
STATUTORY INSTRUMENTS

2012 No. 2677

The Child Support Maintenance Calculation Regulations 2012

PART 5

VARIATIONS

CHAPTER 2

GROUNDS FOR VARIATION: SPECIAL EXPENSES

Prior debts

65.—(1) Subject to the following paragraphs of this regulation and regulation 68 (thresholds), the repayment of debts to which paragraph (2) applies constitutes special expenses for the purposes of paragraph 2(2) of Schedule 4B to the 1991 Act where those debts were incurred—

- (a) before the non-resident parent became a non-resident parent in relation to the qualifying child; and
 - (b) at the time when the non-resident parent and the person with care in relation to the child referred to in sub-paragraph (a) were a couple.
- (2) This paragraph applies to debts incurred—
- (a) for the joint benefit of the non-resident parent and the person with care;
 - (b) for the benefit of the person with care where the non-resident parent remains legally liable to repay the whole or part of the debt;
 - (c) for the benefit of any person who is not a child but who at the time the debt was incurred—
 - (i) was a child,
 - (ii) lived with the non-resident parent and the person with care, and
 - (iii) of whom the non-resident parent or the person with care is the parent, or both are the parents;
 - (d) for the benefit of the qualifying child referred to in paragraph (1); or
 - (e) for the benefit of any child, other than the qualifying child referred to in paragraph (1), who, at the time the debt was incurred—
 - (i) lived with the non-resident parent and the person with care, and
 - (ii) of whom the person with care is the parent.
- (3) Paragraph (1) does not apply to repayment of—
- (a) a debt which would otherwise fall within paragraph (1) where the non-resident parent has retained for the non-resident parent's own use and benefit the asset in connection with the purchase of which the debt was incurred;
 - (b) a debt incurred for the purposes of any trade or business;
 - (c) a gambling debt;

- (d) a fine imposed on the non-resident parent;
- (e) unpaid legal costs in respect of—
 - (i) separation from the person with care;
 - (ii) divorce from the person with care; or
 - (iii) dissolution of a civil partnership that had been formed with the person with care;
- (f) amounts due after use of a credit card;
- (g) a debt incurred by the non-resident parent to pay for any of the items listed in sub-paragraphs (c) to (f) and (j);
- (h) amounts payable by the non-resident parent under a mortgage or loan taken out on the security of any property, except where that mortgage or loan was taken out to facilitate the purchase of, or to pay for repairs or improvements to, any property which was, and continues to be, the home of the person with care and any qualifying child;
- (i) amounts payable by the non-resident parent in respect of a policy of insurance, except where that policy of insurance was obtained or retained to discharge a mortgage or charge taken out to facilitate the purchase of, or to pay for repairs or improvements to, any property which was, and continues to be, the home of the person with care and the qualifying child;
- (j) a bank overdraft except where the overdraft was at the time it was taken out agreed to be for a specified amount repayable over a specified period;
- (k) a loan obtained by the non-resident parent other than a loan obtained from a qualifying lender or the non-resident parent's current or former employer; or
- (l) any other debt which the Secretary of State is satisfied is reasonable to exclude.

(4) Except where the repayment is of an amount which is payable under a mortgage or loan or in respect of a policy of insurance which falls within the exception set out in sub-paragraph (h) or (i) of paragraph (3), repayment of a debt does not constitute expenses for the purposes of paragraph (1) where the Secretary of State is satisfied that the non-resident parent has taken responsibility for repayment of that debt as, or as part of, a financial settlement with the person with care or by virtue of a court order.

(5) Where an applicant has incurred a debt partly to repay a debt, repayment of which would have fallen within paragraph (1), the repayment of that part of the debt incurred which is referable to the debt repayment of which would have fallen within that paragraph, constitutes expenses for the purposes of paragraph 2(2) of Schedule 4B to the 1991 Act.

(6) In paragraph (3)(h) “repairs or improvements” means repairs that the Secretary of State considers are major repairs necessary to maintain the fabric of the home and any of the following measures—

- (a) installation of a fixed bath, shower, wash basin or lavatory, and necessary associated plumbing;
- (b) damp-proofing measures;
- (c) provision or improvement of ventilation and natural light;
- (d) provision of electric lighting and sockets;
- (e) provision or improvement of drainage facilities;
- (f) improvement of the structural condition of the home;
- (g) improvements to the facilities for the storing, preparation and cooking of food;
- (h) provision of heating, including central heating;
- (i) provision of storage facilities for fuel and refuse;

- (j) improvements to the insulation of the home; or
- (k) other improvements which the Secretary of State considers reasonable in the circumstances.

Commencement Information

- II** Reg. 65 wholly in force; reg. 65 not in force at made date; reg. 65 in force at 29.7.2013 for certain purposes and reg. 65 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](#)

Changes to legislation:

There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 65.