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## STATUTORY INSTRUMENTS

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# 2012 No. 2677

## The Child Support Maintenance Calculation Regulations 2012

### PART 2

#### APPLICATION FOR A MAINTENANCE CALCULATION

##### Applications under section 4 or 7 of the 1991 Act

**9.**—(1) The Secretary of State may determine the form in which an application for a maintenance calculation is to be made and may require the applicant to provide such information or evidence as the Secretary of State reasonably requires in order to process the application (including, in the case of an application by a person with care, information sufficient to enable the person named as the non-resident parent to be identified).

(2) The application is to be taken to have been made when the application has been submitted to the Secretary of State in the required form and the information required under paragraph (1) has been provided.

##### Commencement Information

- II** Reg. 9 wholly in force; reg. 9 not in force at made date; reg. 9 in force at 29.7.2013 for certain purposes and reg. 9 in force at 25.11.2013 in so far as not already in force, see reg. 1, SI 2013/1860 and [S.I. 2013/2947](#)

##### Multiple applications

**10.**—(1) Where two or more applications for a maintenance calculation are made with respect to the same child the Secretary of State may determine which to proceed with.

(2) In making a determination under paragraph (1) the Secretary of State must have regard to the following order of priority—

- (a) an application by a person with care or a non-resident parent has priority over an application by a child under section 7 of the 1991 Act <sup>M1</sup>;
  - (b) otherwise an earlier application has priority over one made later.
- (3) Where—
- (a) in relation to an application under section 4 or 7 of the 1991 Act <sup>M2</sup>, both parents of a qualifying child are named as non-resident parents; or
  - (b) an application is made under section 4 of that Act by both non-resident parents of a qualifying child,

the Secretary of State must proceed with the application in relation to each non-resident parent, treating it as a single application for a maintenance calculation in respect of that qualifying child.

**Status:** Point in time view as at 26/05/2022.

**Changes to legislation:** There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, PART 2. (See end of Document for details)

### Commencement Information

- I2** Reg. 10 wholly in force; reg. 10 not in force at made date; reg. 10 in force at 29.7.2013 for certain purposes and reg. 10 in force at 25.11.2013 in so far as not already in force, see reg. 1, SI 2013/1860 and [S.I. 2013/2947](#)

### Marginal Citations

- M1** Section 7 was amended by paragraph 21 of Schedule 7, and Schedule 8, to the [Social Security Act 1998 \(c. 14\)](#) (“the 1998 Act”), section 1(2) of, and paragraph 11(1), (2) and (4) of Schedule 3 to, the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#) (“the 2000 Act”), and by section 35(2) of the [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#) (“the 2008 Act”).
- M2** Section 4 was amended by section 18(1) of the [Child Support Act 1995 \(c. 34\)](#), [paragraph 19](#) of Schedule 7, and Schedule 8, to the 1998 Act, sections 1(2) and 2(1) to (3) of, and paragraph 11(1) to (3) of Schedule 3 to, the 2000 Act and section 35(1) of, and Schedule 8 to, the 2008 Act.

### Notice of application

**11.**—(1) Where an application has been made under section 4 or 7 of the 1991 Act<sup>F1</sup>, and the requirements in paragraph (3) are satisfied,] the Secretary of State must<sup>F2</sup>... give written notice to the non-resident parent—

- (a) requesting such information as the Secretary of State may require to make the maintenance calculation; and
- (b) where relevant, advising the non-resident parent of the power of the Secretary of State to make an estimate of income or a default maintenance decision.

[<sup>F3</sup>(2) The notice must be sent by—

- (a) post to the last known address of the non-resident parent (as ascertained and verified in accordance with paragraph (3)(a)); or
- (b) by electronic communication in accordance with Schedule 1.]

[<sup>F4</sup>(3) The requirements referred to in paragraph (1) are—

- (a) the address of the non-resident parent in relation to the application has been ascertained and verified; and
- (b) any application fee payable under regulation 3(1) (the application fee) of the Child Support Fees Regulations 2014 has been paid or waived in accordance with those Regulations.

(4) Except where paragraph (5) or (6) applies to an application, notice must be given as soon as is reasonably practicable.

(5) Where—

- (a) there is an existing case related to the application; or
- (b) the applicant—
  - (i) has been required to choose in an existing case whether or not to stay in the statutory scheme (under Schedule 5 (maintenance calculations: transfer of cases to new rules) to the 2008 Act), as a result of that applicant's existing case being related to an application made under section 4(1) or 7(1) of the 1991 Act, and
  - (ii) has chosen, by way of the application, to remain in the statutory scheme,

notice must be given as soon as is reasonable.

(6) Subject to paragraph (8), where the applicant—

- (a) has been required to choose in an existing case whether or not to stay in the statutory scheme (under Schedule 5 to the 2008 Act), in circumstances where the existing case is not related to an application made under section 4(1) or 7(1) of the 1991 Act; and
  - (b) has chosen, by way of the application, to remain in the statutory scheme,
- notice must be given in accordance with paragraph (7).

(7) Where paragraph (6) applies, notice must be given—

- (a) where the application is made and the requirements in paragraph (3) are satisfied before the day 39 days before the liability end date (which means the date determined in accordance with regulation 6 (liability end date) of the Ending Liability Regulations) in relation to the existing case has passed, as soon as is reasonable once that day has passed; or
- (b) where the application is made and the requirements in paragraph (3) are satisfied after the day 39 days before the liability end date has passed, as soon as is reasonable.

(8) Where an application to which paragraph (6) applies becomes an application to which paragraph (5) applies (because it becomes an existing case related to an application), paragraph (6) ceases to apply to that application.

(9) For the purposes of paragraphs (5) to (8) and this paragraph—

- (a) “the 2008 Act” means the Child Maintenance and Other Payments Act 2008;
- (b) “existing case” has the meaning given in paragraph 1(2) of Schedule 5 to the 2008 Act;
- (c) “the Ending Liability Regulations” means the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014;
- (d) an existing case is related to an application if—
  - (i) the non-resident parent in relation to that application is also the non-resident parent in relation to the existing case and the person with care in relation to that application is not the person with care in relation to the existing case, or
  - (ii) the non-resident parent in relation to that application is a partner of a non-resident parent in relation to the existing case and either or both are in receipt of a benefit prescribed by regulations made under paragraph 4(1)(c) (flat rate) of Schedule 1 to the 1991 Act.]

#### Textual Amendments

- F1** Words in Pt. 2 reg. 11(1) inserted (30.6.2014) by [The Child Support \(Consequential and Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1386\)](#), regs. 1(2), **7(2)(a)(i)** (as amended (24.6.2014) by [S.I. 2014/1621](#), reg. 3)
- F2** Words in Pt. 2 reg. 11(1) omitted (30.6.2014) by virtue of [The Child Support \(Consequential and Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1386\)](#), regs. 1(2), **7(2)(a)(ii)** (as amended (24.6.2014) by [S.I. 2014/1621](#), reg. 3)
- F3** [Reg. 11\(2\)](#) substituted (26.5.2022) by [The Child Support \(Amendments Relating to Electronic Communications and Information\) \(England and Wales and Scotland\) Regulations 2022 \(S.I. 2022/503\)](#), regs. 1(2), **25**
- F4** Pt. 2 reg. 11(3)-(9) inserted (30.6.2014) by [The Child Support \(Consequential and Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1386\)](#), regs. 1(2), **7(2)(c)** (as amended (24.6.2014) by [S.I. 2014/1621](#), reg. 3)

#### Commencement Information

- I3** Reg. 11 wholly in force; reg. 11 not in force at made date; reg. 11 in force at 29.7.2013 for certain purposes and reg. 11 in force at 25.11.2013 in so far as not already in force, see reg. 1, [SI 2013/1860](#) and [S.I. 2013/2947](#)

**Status:**

Point in time view as at 26/05/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, PART 2.