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STATUTORY RULES OF NORTHERN IRELAND

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**2001 No. 18**

**The Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001**

**Part II**

**Calculation of Child Support Maintenance**

**Calculation of amounts**

2.—(1) Where any amount is to be considered in connection with any calculation made under these Regulations or under Schedule 1 to the Order, it shall be calculated as a weekly amount and, except where the context otherwise requires, any reference to such an amount shall be construed accordingly.

(2) Subject to paragraph (3), where any calculation made under these Regulations or under Schedule 1 to the Order results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded.

(3) Where the calculation of the basic rate of child support maintenance or the reduced rate of child support maintenance results in a fraction of a pound that fraction shall be treated as a pound if it is either one half or exceeds one half, otherwise it shall be disregarded.

(4) In taking account of any amounts or information required for the purposes of making a maintenance calculation, the Department shall apply the dates or periods specified in these Regulations as applicable to those amounts or information, provided that if it becomes aware of a material change of circumstances occurring after such date or period, but before the effective date, it shall take that change of circumstances into account.

(5) Information required for the purposes of making a maintenance calculation in relation to the following shall be the information applicable at the effective date—

- (a) the number of qualifying children;
- (b) the number of relevant other children;
- (c) whether the non-resident parent receives a benefit, pension or allowance prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Order;
- (d) whether the non-resident parent or his partner receives a benefit prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the Order; and
- (e) whether paragraph 5(a) of Schedule 1 to the Order applies to the non-resident parent.

**Reduced Rate**

3. The reduced rate is an amount calculated as follows—

$$F + (A \times T)$$

where—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

F is the flat rate liability applicable to the non-resident parent under paragraph 4 of Schedule 1 to the Order;

A is the amount of the non-resident parent's net weekly income between £100 and £200; and

T is the percentage determined in accordance with the following Table—

Number of relevant other children of the non-resident parent	1 qualifying child of the non-resident parent			2 qualifying children of the non-resident parent				3 or more qualifying children of the non-resident parent				
	1	2	3 or more	0	1	2	3 or more	0	1	2	3 or more	
T%	25	20.5	19	17.5	35	29	27	25	45	37.5	35	32.5

#### Flat rate

4.—(1) The following benefits, pensions and allowances are prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Order—

(a) under the Contributions and Benefits Act—

- (i) bereavement allowance under section 39B(1);
- (ii) category A retirement pension under section 44(2);
- (iii) category B retirement pension under section 48C(3);
- (iv) category C and category D retirement pensions under section 78(4);
- (v) incapacity benefit under section 30A(5);
- (vi) invalid care allowance under section 70(6);
- (vii) maternity allowance under section 35(7);
- (viii) severe disablement allowance under section 68(8);
- (ix) industrial injuries benefit under section 94;
- (x) widowed mother's allowance under section 37;
- (xi) widowed parent's allowance under section 39A(9), and

- (1) Section 39B was inserted by Article 51 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I.1999/3147 (N.I. 11))
- (2) Section 44 was amended by paragraph 11 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and Article 125(2) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
- (3) Section 48C was inserted by paragraph 3(1) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 and amended by paragraph 6 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (4) Section 78 was amended by paragraph 14 of Schedule 2 to the Pensions (Northern Ireland) Order 1995
- (5) Section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994
- (6) Section 70 was amended by regulation 2(3) of S.R. 1994 No. 370
- (7) Section 35 was amended by Article 4(a) of the Still-Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310 (N.I. 10)), regulation 2 of S.R. 1994 No. 176 and Article 50 of the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (8) Section 68 is repealed prospectively with savings by Article 62 of, and Part IV of Schedule 10 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999
- (9) Section 39A is inserted prospectively by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999

- (xii) widow's pension under section 38;
  - (b) contribution-based jobseeker's allowance under Article 3 of the Jobseekers Order(10);
  - (c) a social security benefit paid by a country other than the United Kingdom;
  - (d) a training allowance (other than a relevant training scheme); and
  - (e) a war disablement pension or war widow's pension within the meaning of section 146(2) of the Contributions and Benefits Act or a pension which is analogous to such a pension paid by the government of a country outside the United Kingdom.
- (2) The benefits prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the Order are—
- (a) income support under section 123 of the Contributions and Benefits Act(11);
  - (b) an income-based jobseeker's allowance under Article 3 of the Jobseekers Order.
- (3) Where the non-resident parent is liable to pay a flat rate by virtue of paragraph 4(2) of Schedule 1 to the Order—
- (a) if he has one partner, then the amount payable by the non-resident parent shall be half the flat rate; and
  - (b) if he has more than one partner, then the amount payable by the non-resident parent shall be the result of apportioning the flat rate equally among him and his partners.

#### **Nil rate**

- 5.—(1) The rate payable is nil where the non-resident parent is—
- (a) a student;
  - (b) a child within the meaning given in Article 3 of the Order;
  - (c) a prisoner;
  - (d) a person who is 16 or 17 years old and—
    - (i) in receipt of income support or an income-based jobseeker's allowance, or
    - (ii) a member of a couple whose partner is in receipt of income support or an income-based jobseeker's allowance;
  - (e) a person receiving an allowance in respect of a relevant training scheme;
  - (f) a person in a residential care home or nursing home who—
    - (i) is in receipt of a pension, benefit or allowance specified in regulation 4(1) or (2), or
    - (ii) has the whole or part of the cost of his accommodation met by a Health and Social Services Board or an HSS trust;
  - (g) a patient in hospital who is in receipt of income support whose applicable amount includes an amount under paragraph 1(a) or (b) of Schedule 7 to the Income Support Regulations(12) (patient for more than 6 weeks);
  - (h) a person in receipt of a benefit specified in regulation 4(1) the amount of which has been reduced in accordance with the provisions of regulations 4(d)(13) and 6(14) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975 (circumstances in

(10) Article 3 was amended by paragraph 3 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(11) Section 123 was amended by paragraph 13 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995

(12) Paragraph 1(a) and (b) was amended by regulation 22 of, and paragraph 17(a)(i) of Schedule 1 to, S.R. 1988 No. 318, regulation 19(a) of S.R. 1990 No.131, regulation 5(5)(a) of S.R. 1996 No. 288 and Part I of Schedule 5 to S.R. 2000 No. 38

(13) Regulation 4(d) was amended by regulation 2(3)(b) and (c) of S.R. 1987 No. 391

(14) Regulation 6 was amended by regulation 3(2) of S.R. 1977 No. 316, Article 19(1)(a) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), regulation 2(2) of S.R. 1987 No. 12 and regulation 2(6) of S.R. 1987 No. 391

which personal benefit is to be adjusted and adjustment of personal benefit after 52 weeks in hospital);

- (i) a person who would be liable to pay the flat rate because he satisfies the description in paragraph 4(1)(c) of Schedule 1 to the Order but his net weekly income, inclusive of—
  - (i) any benefit, pension or allowance that he receives which is prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Order, and
  - (ii) any benefit that he or his partner receives which is prescribed for the purposes of paragraph 4(1)(c) of Schedule 1 to the Order,
 is less than £5 a week.
- (2) In this regulation—
  - (a) a “Health and Social Services Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(15)</sup>;
  - (b) an “HSS trust” means a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991<sup>(16)</sup>, by which functions are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994<sup>(17)</sup>.

### **Apportionment**

6. If, in making the apportionment required by regulation 4(3) or paragraph 6 of Schedule 1 to the Order<sup>(18)</sup>, the effect of the application of regulation 2(2) (rounding) would be such that the aggregate amount of child support maintenance payable by a non-resident parent would be different from the aggregate amount payable before any apportionment, the Department shall adjust that apportionment so as to eliminate that difference; and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which that person with care would have received if no adjustment had been made under this paragraph.

### **Shared care**

7.—(1) For the purposes of paragraphs 7 and 8 of Schedule 1 to the Order a night will count for the purposes of shared care where the non-resident parent—

- (a) has the care of a qualifying child overnight; and
- (b) the qualifying child stays at the same address as the non-resident parent.

(2) For the purposes of paragraphs 7 and 8 of Schedule 1 to the Order, a non-resident parent has the care of a qualifying child when he is looking after the child.

(3) Subject to paragraph (4), in determining the number of nights for the purposes of shared care, the Department shall consider the 12 month period ending with the relevant week and for this purpose “relevant week” has the same meaning as in the definition of day to day care in regulation 1(2).

(4) The circumstances in which the Department may have regard to a number of nights over less than a 12 month period are where there has been no pattern for the frequency with which the non-resident parent looks after the qualifying child for the 12 months preceding the relevant week, or the

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<sup>(15)</sup> S.I. 1972/1265 (N.I. 14)

<sup>(16)</sup> S.I.1991/194 (N.I. 1); Article 10 was amended by Article 3(8) of the Health and Personal Social Services (Northern Ireland) Order 1994 (S.I. 1994/429 (N.I. 2))

<sup>(17)</sup> S.I. 1994/429 (N.I. 2)

<sup>(18)</sup> Part I of Schedule 1 was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Department is aware that a change in that frequency is intended, and in that case it shall have regard to such lesser period as may seem to the Department to be appropriate, and the Table in paragraph 7(4) and the period in paragraph 8(2) of Schedule 1 to the Order shall have effect subject to the adjustment described in paragraph (5).

(5) Where paragraph (4) applies, the Department shall adjust the number of nights in that lesser period by applying to that number the ratio which the period of 12 months bears to that lesser period.

(6) Where a child is a boarder at a boarding school, or is a patient in a hospital, the person who, but for those circumstances, would otherwise have care of the child overnight, shall be treated as providing that care during the periods in question.