

---

STATUTORY INSTRUMENTS

---

**2001 No. 156**

**The Child Support (Variations) Regulations 2000**

**PART V**

**ADDITIONAL CASES**

**Life-style inconsistent with declared income**

**20.**—(1) Subject to paragraph (3), 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 which has been applied for or treated as applied for, is, or would be, as the case may be—
  - (i) the basic rate,
  - (ii) the reduced rate,
  - (iii) a flat rate owing to the application of paragraph 4(1)(a) of Schedule 1 to the Act, including where the net weekly income of the non-resident parent taken into account for the purposes of the maintenance calculation is, or would be, £100 per week or less owing to a variation being taken into account, or to the application of regulation 18, 19 or 21 of the Transitional Regulations (deduction for relevant departure direction or relevant property transfer);
  - (iv) £5 per week or such other amount as may be prescribed owing to the application of paragraph 7(7) of Schedule 1 to the Act (shared care);
  - (v) equivalent to the flat rate provided for in, or prescribed for the purposes of, paragraph 4(1)(b) of Schedule 1 to the Act owing to the application of—
    - (aa) regulation 27(5);
    - (bb) regulation 9 of the Maintenance Calculations and Special Cases Regulations (care provided in part by a local authority); or
    - (cc) regulation 23(5) of the Transitional Regulations; or
  - (vi) the nil rate owing to the application of paragraph 5(b) of Schedule 1 to the Act; and
- (b) the Secretary of State is satisfied that the income which has been, or would be, taken into account for the purposes of the maintenance calculation is substantially lower than the level of income required to support the overall life-style of the non-resident parent.

(2) Subject to paragraph (4), a case shall constitute a case for the purposes of paragraph 4(1) of Schedule 4B to the Act where the non-resident parent's liability to pay child support maintenance under the maintenance calculation which is in force, or which has been applied for or treated as applied for, is, or would be, as the case may be—

- (a) 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; or

(b) the nil rate owing to the application of paragraph 5(a) of Schedule 1 to the Act, and the Secretary of State is satisfied that the income which would otherwise be taken into account for the purposes of the maintenance calculation is substantially lower than the level of income required to support the overall life-style of the non-resident parent.

(3) Paragraph (1) shall not apply where the Secretary of State is satisfied that the life-style of the non-resident parent is paid for from—

- (a) income which is or would be disregarded for the purposes of a maintenance calculation under the Maintenance Calculations and Special Cases Regulations;
- (b) income which falls to be considered under regulation 19(4) (diversion of income);
- (c) assets as defined for the purposes of regulation 18, or income derived from those assets;
- (d) the income of any partner of the non-resident parent, except where the non-resident parent is able to influence or control the amount of income received by that partner; or
- (e) assets as defined for the purposes of regulation 18 of any partner of the non-resident parent, or any income derived from such assets, except where the non-resident parent is able to influence or control the assets, their use, or income derived from them.

(4) Paragraph (2) shall not apply where the Secretary of State is satisfied that the life-style of the non-resident parent is paid for—

- (a) from a source referred to in paragraph (3);
- (b) from net weekly income of £100 or less; or
- (c) from income which falls to be considered under regulation 19(1).

(5) Where a variation on this ground is agreed to, the additional income taken into account under regulation 25 shall be the difference between the income which the Secretary of State is satisfied the non-resident parent requires to support his overall life-style and the income which has been or, but for the application of paragraph 4(1)(b) or 5(a) of Schedule 1 to the Act, would be taken into account for the purposes of the maintenance calculation, aggregated with any benefit, pension or allowance which the non-resident parent receives other than any benefits referred to in regulation 26(3).