
STATUTORY INSTRUMENTS

2008 No. 2111

**The Social Security (Child Maintenance
Amendments) Regulations 2008**

Amendment of the Income Support (General) Regulations 1987

- 2.—(1) The Income Support (General) Regulations 1987 are amended as follows.
- (2) In the heading to each of the following regulations, before “liable relatives” insert “child maintenance or”—
- (a) 25 (liable relative payments),
 - (b) 55 (treatment of liable relative payments),
 - (c) 58 (calculation of the weekly amount of a liable relative payment),
 - (d) 59 (date on which a liable relative payment is to be treated as paid).
- (3) In regulation 25, for “liable relatives” substitute “child maintenance and liable relative payments”.
- (4) Omit—
- (a) regulation 25A(1) (child support);
 - (b) regulation 60 (liable relative payments to be treated as capital);
 - (c) in Part 5, the whole of Chapter 7A.
- (5) In Part 5, for the heading to Chapter 7 (liable relatives), substitute “child maintenance and liable relative payments”.
- (6) In regulation 54(2) (interpretation)—
- (a) at the appropriate places insert the following definitions—
 - ““child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—
 - (a) the Child Support Act 1991(3);
 - (b) the Child Support (Northern Ireland) Order 1991(4);
 - (c) a court order;
 - (d) a consent order,
 - (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;
 - “claimant’s family” shall be construed in accordance with section 137 of the contributions and Benefits Act 1992 (interpretation of part 7 and supplementary provisions);

(1) Inserted by S.I. 1993/846.
(2) Relevant amending instrument is S.I. 1988/663.
(3) 1991 c.48.
(4) S.I. 1999/2628 (N.I. 23).

“housing costs” means, those costs which may be met under regulation 17(1)(e) or 18(1)(f) (housing costs);

“ordinary clothing and footwear” means clothing and footwear for normal daily use but does not include school uniforms;”;

- (b) in the definition of “liable relative” in paragraph (d) for “by virtue of section 26(3)(c) of the Act (liability to maintain)” substitute “in the circumstances set out in section 78(6)(c) of the Social Security Administration Act 1992 (liability to maintain another person)”;
- (c) in the definition of “payment”—
 - (i) omit “including, except in the case of a discretionary trust, any payment which would be so made or derived upon application being made by the claimant but which has not been acquired by him but only from the date on which it could be expected to be acquired were an application made;”;
 - (ii) for paragraph (e) substitute—
 - “(e) made to a third party, or in respect of a third party, unless the payment is—
 - (i) in relation to the claimant or the claimant’s family; and
 - (ii) the payment is in respect of food, ordinary clothing or footwear, fuel, rent, housing costs, council tax or water charges;”;
- (d) in the definition of “periodical payment”—
 - (i) in paragraph (a) omit “in pursuance of a court order or agreement for maintenance”
 - (ii) in paragraph (c), for “not exceeding” substitute “, after the appropriate disregard under paragraph 73 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) has been applied to it, that does not exceed”.
- (7) In regulation 55(5) (treatment of liable relative payments) for “except where regulation 60(1) (liable relative payments to be treated as capital) applies” substitute “paragraph 73 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings)”.
- (8) For regulation 57 substitute—

“Period over which payments other than periodical payments are to be taken into account

57.—(1) The period over which a payment other than a periodical payment (a “non-periodical payment”) is to be taken account shall be determined as follows.

(2) Except in a case where paragraph (4) applies, the number of weeks over which a non-periodical payment is to be taken into account shall be equal to the number obtained by dividing that payment by the amount referred to in paragraph (3).

(3) The amount is the aggregate of £2 and—

- (a) the amount of income support that would be payable had no payment been made, and
- (b) where applicable, the maximum amount of disregard that would apply to the payment under paragraph 73 of Schedule 9.

(4) This paragraph applies in a case where a liable relative makes a periodical payment and a non-periodical payment concurrently and the weekly amount of the periodical payment (as calculated in accordance with regulation 58) is less than B.

(5) In a case where paragraph (4) applies, the non-periodical payment shall, subject to paragraphs (6) and (7), be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{A}{B - C}$$

(6) If the liable relative ceases to make periodical payments, the balance (if any) of the non-periodical payment shall be taken into account over the number of weeks equal to the number obtained by dividing that balance by the amount referred to in paragraph (3).

(7) If the amount of any subsequent periodical payment varies, the balance (if any) of the non-periodical payment shall be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{D}{B - E}$$

(8) The period under paragraph (2) or (4) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is treated as paid) and the period under paragraph (6) and (7) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

(9) Any fraction which arises by applying a calculation or formula referred to in this regulation shall be treated as a corresponding fraction of a week.

(10) In paragraphs (4) to (7)—

- A = the amount of the non-periodical payment;
- B = the aggregate of £2 and the amount of income support that would be payable had the periodical payment not been made and, where applicable, the maximum disregard under paragraph 73 of Schedule 9;
- C = the weekly amount of the periodical payment;
- D = the balance (if any) of the non-periodical payment;
- E = the weekly amount of any subsequent periodical payment.”.

(9) In paragraph 73 of Schedule 9(6) (sums to be disregarded in the calculation of income other than earnings) for sub-paragraphs (3) and (4) substitute—

“(3) No more than £20 shall be disregarded in respect of each week to which any payment of child maintenance is attributed in accordance with regulations 55 to 59 (child maintenance and liable relatives).

(4) In this paragraph, “child maintenance” shall have the same meaning as in regulation 54.”.

(6) Paragraph 73 was inserted by [S.I. 2000/3176](#) and substituted by [S.I. 2004/98](#).