



## BRIEFING PAPER

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# Child maintenance: inclusion of earnings from "special occupations" in the 2012 CMS scheme

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## 1. Summary

Earnings from certain "special occupations" – auxiliary coastguards, reserve or territorial force members, local authority councillors as well as part-time fire-fighters or lifeboat crew members – are included when calculating the earnings of a non-resident parents (NRP) under the "2012" statutory child maintenance scheme administered by the Child Maintenance Service (CMS).

In contrast, under the previous, "2003 scheme", administered by the Child Support Agency (CSA) such earnings were disregarded in full.

This briefing paper sets out the current approach, and explains why the policy was changed.

## 2. The legacy and current statutory child maintenance schemes

There are currently three statutory child support schemes operating in Great Britain under the *Child Support Act 1991*:

- the 1993 and 2003 schemes are both legacy schemes closed to new applicants and administered by the CSA; and
- the 2012 scheme, open to new applicants and administered by the CMS.

There is an ongoing process to close CSA cases and invite clients involved in those cases to apply to the CMS.

The Department for Work and Pensions (DWP) is the responsible Government department.

## 3. Exemption of earnings from "special occupations" under the 2003 scheme

The *Child Support (Maintenance Calculations and Special Cases) Regulations 2000* (SI 2001/155), which apply to the 2003 legacy statutory child maintenance scheme, state that "subject to sub-paragraph (2) [see below], 'earnings' means, in the case of employment as an employed earner, any remuneration or profit derived from that employment and

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includes a number of different types, for example any bonus, commission, payment in respect of overtime, royalty or fees".

Sub-paragraph 2 states:

Earnings for the purposes of this Part of Schedule 1 do not include

[...]

- g) any payment made in respect of the performance of duties as—
  - (i) an auxiliary coastguard in respect of coast rescue activities;
  - (ii) a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959;
  - (iii) a person engaged part-time in the manning or launching of a lifeboat;
  - (iv) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979;
- h) any payment made by a local authority to a member of that authority in respect of the performance of his duties as a member.<sup>1</sup>

During a debate in 2011, the then Parliamentary Under-Secretary of State for Work and Pensions, Maria Miller, explained why earnings from these, as she put it, "special occupations" were disregarded when assessing a NRP's income for child maintenance purposes:

When the second child maintenance scheme was established in 2003, it was felt that earnings from such occupations should not be included as income when calculating what child maintenance to pay. That decision was taken to simplify the system. Such simplification proved to be desperately necessary, not least because the new IT system introduced in 2003—a specifically designed and built bespoke system—could not cope with the demands made of it.<sup>2</sup>

The Minister ruled out making changes to the 2003 scheme in this regard, arguing that "the current IT system can barely cope at the moment and to add more complexity to it would cause more concern in the future".<sup>3</sup>

## 4. Rationale for the approach taken under the 2012 scheme

Under the 2012 scheme administered by the CMS, there is no such exclusion for the "special occupations" – these earnings count towards a NRP's gross weekly income for the purposing of calculating their child maintenance liability.

Ms Miller explained:

Back in 2003 ... the payments made to clients from the occupations that we are talking about tended to be relatively small. That is no longer always the case.

[...]

Although the current position was established for a number of reasons, I believe that it is unsustainable. No matter how praiseworthy the efforts of those in part-time professions are, they are often parents, and their children must be at the forefront of our minds when we develop such policy.

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<sup>1</sup> SI 2001/155, Schedule 1, paragraph 4. A full copy of the SI as originally made can be found at: <http://www.legislation.gov.uk/uksi/2001/155/schedule/made>

<sup>2</sup> [HC Deb 20 December 2011 cc415WH-416WH](#)

<sup>3</sup> [HC Deb 20 December 2011 c419WH](#)

[...]

The effects of the current position can be serious. For example, a non-resident parent, who is a member of the Territorial Army deployed to Afghanistan for a number of months ... and who derives their sole income for this period from their pay as a soldier has a child maintenance liability of nil. That is different from the position of the regular soldiers alongside them who continue to be liable to pay maintenance and of their colleagues whose children continue to be part of their current family. The effect is to leave the children of TA soldiers and any others who fall into this category who are non-resident parents and are deployed on operations entirely unsupported for an extended period. Not including this income within the child maintenance calculation is unacceptable. I ... believe that we should change the rules.<sup>4</sup>

Under the 2012 scheme, data on income is, in most cases, provided to the CMS by HM Revenue and Customs based on a NRP's most recent tax return. This captures details of any earnings from the "special occupations", and, as the Minister said, this avoids the "administrative complexities that arose in the original scheme and provide[s] a fairer system for the children of such parents".<sup>5</sup>

## 5. The approach taken under the 1993 scheme

Including earnings from "special occupations" under the 2012 scheme returns the statutory child maintenance scheme broadly to the position of the original 1993 scheme in this regard, when such payments were also included in the calculation of child maintenance liability.

Under the *Child Support (Maintenance Assessments and Special Cases) Regulations 1992*, which apply to the 1993 scheme, the following are counted as earnings when assessing a NRP's child maintenance liability:

- any payment relating to a period of less than a year which is made in respect of the performance of duties as—
  - an auxiliary coastguard in respect of coast rescue activities;
  - a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959;
  - a part-time fire-fighter employed by a fire and rescue authority;
  - a person engaged part-time in the manning or launching of a lifeboat;
  - a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979, or
- any payment made by a local authority to a member of that authority in respect of the performance of his duties as a member, other than any expenses wholly, exclusively and necessarily incurred in the performance of those duties.<sup>6</sup>

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<sup>4</sup> [HC Deb 20 December 2011 c416WH](#)

<sup>5</sup> [HC Deb 20 December 2011 cc416WH-417WH](#)

<sup>6</sup> 1992/1815, Schedule 1, para 1(i-j)

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