
STATUTORY INSTRUMENTS

2001 No. 156

The Child Support (Variations) Regulations 2000

PART V

ADDITIONAL CASES

Income not taken into account and diversion of income

19.—(1) Subject to paragraph (2), a case shall constitute a case for the purposes of paragraph 4(1) of Schedule 4B to the Act where—

- (a) the non-resident parent's liability to pay child support maintenance under the maintenance calculation which is in force or has been applied for ^{F1} ..., is, or would be, as the case may be—
 - (i) the nil rate owing to the application of paragraph 5(a) of Schedule 1 to the Act; or
 - (ii) a flat rate, owing to the application of paragraph 4(1)(b) of Schedule 1 to the Act, or would be a flat rate but is less than that amount, or nil, owing to the application of paragraph 8 of Schedule 1 to the Act; and
- (b) the Secretary of State is satisfied that the non-resident parent is in receipt of income which would fall to be taken into account under the Maintenance Calculations and Special Cases Regulations but for the application to the non-resident parent of paragraph 4(1)(b) or 5(a) of Schedule 1 to the Act.

^{F2}(1A) Subject to paragraph (2), a case shall constitute a case for the purposes of paragraph 4(1) of Schedule 4B to the Act where—

- (a) the non-resident parent has the ability to control the amount of income he receives from a company or business, including earnings from employment or self-employment; and
- (b) the Secretary of State is satisfied that the non-resident parent is receiving income from that company or business which would not otherwise fall to be taken into account under the Maintenance Calculations and Special Cases Regulations.]

^{F3}(2) Paragraphs (1) and (1A) shall apply where—

- (a) the income referred to in paragraph (1)(b) is net weekly income of over £100; or
- (b) the income referred to in paragraph (1A)(b) is over £100; or
- (c) the aggregate of the net weekly income referred to in sub-paragraph (a) and the income referred to in sub-paragraph (b) is over £100,

as the case may be.]

(3) Net weekly income for the purposes of paragraph (2), in relation to earned income of a non-resident parent who is a student, shall be calculated by aggregating the income for the year ending with the relevant week (which for this purpose shall have the meaning given in the Maintenance Calculations and Special Cases Regulations) and dividing by 52, or, where the Secretary of State does not consider the result to be representative of the student's earned income, over such other period as he shall consider representative and dividing by the number of weeks in that period.

[^{F4}(4) A case shall constitute a case for the purposes of paragraph 4(1) of Schedule 4B to the Act where—

(a) the non-resident parent (“P”) has the ability to control the amount of income that—

(i) P receives, or

(ii) is taken into account as P’s net weekly income,

including earnings from employment or self-employment, whether or not the whole of that income is derived from the company or business from which those earnings are derived; and

(b) the [^{F5}Secretary of State] is satisfied that P has unreasonably reduced the amount of P’s income which would otherwise fall to be taken into account under the Maintenance Calculations and Special Cases Regulations or paragraph (1A) by diverting it to other persons or for purposes other than the provision of such income for P.

(4A) In paragraph (4), “net weekly income” has the same meaning as in the Maintenance Calculations and Special Cases Regulations.]

(5) Where a variation on this ground is agreed to—

(a) in a case to which paragraph (1) applies, the additional income taken into account under regulation 25 shall be the whole of the income referred to in paragraph (1)(b), aggregated with any benefit, pension or allowance [^{F6}prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Act] which the non-resident parent receives other than any benefits referred to in regulation 26(3); and

(b) in a case to which paragraph (4) applies, the additional income taken into account under regulation 25 shall be the whole of the amount by which the Secretary of State is satisfied the non-resident parent has unreasonably reduced his income[^{F7}; and

(c) in a case to which paragraph (1A) applies, the additional income taken into account under regulation 25 shall be the whole of the income referred to in paragraph (1A)(b).]

Textual Amendments

- F1** Words in reg. 19(1)(a) omitted (27.10.2008) by virtue of [Child Support \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/2543\)](#), regs. 1, **8(2)**
- F2** Reg. 19(1A) inserted (6.4.2005) by [Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(c), **8(5)(a)**
- F3** Reg. 19(2) substituted (6.4.2005) by [Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(c), **8(5)(b)**
- F4** Reg. 19(4)(4A) substituted for reg. 19(4) (6.4.2009) by [Child Support \(Miscellaneous and Consequential Amendments\) Regulations 2009 \(S.I. 2009/736\)](#), regs. 1(1), **4(3)**
- F5** Words in reg. 19(4)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 115(b)**
- F6** Words in reg. 19(5)(a) inserted (30.4.2002) by [The Child Support \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1204\)](#), regs. 3(a), **9(6)**
- F7** Reg. 19(5)(c) and word added (6.4.2005) by [Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(c), **8(5)(d)**

Commencement Information

- I1** Reg. 19 partly in force; reg. 19 not in force at made date; reg. 19 in force at 3.3.2003 for certain purposes, see reg. 1(1) and [S.I. 2003/192](#)

Changes to legislation:

There are currently no known outstanding effects for the The Child Support (Variations) Regulations 2000, Section 19.