STATUTORY RULES OF NORTHERN IRELAND

2012 No. 427

The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012

PART 5

VARIATIONS

CHAPTER 4

EFFECT OF VARIATION ON THE MAINTENANCE CALCULATION

Effect on maintenance calculation – special expenses

71.—(1) Subject to paragraph (2) and regulation 73, where the variation agreed to is one falling within Chapter 2, effect is to be given to the variation in the maintenance calculation by deducting from the gross weekly income of the non-resident parent the weekly amount of those expenses referred to in that Chapter.

(2) Where the income which is taken into account in the maintenance calculation is the capped amount, then—

(a) the weekly amount of the expenses is first to be deducted from the actual gross weekly income of the non-resident parent;

(b) the amount by which the capped amount exceeds the figure calculated under sub-paragraph (a) is to be calculated; and

(c) effect is to be given to the variation in the maintenance calculation by deducting from the capped amount the amount calculated under sub-paragraph (b).

Effect on the maintenance calculation – additional income grounds

72.—(1) Subject to paragraph (2) and regulation 73, where the variation agreed to is one falling within Chapter 3, effect is to be given to the variation by increasing the gross weekly income of the non-resident parent which would otherwise be taken into account by the weekly amount of the additional income except that, where the amount of gross weekly income calculated in this way would exceed the capped amount, the amount of the gross weekly income taken into account is to be the capped amount.

(2) Where a variation is agreed to under this Chapter and the non-resident parent's liability would, apart from the variation, be a flat rate (or an amount equivalent to the flat rate), the amount of child support maintenance which the non-resident parent is liable to pay is a weekly amount calculated by adding an amount equivalent to the flat rate to the amount calculated by applying Schedule 1(**1**) to the additional income arising under the variation.

(**1**) Part I was amended by paragraph 4(7) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995, paragraph 32(1) and (2) of Schedule 6 to the Social Security (Northern Ireland) Order 1998, paragraphs 10 and 11 of Schedule 24 to the Civil Partnership Act 2004 and paragraph 2(8) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 and is substituted

Effect on maintenance calculation – general

73.—(1) Subject to paragraph (5), where more than one variation is agreed to in respect of the same period, regulations 71 and 72 apply and the results are to be aggregated as appropriate.

(2) Paragraph 7(2) to (7) of Schedule 1 applies where the rate of child support maintenance is affected by a variation which is agreed to and paragraph 7(2) is to be read as if after "as calculated in accordance with the preceding paragraphs" there were inserted, ", Schedule 4B and regulations made under that Schedule".

(3) Subject to paragraphs (4) and (5), where the non-resident parent shares the care of a qualifying child within the meaning in Part 1 of Schedule 1, or where the care of such a child is shared with an authority, the amount of child support maintenance that the non-resident parent is liable to pay to the person with care, calculated to take account of any variation, is to be reduced in accordance with the provisions of paragraph 7 of that Part or regulation 52, as the case may be.

(4) If the application of paragraph (3) would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to the person with care (or all of them) to less than a figure equivalent to the flat rate referred to in paragraph 4(1) of Schedule 1 (or in that sub-paragraph as modified by regulations under paragraph 10A of that Schedule), the non-resident parent is instead liable to pay child support maintenance at a rate equivalent to the flat rate apportioned if appropriate as provided in paragraph 6 of Schedule 1.

(5) The effect of a variation is not to be applied for any period during which a circumstance referred to in regulation 56(1)(d) to (f) applies.

Situations in which a variation previously agreed to may be taken into account in calculating maintenance liability

74.—(1) This regulation applies where—

(a) a variation that has been agreed to has ceased to have effect in relation to the weekly amount of the non-resident parent's liability for child support maintenance because—

(i) the non-resident parent has become liable to pay child support maintenance at the nil rate, or another rate which means that the variation cannot be taken into account, or

(ii) the decision as to the maintenance calculation has been replaced with a default maintenance decision under Article 14(1)(b)(**2**); and

(b) the non-resident parent has subsequently become liable to pay a rate of child support maintenance which can be adjusted to take account of the variation by virtue of a decision under Article 18(1B) or 19.

(2) Where this regulation applies and the Department is satisfied, on the information or evidence available, that there has been no material change of circumstances relating to the variation since the date from which the variation ceased to have effect, the Department may, when making the decision referred to in paragraph (1)(b), take into account the effect of the variation upon the amount of liability for child support maintenance notwithstanding the fact that an application has not been made.

by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and amended by paragraph 12 of Schedule 24 to the Civil Partnership Act 2004 and Schedules 1 and 4 to the Child Maintenance Act (Northern Ireland) 2008

(**2**) Article 14(1) was substituted by paragraph 12(1) of Schedule 6 to Social Security (Northern Ireland) Order 1998