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STATUTORY INSTRUMENTS

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**2012 No. 2677**

**The Child Support Maintenance Calculation Regulations 2012**

**PART 4**

THE MAINTENANCE CALCULATION RULES

CHAPTER 4

SPECIAL CASES

**Care provided in part by a local authority**

**53.**—(1) This regulation applies where paragraph (2) applies and the rate of child support maintenance payable is the basic rate, or the reduced rate, or has been calculated following agreement to a variation where the non-resident parent's liability would otherwise have been the flat rate or the nil rate.

(2) Where the circumstances of a case are that the care of the qualifying child is shared between the person with care and a local authority and—

- (a) the qualifying child is in the care of the local authority for 52 nights or more in the period of 12 months ending with the effective date of the relevant calculation decision;
- (b) where, in the opinion of the Secretary of State, a period other than the period of 12 months mentioned in sub-paragraph (a) is more representative of the current arrangements for the care of the qualifying child, the qualifying child is in the care of the local authority during that period for no fewer than the number of nights which bears the same ratio to 52 nights as that period bears to 12 months; or
- (c) it is intended that the qualifying child is to be in the care of the local authority for a number of nights in a period beginning with the day after the effective date and—
  - (i) if that period were a period of 12 months, the number of nights is 52 nights or more;  
or
  - (ii) if that period were a period other than 12 months, the number of nights is no fewer than the number of nights which bears the same ratio to 52 nights as that period bears to 12 months,

that case is to be treated as a special case for the purpose of the 1991 Act.

(3) In a case where this regulation applies, the amount of child support maintenance which the non-resident parent is liable to pay the person with care of that qualifying child is the amount calculated in accordance with the provisions of Part I of Schedule 1 to the 1991 Act and decreased in accordance with this regulation.

(4) First, there is to be a decrease according to the number of nights spent or to be spent by the qualifying child in the care of the local authority during the period under consideration.

(5) Where paragraph (2)(b) or (c) applies, the number of nights in the period under consideration shall be adjusted by the ratio which the period of 12 months bears to the period under consideration.

*Status: Point in time view as at 03/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 53. (See end of Document for details)*

(6) After any adjustment under paragraph (5), the amount of the decrease for one child is set out in the following Table—

<i>Number of nights in care of local authority</i>	<i>Fraction to subtract</i>
52-103	One-seventh
104-155	Two-sevenths
156-207	Three-sevenths
208-259	Four-sevenths
260-262	Five-sevenths

(7) If the non-resident parent and the person with care have more than one qualifying child, the applicable decrease is the sum of the appropriate fractions in the Table divided by the number of such qualifying children.

(8) In a case where the amount of child support maintenance which the non-resident parent is liable to pay in relation to the same person with care is to be decreased in accordance with the provisions of both this regulation and of paragraph 7 of Part 1 of Schedule 1 to the 1991 Act, read with these Regulations, the applicable decrease is the sum of the appropriate fractions derived under those provisions.

(9) If the application of this regulation would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to less than the flat rate referred to in paragraph 4(1) of Schedule 1 to the 1991 Act (or in that sub-paragraph as modified by regulations under paragraph 10A of Schedule 1), the non-resident parent is instead liable to pay child support maintenance at a rate equivalent to that rate, apportioned (if appropriate) in accordance with paragraph 6 of Part I of Schedule 1 to that Act.

(10) If the number of nights calculated for the purposes of applying the table in paragraph (6) is 263 or more, the amount of child support maintenance payable by the non-resident parent in respect of the child in question is nil.

(11) Where a qualifying child is a boarder at a boarding school or is an in-patient at a hospital, the qualifying child shall be treated as being in the care of the local authority for any night that the local authority would otherwise have been providing such care.

(12) A child is in the care of a local authority for any night in which that child is being looked after by the local authority within the meaning of section 22 of the Children Act 1989<sup>M1</sup> or section 17(6) of the Children (Scotland) Act 1995 [<sup>F1</sup>or section 74 of the Social Services and Well-being (Wales) Act 2014]<sup>M2</sup>.

#### **Textual Amendments**

- F1** Words in Pt. 4 reg. 53(12) inserted (3.11.2017) by [The Social Services and Well-being \(Wales\) Act 2014 and the Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Order 2017 \(S.I. 2017/901\)](#), arts. 1, **14(3)**

#### **Commencement Information**

- I1** Reg. 53 wholly in force; reg. 53 not in force at made date; reg. 53 in force at 29.7.2013 for certain purposes and reg. 53 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** 1989 c. 41. Section 22 was amended by paragraph 19 of Schedule 5 to the [Local Government Act 2000 \(c. 22\)](#) and by section 2(2) of the [Children \(Leaving Care\) Act 2000 \(c. 35\)](#); there are other amendments to section 22 that are not relevant to these Regulations.
- M2** 1995 c. 36.

**Status:**

Point in time view as at 03/11/2017.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 53.