ii) an amount to which regulation [F159 11(1)(f)] applies (protected income: income support family premium) is taken into account in calculating or estimating [F160 under paragraphs(1) to (5) of regulation 11,] the protected income of the absent parent;
 - (iii) the absent parent is a child within the meaning of section 55 of the Act;
 - (iv) the absent parent is a prisoner; or
 - (v) the absent parent is a person in respect of whom N (as calculated or estimated under regulation 7(1)) is less than the minimum amount prescribed by regulation 13(1), the case shall be treated as a special case for the purposes of the Act.
- (2) For the purposes of this case—
- (a) the requirement in paragraph 7(2) of Schedule 1 to the Act (minimum amount of child support maintenance fixed by an assessment to be the prescribed minimum amount) shall not apply;
 - (b) the amount of the child support maintenance to be fixed by the assessment shall be nil.

Textual Amendments

F159 Words in reg. 26(1)(b)(ii) substituted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(3), **54** (with reg. 59)

F160 Words in reg. 26(1)(b)(ii) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **53**

Child who is a boarder or an in-patient

27.—(1) Where the circumstances of a case are that—

- (a) a qualifying child is a boarder at a boarding school or is an in-patient in a hospital; and
- (b) by reason of those circumstances, the person who would otherwise provide day to day care is not doing so,

that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case, section 3(3)(b) of the Act shall be modified so [F161 that] for the reference to the person who usually provides day to day care for the child there shall be substituted a reference to the person who would usually be providing such care for that child but for the circumstances specified in paragraph (1).

Textual Amendments

F161 Word in reg. 27(2) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **24**

[^{F162}Child who is allowed to live with his parent under section 23(5) of the Children Act 1989

27A.—(1) Where the circumstances of a case are that a qualifying child who is in the care of a local authority in England and Wales is allowed by the authority to live with a parent of his under section 23(5) of the Children Act 1989, that case shall be treated as a special case for the purposes of the Act.

(2) For the purposes of this case, section 3(3)(b) of the Act shall be modified so that for the reference to the person who usually provides day to day care for the child there shall be substituted a reference to the parent of a child whom the local authority allow the child to live with under section 23(5) of the Children Act 1989.]

Textual Amendments

F162 Reg. 27A inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **25**

Amount payable where absent parent is in receipt of income support or other prescribed benefit

28.—(1) Where the condition specified in section 43(1)(a) of the Act is satisfied in relation to an absent parent (assessable income to be nil where income support^{[^{F163}}, income-based jobseeker's allowance] or other prescribed benefit is paid), the prescribed conditions for the purposes of section 43(1)(b) of the Act are that—

- (a) the absent parent is aged 18 or over;
- (b) he does not satisfy the conditions in paragraph [^{F164}3(1)(a) or (b)] of the relevant Schedule (income support family premium) [^{F165}and does not have day to day care of any child (whether or not a relevant child)]; and
- (c) [^{F166}his income does not include] one or more of the payments or awards specified in Schedule 4 (other than by reason of a provision preventing receipt of overlapping benefits or by reason of a failure to satisfy the relevant contribution conditions).

(2) For the purposes of section 43(2)(a) of the Act, the prescribed amount shall be equal to the minimum amount prescribed in regulation 13(1) for the purposes of paragraph 7(1) of Schedule 1 to the Act.

[^{F167}[^{F168}(3) Subject to paragraph (4), where—

- (a) an absent parent is liable under section 43 of the Act and this regulation to make payments in place of payments of child support maintenance with respect to two or more qualifying children in relation to whom there is more than one parent with care; or
- (b) that absent parent and his partner (within the meaning of regulation 2(1) of the Social Security (Claims and Payments) Regulations 1987) are both liable to make such payments,

the prescribed amount mentioned in paragraph (2) shall be apportioned between the persons with care in the same ratio as the maintenance requirements of the qualifying child or children in relation to each of those persons with care bear to each other.]

(4) If, in making the apportionment required by paragraph (3), the effect of the application of regulation 2(2) would be such that the aggregate amount payable would be different from the amount prescribed in paragraph (2) 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.

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(5) The provisions of Schedule 5 shall have effect in relation to cases to which section 43 of the Act and this regulation apply.]

Textual Amendments

- F163** Words in reg. 28(1) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(3)**
- F164** Words in reg. 28(1)(b) substituted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(3), **55** (with reg. 59)
- F165** Words in reg. 28(1)(b) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **26(1)(a)**
- F166** Words in reg. 28(1)(c) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **26(1)(b)**
- F167** Reg. 28(3)-(5) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **26(2)**
- F168** Reg. 28(3) substituted (26.4.1993) by [The Child Support \(Maintenance Assessments and Special Cases\) Amendment Regulations 1993 \(S.I. 1993/925\)](#), regs. 1, **2(2)**

Signed by authority of the Secretary of State for Social Security.

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

Status:

Point in time view as at 05/12/2005.

Changes to legislation:

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