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## STATUTORY INSTRUMENTS

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# 1992 No. 1815

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

### PART II

#### CALCULATION OR ESTIMATION OF CHILD SUPPORT MAINTENANCE

##### Calculation or estimation of amounts

2.—(1) Where any amount [<sup>F1</sup>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 [<sup>F2</sup>regulations 11(6) and (7) and 13(2) and [<sup>F3</sup>regulation 8A(5)] of the Maintenance Assessment Procedure Regulations], where any calculation made under [<sup>F4</sup>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) A child support officer 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

- F1** 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](#))
- F2** 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](#)
- F3** 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](#)
- F4** 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](#)

##### 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);

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- [<sup>F5</sup>(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;]
  - [<sup>F6</sup>(c) an amount equal to—
    - (i) the amount specified in paragraph 3(b) of the relevant Schedule; or
    - (ii) where the person with care is a lone parent as defined in regulation 2(1) of the Income Support Regulations, the amount specified in paragraph 3(a) of the relevant Schedule.]
  - <sup>F7</sup>(d) .....
- (2) The amounts referred to in paragraph (1) shall be the amounts applicable at the effective date.

**Textual Amendments**

**F5** 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)**

**F6** Reg. 3(1)(c) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **8(a)**

**F7** 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 [<sup>F8</sup>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**

**F8** 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.

## The additional element

6.—<sup>[F9]</sup>(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 <sup>[F10]</sup>1.5];
- (b) the amount for the purposes of paragraph (b) of the definition of Q is the same as the amount specified in <sup>[F11]</sup>regulation 3(1)(c)(i)] (income support family premium) in respect of each qualifying child.

### Textual Amendments

**F9** 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)**

**F10** 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)

**F11** 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**

## 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 <sup>[F12]</sup>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 youth 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.

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(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 child support officer 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

**F12** 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)**

#### 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 <sup>F13</sup>16 and 18];
- <sup>F14</sup>(bb) where applicable, an amount in respect of a qualifying transfer of property determined in accordance with Schedule 3A;]
- (c) where—
  - (i) the absent parent is the parent of a relevant child; and
  - <sup>F15</sup>(ii) if he were a claimant, the rate of income support family premium specified in sub-paragraph (a) of paragraph 3 of the relevant Schedule would be applicable to him because he is a lone parent and no premium is applicable to him under paragraph 11 of that Schedule,]
 an amount equal to the amount specified in <sup>F16</sup>that sub-paragraph];
- (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

- respect of whom an invalid care 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;
- (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, [<sup>F17</sup>but he is not a parent to whom sub-paragraph (c) applies], the amount specified in [<sup>F18</sup>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;
- (h) where the absent parent in question or his partner is living in—
- (i) accommodation provided under Part III of the National Assistance Act 1948 <sup>M1</sup>;
  - (ii) accommodation provided under paragraphs 1 and 2 of Schedule 8 to the National Health Service Act 1977 <sup>M2</sup>; or
  - (iii) a nursing home or residential care home,
- the amount of the fees paid in respect of the occupation of that accommodation or, as the case may be, that home [<sup>F19</sup>but where a local authority has determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that accommodation or that home, the net amount of such fees after deduction of housing benefit].
- [<sup>F20</sup>(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) [<sup>F21</sup>(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; [<sup>F22</sup>and]

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(iv) half the amount of any income support family premium specified in paragraph [F23]3(b) of the relevant Schedule] except where such premium is payable irrespective of that child; F22 ...

[F24](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.]

F25(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, [F26]any amount] to be taken into account under sub-paragraphs (1)(c) [F27]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

- F13** 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**
- F14** 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)
- F15** Reg. 9(1)(c)(ii) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **46(2)** (with reg. 59)
- F16** Words in reg. 9(1)(c) 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(2)(a)(ii)**
- F17** Words in reg. 9(1)(f) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(3), **46(3)** (with reg. 59)
- F18** 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)**
- F19** Words in reg. 9(1)(h) inserted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **42**
- F20** 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)
- F21** 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**
- F22** 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)**
- F23** 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)**
- F24** 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)**
- F25** 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)**
- F26** 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)**

**F27** 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)**

**Marginal Citations**

**M1** [1948 c.29.](#)

**M2** [1977 c.49.](#)

**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 [<sup>F28</sup>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**

**F28** 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)

**[<sup>F29</sup>Assessable income: family credit or disability working allowance paid to or in respect of a parent with care or an absent parent**

**10A.—**(1) Subject to paragraph (2), where family credit or disability working allowance 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 child support officer is considering an application for such an assessment to be made.]

**Textual Amendments**

**F29** Reg. 10A added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **11**

**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, [<sup>F30</sup>subject to paragraphs (3), (4)[<sup>F31</sup>, (6) and (6A)],] be the aggregate of the following amounts—

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- (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 [<sup>F32</sup>regulation 15(4)], the non-dependant amount which would be calculated in respect of him under [<sup>F33</sup>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)];
- [<sup>F34</sup>(c) where, if the absent parent were a claimant, the rate of income support family premium specified in sub-paragraph (a) of paragraph 3 of the relevant Schedule would be applicable to him because he is a lone parent and no premium is applicable to him under paragraph 11 of that Schedule, an amount equal to the amount specified in that sub-paragraph;]
- (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);
- (f) where, if the parent were a claimant, the conditions in paragraph 3 of the relevant Schedule (income support family premium) would be satisfied [<sup>F35</sup>but he is not a parent to whom sub-paragraph (c) applies], the amount specified in [<sup>F36</sup>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;
- (i) where the absent parent in question or his partner is living in—



- (i) accommodation provided under Part III of the National Assistance Act 1948<sup>M3</sup>;
- (ii) accommodation provided under paragraphs 1 and 2 of Schedule 8 to the National Health Service Act 1977<sup>M4</sup>; or
- (iii) a nursing home or residential care home,

the amount of the fees paid in respect of the occupation of that accommodation or, as the case may be, that home [<sup>F37</sup>but where housing benefit is paid to the absent parent in question or his partner in respect of fees for that accommodation or that home the net amount of such fees after deduction of housing benefit].

[<sup>F38</sup>(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 [<sup>F39</sup>£30.00;]

[<sup>F40</sup>(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 [<sup>F41</sup>(a) to (kk)], [<sup>F42</sup>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; <sup>F43</sup>...

[<sup>F44</sup>(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; <sup>F45</sup>...]

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[<sup>F46</sup>(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]

(b) in respect of any child in that family, as being the total of [<sup>F47</sup>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, [<sup>F48</sup>any amount] to be taken into account under sub-paragraphs (c) [<sup>F49</sup>or (f)] of paragraph (1) (<sup>F50</sup>... 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.

[<sup>F51</sup>(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.

[<sup>F52</sup>(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) [<sup>F53</sup>or (6A)] results in a fraction of a penny, that fraction shall be treated as a penny.]

#### Textual Amendments

- F30** 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)**
- F31** 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)**
- F32** 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)**
- F33** 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)**
- F34** Reg. 11(1)(c) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **48(a)** (with reg. 59)

- F35** Words in reg. 11(1)(f) substituted (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1997 1998 (S.I. 1998/58), regs. 1(2), **48(b)** (with reg. 59)
- F36** 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)**
- F37** Words in reg. 11(1)(i) added (22.1.1996) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995 (S.I. 1995/3261), regs. 1(2), **43(3)**
- F38** 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)**
- F39** 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)**
- F40** 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)
- F41** 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)
- F42** 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)**
- F43** 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)**
- F44** 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)
- F45** 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)**
- F46** 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)**
- F47** 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)**
- F48** 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)**
- F49** 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)(b)**
- F50** 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)**
- F51** 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)
- F52** Reg. 11(6A) added (5.8.1996) by The Child Support (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1945), regs. 1, **20(3)**
- F53** 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)**

**Marginal Citations****M3** 1948 c.29.**M4** 1977 c.49.**Disposable income**

12.—<sup>F54</sup>(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) [<sup>F55</sup>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); <sup>F56</sup>...

*Status: Point in time view as at 19/01/1998.*

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

(b) [<sup>F57</sup>subject to sub-paragraph (c),] in a case to which regulation 11(6) [<sup>F55</sup>or (6A)] applies, his net income as calculated in accordance with regulation 7 [<sup>F58</sup>; and]

[<sup>F59</sup>(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

- F54** 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)
- F55** 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
- F56** 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)
- F57** 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)
- F58** 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)
- F59** 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 [<sup>F60</sup>2 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 [<sup>F61</sup>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.

#### Textual Amendments

- F60** 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)
- F61** 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 [<sup>F62</sup>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 [<sup>F63</sup>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].

[<sup>F64</sup>[<sup>F65</sup>(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.]

- <sup>F66</sup>(4) .....
- <sup>F66</sup>(5) .....
- <sup>F66</sup>(6) .....
- <sup>F66</sup>(7) .....
- <sup>F66</sup>(8) .....
- <sup>F66</sup>(9) .....

**Textual Amendments**

- F62** 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)
- F63** 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)
- F64** 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)**
- F65** 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**
- F66** 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)

[<sup>F67</sup> **Weekly amount of housing costs**

16.—(1) [<sup>F68</sup>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;

*Status: Point in time view as at 19/01/1998.*

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

- (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 [<sup>F69</sup>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

- F67** Reg. 16 substituted (5.8.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1, **22**
- F68** 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)
- F69** 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)

#### Apportionment of housing costs: exempt income

17. [<sup>F70</sup>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

**F70** 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, 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.

**Status:**

Point in time view as at 19/01/1998.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, PART II.