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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 falls to be taken into account for the purposes of 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 regulation 13(2), where any calculation made under 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.

**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);
- (b) with respect to a person with care of a qualifying child aged less than 16, 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);
- (c) an amount equal to the amount specified in paragraph 3 of the relevant Schedule (income support family premium);
- (d) where the person with care of the qualifying child or children has no partner, an amount equal to the amount specified in paragraph 15(1) of the relevant Schedule (income support lone parent premium).

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

**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 regulation 2(1) of the Child Benefit and Social Security (Fixing and

Adjustment of Rates) Regulations 1976(1) (rates of child benefit) applicable to the child in question at the effective date.

### **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.—(1) For the purposes of the formula in paragraph 4(1) of Schedule 1 to the Act, the value of R is 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 3;
  - (b) the amount for the purposes of paragraph (b) of the definition of Q is the same as the amount specified in regulation 3(1)(c) (income support family premium) in respect of each qualifying child.

### **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 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.

(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.

#### **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 18;
- (c) where—

- (i) the absent parent is the parent of a relevant child; and
- (ii) if he were a claimant, the condition in paragraph 8 of the relevant Schedule (income support lone parent premium) would be satisfied but the conditions referred to in sub-paragraph (1)(d) would not be satisfied;

an amount equal to the amount specified in column (2) of paragraph 15(1) of that Schedule (income support lone parent premium);

- (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, the amount specified in 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>(2)</sup>;
  - (ii) accommodation provided under paragraphs 1 and 2 of Schedule 8 to the National Health Service Act 1977<sup>(3)</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.
- (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) 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;
    - (iv) half the amount of any income support family premium specified in paragraph 3 of the Schedule except where such premium is payable irrespective of that child; and
    - (v) the amount by which the housing costs of the absent parent, calculated in accordance with these Regulations, have been reduced by an apportionment under regulation 17.
- (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, any amounts to be taken into account under sub-paragraphs (1)(c) and (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.

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(2) 1948 c. 29.

(3) 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.

### **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, subject to paragraphs (3) and (4), 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 regulation 15(10)(a), the non-dependant amount which would be calculated in respect of him under regulation 15(5);
- (c) where, if the absent parent were a claimant, the condition in paragraph 8 of the relevant Schedule (income support lone parent premium) would be satisfied but the condition set out in paragraph 11 of that Schedule (income support disability premium) would not be satisfied, an amount equal to the amount specified in column (2) of paragraph 15(1) of that Schedule (income support lone parent premium);
- (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, the amount specified in 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(4);
  - (ii) accommodation provided under paragraphs 1 and 2 of Schedule 8 to the National Health Service Act 1977(5); 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.
- (j) the amount of council tax which the absent parent in question or his partner is liable to pay in respect of the home for which housing costs are included under sub-paragraph (b) less any council tax benefit;
- (k) an amount of £8·00;
- (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 (a) to (k), 10 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; and
  - (b) in respect of any child in that family, as being the total of that child’s income 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, any amounts to be taken into account under sub-paragraphs (c) and (f) of paragraph (1) (income support lone parent premium and 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

(4) 1948 c. 29.

(5) 1977 c. 49.

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.

### **Disposable income**

**12.**—(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 the aggregate of his income and any income of any member of his family calculated in like manner as under regulation 11(2).

(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.

### **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 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 an 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.

### **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 regulations 16 to 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.

(4) Where one or more non-dependants are members of the parent's household, there shall be deducted from the amount of any housing costs determined under the preceding paragraphs of this regulation any non-dependant amount or amounts determined in accordance with the provisions of paragraphs (5) to (9).

(5) The non-dependant amount shall be an amount equal to the amount which would be calculated under paragraph 63 of the Housing Benefit Regulations (non-dependant deductions) for the non-dependant in question if he were a non-dependant in respect of whom a calculation were to be made under that regulation.

- (6) For the purposes of paragraph (5)—
- (a) in the case of a couple or, as the case may be, the members of a polygamous marriage—
    - (i) regard shall be had to their joint weekly income; and
    - (ii) only one deduction shall be made at whichever is the higher rate.
- (7) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a couple or members of a polygamous marriage), the deduction in respect of that non-dependant shall be apportioned between the joint occupiers having regard to the number of joint occupiers and the proportion of the housing costs in respect of the home payable by each of them.
- (8) No deduction shall be made in respect of any non-dependants occupying the home of the parent, if the parent or any partner of his is—
- (a) blind or treated as blind by virtue of paragraph 12 of the relevant Schedule (income support additional condition for the higher pensioner and disability premiums); or
  - (b) receiving in respect of himself either—
    - (i) attendance allowance under section 64 of the Contributions and Benefits Act; or
    - (ii) the care component of disability living allowance.
- (9) No deduction shall be made in respect of a non-dependant—
- (a) if, although he resides with the parent, it appears to the child support officer that his home is normally elsewhere; or
  - (b) if he is in receipt of a training allowance paid in connection with a Youth Training Programme established under section 2 of the Employment and Training Act 1973(6) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(7); or
  - (c) if he is a student; or
  - (d) if he is aged under 25 and in receipt of income support; or
  - (e) if he is not residing with the parent because he is a prisoner or because he has been a patient for a period, or two or more periods separated by not more than 28 days, exceeding 6 weeks.
- (10) A parent shall be treated as having no housing costs where—
- (a) 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; or
  - (b) but for this paragraph, his housing costs would be less than nil.

### **Weekly amount of housing costs**

- 16.** Where a parent pays housing costs—
- (a) on a weekly basis, the amount of such housing costs shall be the weekly rate payable at the effective date;
  - (b) on a monthly basis, the amount of such housing costs shall be the monthly rate payable at the effective date, multiplied by 12 and divided by 52;
  - (c) on any other basis, the amount of such housing costs shall 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.

(6) 1973 c. 50, as amended by sections 9 and 11 and Schedule 2, Part II, paragraph 9 and Schedule 3 of the Employment and Training Act 1981 (c. 57).

(7) 1990 c. 35.



**Apportionment of housing costs: exempt income**

17. 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—

$$\frac{0.75 + (A \times 0.2)}{1.00 + (B \times 0.2)}$$

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—

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

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.

**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.