
STATUTORY INSTRUMENTS

1992 No. 1815

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

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;
- (c) where the person with care is a body of persons corporate or unincorporate, the value of AG shall not include any amount mentioned in regulation 3(1)(d) (income support lone parent premium).

(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 or to a child support officer 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 child support officer shall make a fresh assessment which shall have effect from the effective date in relation to that other absent parent.

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 child support officer, 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.

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

- (a) two or more applications for a maintenance assessment have been made which relate to the same absent parent (or to a person who is treated as an absent parent by regulation 20(2)); and
- (b) those applications relate to different children,

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

(2) For the purposes of assessing the amount of child support maintenance payable in respect of each application where paragraph (1) applies, 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—

$$A \times \frac{B}{D}$$

where—

A is the assessable income of the absent parent;

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 application relating to the absent parent in question.

(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).

(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 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.

(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.

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) 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), (c) or (d) (amounts included in the calculation of AG) there shall be substituted an amount calculated by dividing the amount which would have been so included by the relevant number.

(3) In paragraph (2) “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.

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) 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.

Cases where child support maintenance is not to be payable

- 26.**—(1) Where the circumstances of a case are that—
- (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 11(1)(f) applies (protected income: income support family premium) is taken into account in calculating or estimating 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.

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 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).

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 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 3 of the relevant Schedule (income support family premium); and
- (c) he does not satisfy the conditions for entitlement to 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.