

---

STATUTORY INSTRUMENTS

---

**1996 No. 2907**

**The Child Support Departure Direction and  
Consequential Amendments Regulations 1996**

**[<sup>F1</sup>PART III  
SPECIAL EXPENSES**

**[<sup>F1</sup> Illness or disability**

**15.**—(1) Subject to paragraphs (2) to (4), the costs being met by the applicant in respect of the items listed in sub-paragraphs (a) to (m), which arise from long-term illness or disability of that applicant or a dependant of that applicant and which are in excess of the costs which would be incurred if that illness or disability did not exist, shall constitute special expenses for the purposes of paragraph 2(2) of Schedule 4B to the Act—

- (a) personal care and attendance;
- (b) personal communication needs;
- (c) mobility;
- (d) domestic help;
- (e) medical aids where these cannot be provided under the health service;
- (f) heating;
- (g) clothing;
- (h) laundry requirements;
- (i) payments for food essential to comply with a diet recommended by a medical practitioner;
- (j) adaptations required to the applicant's home;
- (k) day care;
- (l) rehabilitation; or
- (m) respite care.

(2) Where the Secretary of State considers any costs referred to in paragraph (1) to be unreasonably high or to have been unreasonably incurred he may substitute such lower amount as he considers reasonable, including a nil amount.

(3) [<sup>F2</sup>Subject to paragraph (4A),] where—

- (a) an applicant or his dependant has, at the date an application is made, received, or at that date is in receipt of, financial assistance from any source in respect of his long-term illness or disability or that of his dependant; or
- (b) that applicant or his dependant is adjudged eligible for [<sup>F3</sup>a disability benefit] referred to in paragraph (4),

only the net amount of the costs incurred in respect of the items listed in paragraph (1), after the deduction of the financial assistance referred to in sub-paragraph (a) and, where applicable, [<sup>F4</sup>the disability benefit] referred to in sub-paragraph (b) shall constitute special expenses for the purposes of paragraph 2(2) of Schedule 4B to the Act.

[<sup>F5</sup>(4) Subject to paragraph (4A), where the Secretary of State considers that a person who has made an application in respect of special expenses falling within paragraph (1) or his dependant may be entitled to a disability benefit—

- (a) if that applicant or his dependant has at the date of that application, or within a period of six weeks beginning with the giving or sending to that person of notification of the possibility of entitlement to a disability benefit, applied for a disability benefit, the application made by that applicant shall not be determined until a decision has been made by the Secretary of State on the eligibility for that disability benefit of that applicant or that dependant;
- (b) if that applicant or his dependant has failed to apply for a disability benefit within the six week period specified in sub-paragraph (a), the Secretary of State shall determine the application for a departure direction made by that applicant on the basis that that applicant has income equivalent to the highest rate prescribed in respect of that disability benefit by or under those sections.]

[<sup>F6</sup>[<sup>F7</sup>(4A) Paragraphs (3) and (4) do not apply where the dependant of an applicant is adjudged eligible for a disability benefit and in all the circumstances of the case the Secretary of State considers that the costs being met by the applicant in respect of the items listed in paragraph (1) shall constitute special expenses for the purposes of paragraph 2(2) of Schedule 4B to the Act without the deductions in paragraph (3) being made.]]

(5) For the purposes of this regulation, a dependant of an applicant shall be—

- (a) where the applicant is an absent parent—
  - (i) the partner of that absent parent;
  - (ii) any child of whom that absent parent or his partner is a parent and who lives with them; or
- (b) where the applicant is a parent with care—
  - (i) the partner of that parent with care;
  - (ii) any child of whom that parent with care or her partner is a parent and who lives with them, except any child in respect of whom the absent parent against whom the current assessment is made is the parent.

(6) For the purposes of this regulation—

- (a) a person is disabled if he is blind, deaf or dumb or is substantially or permanently handicapped by illness, injury, mental disorder or congenital deformity;
- (b) “long-term illness” means an illness from which the applicant or his dependant is suffering at the date of the application and which is likely to last for at least 52 weeks from that date or if likely to be shorter than 52 weeks, for the rest of the life of that applicant or his dependant;
- (c) “the health service” has the same meaning as in section 128 of the National Health Service Act 1977 <sup>M1</sup> or in section 108(1) of the National Health Service (Scotland) Act 1978 <sup>M2</sup>.]
- [<sup>F8</sup>(d) “disability benefit” means disability living allowance under section 71 of the Contributions and Benefits Act, personal independence payment under Part 4 of the Welfare Reform Act 2012<sup>F9</sup>, armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011] or attendance allowance under section 64 of the Contributions and Benefits Act.]

### Textual Amendments

- F1** Instrument Regulations revoked (coming into force in accordance with reg. 1(4) of the amending S.I.) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), **reg. 10(d)**
- F2** Words in reg. 15(3) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **11(2)** (with reg. 59)
- F3** Words in reg. 15(3)(b) substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 19(a)(i)**
- F4** Words in reg. 15(3) substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 19(a)(ii)**
- F5** Reg. 15(4) substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 19(b)**
- F6** Reg. 15(4A) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **11(3)** (with reg. 59)
- F7** Reg. 15(4A) substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 19(c)**
- F8** Reg. 15(6)(d) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 19(d)**
- F9** Words in reg. 15(6)(d) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 13(2)**

### Marginal Citations

- M1** 1977 c.49.
- M2** 1978 c.29.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support Departure Direction and Consequential Amendments Regulations 1996, Section 15.