
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;

“claimant” means a claimant for income support;

“Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992⁽¹⁾;

“council tax benefit” has the same meaning as in the Local Government Finance Act 1992⁽²⁾;

“course of advanced education” means

- (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 Technician 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 Technician 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;

“day to day care” means care of not less than 2 nights per week on average during—

- (a)** the 12 month period ending with the relevant week; or
- (b)** such other period, ending with the relevant week, as in the opinion of the child support officer is more representative of the current arrangements for the care of the child in question;

⁽¹⁾ 1992 c. 4.
⁽²⁾ 1992 c. 14.

and for the purposes of this definition, 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.

“disability working allowance” has the same meaning as in section 129 of the Contributions and Benefits Act;

“earnings” has the meaning assigned to it by paragraph 1 or 3, as the case may be, of Schedule 1;

“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;

“family” means—

- (a) a married or unmarried 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;
- (b) where a person who is not a member of a married or unmarried couple has day to day care of a child, 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⁽³⁾ 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⁽⁴⁾;

“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⁽⁵⁾ or section 73 of the Education (Scotland) Act 1980⁽⁶⁾;

“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 a residential care home or a nursing home during a period which does not exceed 52 weeks or, where it appears to the child support officer that the person will return to his principal home after that period has expired, such longer period as that officer 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⁽⁷⁾;

(3) 1989 c. 41.

(4) 1968 c. 49.

(5) 1944 c. 31.

(6) 1980 c. 44.

(7) S.I.1987/1971; the relevant amending instruments are S.I. 1988/1444, 1989/416 and 1991/503, 2910.

“Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁸⁾;

“Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992⁽⁹⁾;

“married couple” means a man and a woman who are married to each other and are members of the same household;

“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;

“nursing home” has the same meaning as in regulation 19(3) of the Income Support Regulations;

“occupational pension scheme” has the same meaning as in section 66(1) of the Social Security Pensions Act 1975⁽¹⁰⁾;

“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 a married or unmarried 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⁽¹¹⁾ as amended by the Criminal Justice Act 1988⁽¹²⁾) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975⁽¹³⁾;

“person” does not include a local authority;

“personal pension scheme” has the same meaning as in section 84(1) of the Social Security Act 1986⁽¹⁴⁾ 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⁽¹⁵⁾;

“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;

“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⁽¹⁶⁾ or the Mental Health (Scotland) Act 1984⁽¹⁷⁾;

⁽⁸⁾ 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.

⁽⁹⁾ S.I. 1992/1813.

⁽¹⁰⁾ 1975 c. 60.

⁽¹¹⁾ 1982 c. 48.

⁽¹²⁾ 1988 c. 33.

⁽¹³⁾ S.I. 1975/555; the relevant amending instruments are S.I. 1977/1693 and 1987/1683.

⁽¹⁴⁾ 1986 c. 50.

⁽¹⁵⁾ 1988 c. 1.

⁽¹⁶⁾ 1983 c. 20.

“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);

“relevant week” means—

- (a) in relation to an application for child support maintenance—
 - (i) in the case of the person making the application, the period of 7 days immediately preceding the date on which the appropriate maintenance assessment application form 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 a result of such application, the period of 7 days immediately preceding the date on which that form is to be treated as given or sent under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;
- (b) in relation to a review of a maintenance assessment under section 16 or 17 of the Act, the period of 7 days immediately preceding the date on which a maintenance assessment review enquiry form given or sent to the person in question is to be treated as having been given or sent under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;

“residential care home” has the same meaning as in regulation 19(3) of the Income Support Regulations;

“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;

“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—

- (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 Education (Mandatory Awards) Regulations 1988⁽¹⁸⁾) 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⁽¹⁹⁾;

“the Independent Living Fund” means the charitable trust of that name established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

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

⁽¹⁷⁾ 1984 c. 36.

⁽¹⁸⁾ S.I. 1988/1360.

⁽¹⁹⁾ 1990 c. 6; section 1 is amended by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9.

“unmarried couple” means a man and a woman who are not married to each other but are living together as husband and wife;

“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;

“year” means a period of 52 weeks;

“youth training” means—

- (a) arrangements made under section 2 of the Employment and Training Act 1973⁽²⁰⁾ or section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽²¹⁾; 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⁽²²⁾ (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.

(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) 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.

⁽²⁰⁾ 1973 c. 50; section 2 is substituted by the Employment Act 1988 (c. 19), section 25(1).

⁽²¹⁾ 1990 c. 35.

⁽²²⁾ 1966 c. 45.