
STATUTORY INSTRUMENTS

2013 No. 1860

**The Child Maintenance and Other Payments
Act 2008 (Commencement No. 11 and
Transitional Provisions) Order 2013**

Cases to which the new calculation rules apply

3.—(1) The types of cases falling within this article, for the purposes of article 2, are those cases satisfying any of paragraphs (2) to (4).

(2) A case satisfies this paragraph where—

- (a) an application under section 4 or 7 of the 1991 Act⁽¹⁾ is made to the Secretary of State on or after 29th July 2013;
- (b) that application is made in respect of two or three qualifying children with the same person with care and the same non-resident parent; and
- (c) subject to paragraph (5), there is no existing case which has both the same person with care and the same non-resident parent referred to in sub-paragraph (b).

(3) A case satisfies this paragraph where it is an existing case and—

- (a) the non-resident parent in a case falling within paragraph (2) is also the non-resident parent or absent parent in relation to the existing case; and
- (b) the person with care in relation to the existing case is not the person with care in relation to the case falling within paragraph (2).

(4) A case satisfies this paragraph where it is an existing case and—

- (a) the non-resident parent or absent parent (“A”) is a partner of a non-resident parent in a case falling within paragraph (2) (“B”); and
- (b) A or B is in receipt of a prescribed benefit.

(5) Where—

- (a) the applicant in relation to an existing case makes a request to the Secretary of State under section 4(5) or 7(6) of the 1991 Act to cease acting; and
- (b) a further application is made under section 4 or 7 of the 1991 Act in relation to the same qualifying child, person with care and non-resident parent on or after 29th July 2013, but before the expiry of 13 weeks from the date of cessation of action by the Secretary of State,

the case is to be treated as an existing case (and so is not a case that satisfies paragraph (2)).

(6) For the purposes of paragraphs (2)(a) and (5)(b), the date an application is made is—

- (a) where made by telephone, the date it is made; and
- (b) where made by post, the date of receipt by the Secretary of State.

(1) 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 Social Security Act 1998 (c. 14) (“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, section 35(1) of, and Schedule 8 to, the Child Maintenance and Other Payments Act 2008 (c. 6) (“the 2008 Act”) and S.I. 2012/2007. Section 7 was amended by paragraph 21 of Schedule 7, and Schedule 8, to the 1998 Act, section 1(2) of, and paragraph 11(1),(2) and (4) of Schedule 3 to, the 2000 Act, section 35(2) of the 2008 Act and S.I. 2012/2007.

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(7) For the purposes of paragraph (4)—

“partner” has the meaning given in paragraph 10C(4) (references to various terms) of Schedule 1 to the 1991 Act as amended by the 2000 Act⁽²⁾;

“prescribed benefit” means a benefit prescribed, or treated as prescribed, for the purposes of paragraph 4(1)(c) (flat rate) of Schedule 1 to the 1991 Act as amended by the 2000 Act.

(8) For the purposes of paragraph (5)(b), the date of cessation of action by the Secretary of State is—

(a) where there is a maintenance assessment or maintenance calculation in force, the date on which the liability under that assessment or calculation ends as a result of the request to cease acting; and

(b) where there is an application still to be determined, the date notified to the person with care as the date on which the Secretary of State has ceased acting.

(2) Part 1 of Schedule 1 to the 1991 Act was substituted by section 1(3) of, and Schedule 1 to, the 2000 Act.