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STATUTORY INSTRUMENTS

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**2012 No. 2677**

**The Child Support Maintenance Calculation Regulations 2012**

**PART 5**

VARIATIONS

CHAPTER 2

GROUNDS FOR VARIATION: SPECIAL EXPENSES

**Illness or disability of relevant other child**

**64.**—(1) Subject to the following paragraphs of this regulation, expenses necessarily incurred by the non-resident parent in respect of the items listed in sub-paragraphs (a) to (m) due to the long-term illness or disability of a relevant other child constitute special expenses for the purposes of paragraph 2(2) of Schedule 4B to the 1991 Act—

- (a) personal care and attendance;
- (b) personal communication needs;
- (c) mobility;
- (d) domestic help;
- (e) medical aids where these cannot be provided under the health service;
- (f) heating;
- (g) clothing;
- (h) laundry requirements;
- (i) payments for food essential to comply with a diet recommended by a medical practitioner;
- (j) adaptations required to the non-resident parent's home;
- (k) day care;
- (l) rehabilitation; or
- (m) respite care.

(2) For the purposes of this regulation and regulation 63 (contact costs)—

- (a) a person is “disabled” for a period in respect of which—
  - (i) a disability living allowance<sup>F1</sup>, child disability payment<sup>F2</sup>, armed forces independence payment<sup>F3</sup><sup>F4</sup>, ] personal independence payment<sup>F5</sup> or adult disability payment<sup>F6</sup> is paid to or in respect of that person;
  - (ii) that person would receive a disability living allowance<sup>F6</sup>, or the care component of child disability payment in accordance with regulation 11 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021,] if it were not for the fact that the person is a patient, though remaining part of the applicant's family; <sup>F7</sup> ...

- (iii) that person is registered blind, <sup>F8</sup> ...
- <sup>F9</sup>(iv) that person would receive personal independence payment but for regulations under section 86(1) (hospital in-patients) of the Welfare Reform Act 2012, and remains part of the applicant’s family, ]<sup>F10</sup>or
- (v) that person would receive adult disability payment but for regulation 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the [<sup>F11</sup>Disability Assistance for Working Age People (Scotland) Regulations 2022], and remains part of the applicant’s family,]
  - and “disability” is to be construed accordingly;
- <sup>F12</sup>(ab) “child disability payment” has the meaning given in regulation 2 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021]
  - (b) “disability living allowance” means the care component of a disability living allowance, payable under section 72 of the Social Security Contributions and Benefits Act 1992;
  - (c) “the health service” has the same meaning as in section 275 of the National Health Service Act 2006<sup>M1</sup> or in section 108(1) of the National Health Service (Scotland) Act 1978<sup>M2</sup>;
  - (d) “long-term illness” means an illness from which the child is suffering at the date of the application or the date from which the variation, if agreed, would take effect and which is likely to last for at least 12 months after that date, or, if likely to be shorter than 12 months, for the remainder of their life; and
  - (e) “relevant other child” has the meaning given in paragraph 10C(2) of Schedule 1 to the 1991 Act<sup>M3</sup>;
  - (f) a person is “registered blind” where that person is—
    - <sup>F13</sup>(i) . . . . .
    - ((ia)) [<sup>F14</sup>registered as severely sight-impaired in a register kept by a local authority in England under section 77(1) of the Care Act 2014 (registers of sight-impaired adults); <sup>F15</sup> ...]
    - (ii) registered as blind in a register maintained by or on behalf of a local authority in Scotland<sup>F16</sup>; or
    - (iii) registered as severely sight impaired in a register kept by a local authority in Wales under section 18(1)(a) of the Social Services and Well-being (Wales) Act 2014;]
  - <sup>F17</sup>(g) “personal independence payment” means the daily living component of personal independence payment under section 78 of the Welfare Reform Act 2012.]
  - <sup>F18</sup>(ga) “adult disability payment” means the daily living component of adult disability payment under regulation 5 of the Disability Assistance for Working Age People (Scotland) Regulations 2022;]
  - <sup>F19</sup>(h) “armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.]

(3) Where, at the date on which the non-resident parent makes the variation application—

  - (a) the non-resident parent or a member of the non-resident parent's household has received, is in receipt of, or will receive any financial assistance from any source in respect of the long-term illness or disability of the relevant other child; or
  - (b) a disability living allowance<sup>F20</sup>, child disability payment]<sup>F21</sup>, armed forces independence payment]<sup>F22</sup><sup>F23</sup>, ]personal independence payment]<sup>F24</sup>or adult disability payment] is received by the non-resident parent or the member of the non-resident parent's household on behalf of the relevant other child,

only the net amount of the costs incurred in respect of the items listed in paragraph (1), after the deduction of the financial assistance or the amount of the allowance [<sup>F25</sup>or payment], constitutes special expenses for the purposes of paragraph 2(2) of Schedule 4B to the 1991 Act.

(4) For the purposes of paragraph (2)(a)—

- (a) “patient” means a person (other than a person who is serving a sentence of imprisonment within the meaning of section 163 of the Powers of Criminal Courts (Sentencing) Act 2000<sup>M4</sup> [<sup>F26</sup>or section 397 of the Sentencing Code] or of detention in a young offender institution within the meaning of [<sup>F27</sup>section 96 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 262 of the Sentencing Code] or, in Scotland, a sentence of imprisonment or detention within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005<sup>M5</sup>; and
- (b) where a person has ceased to be registered in a register as referred to in paragraph (2)(f), having regained their eyesight, that person is to be treated as though they were registered blind, for a period of 28 days after the day on which that person ceased to be registered in such a register.

- F1** Words in reg. 64(2)(a)(i) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance for Children and Young People\) \(Consequential Modifications\) Order 2021 \(S.I. 2021/786\)](#), arts. 1(2), **18(2)(a)**
- F2** Words in Pt. 5 reg. 64(2)(a)(i) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 47(2)(a)**
- F3** Words in Pt. 5 reg. 64(2)(a)(i) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 50(a)**
- F4** Reg. 64(2)(a)(i): comma substituted for word (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **12(2)(a)(i)**
- F5** Words in reg. 64(2)(a)(i) inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **12(2)(a)(ii)**
- F6** Words in reg. 64(2)(a)(ii) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance for Children and Young People\) \(Consequential Modifications\) Order 2021 \(S.I. 2021/786\)](#), arts. 1(2), **18(2)(b)**
- F7** Word in Pt. 5 reg. 64(2)(a)(ii) omitted (8.4.2013) by virtue of [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 50(b)**
- F8** Word in reg. 64(2)(a)(iii) omitted (21.3.2022) by virtue of [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **12(2)(b)**
- F9** Pt. 5 reg. 64(2)(a)(iv) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 50(c)**
- F10** Reg. 64(2)(a)(v) and word inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **12(2)(c)**
- F11** Words in reg. 64(2)(a)(v) substituted (6.6.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) \(No. 2\) Order 2022 \(S.I. 2022/530\)](#), arts. 1(2), **5(2)**

- F12** Reg. 64(2)(ab) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **18(2)(c)**
- F13** Word in Pt. 5 reg. 64(2)(f)(i) omitted (3.11.2017) by virtue of The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **14(4)(a)**
- F14** Pt. 5 reg. 64(2)(f)(ia) inserted (1.4.2015) by The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 35(b)** (with art. 4)
- F15** Word in Pt. 5 reg. 64(2)(f)(ia) omitted (3.11.2017) by virtue of The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **14(4)(b)**
- F16** Pt. 5 reg. 64(2)(f)(iii) and word inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **14(4)(c)**
- F17** Pt. 5 reg. 64(2)(g) inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 50(d)**
- F18** Reg. 64(2)(ga) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **12(2)(d)**
- F19** Pt. 5 reg. 64(2)(h) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 47(2)(b)**
- F20** Words in reg. 64(3)(b) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **18(3)**
- F21** Words in Pt. 5 reg. 64(3)(b) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 47(2)(c)**
- F22** Words in Pt. 5 reg. 64(3)(b) inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 50(f)**
- F23** Reg. 64(3)(b): comma substituted for word (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **12(2)(e)(i)**
- F24** Words in reg. 64(3)(b) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **12(2)(e)(ii)**
- F25** Words in Pt. 5 reg. 64(3) inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 50(e)**
- F26** Words in reg. 64(4)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 408(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F27** Words in reg. 64(4)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 408(b)** (with Sch. 27); S.I. 2020/1236, reg. 2

### Commencement Information

- I1** Reg. 64 wholly in force; reg. 64 not in force at made date; reg. 64 in force at 29.7.2013 for certain purposes and reg. 64 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

### Marginal Citations

- M1** 2006 c. 41.
- M2** 1978 c. 29.
- M3** Paragraph 10C was amended by paragraph 1(1) and (31) of Schedule 7 to the 2008 Act.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 64. (See end of Document for details)*

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**M4** [2000 c. 6.](#)

**M5** [S.I. 2005/3360.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 64.