

# Chapter D3: Deductions from benefit in respect of Flat Rate Maintenance & Child Maintenance Deduction Universal Credit, Jobseeker's Allowance & Employment and Support Allowance

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# **Chapter D3: Deductions from benefit in respect of Flat Rate Maintenance & Child Maintenance Deduction, Universal Credit, Jobseeker's Allowance & Employment and Support Allowance**

## **Introduction**

- D3001 Guidance within this section deals with deductions made under the 2003 scheme and the 2012 scheme.
- D3002 Deductions from a specified benefit under the 2003 scheme are referred to as a Flat Rate Maintenance deduction.
- D3003 Deductions from a specified benefit under the 2012 scheme are referred to as a Child Maintenance Deduction.
- D3004

## Definitions

### Meaning of fee

D3005 Fee<sup>1</sup> means any collection fee under specified legislation<sup>2</sup> which is payable by the non-resident parent.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 1; 2 Child Support Fees Regulations (NI) 14, part 2*

### Meaning of beneficiary

D3006 Beneficiary<sup>1</sup> means a person who has been awarded a specified benefit.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 1*

### Meaning of maintenance

D3007 Maintenance, with the exception of D3020 to D3023, means<sup>1</sup> child support maintenance which a non-resident parent is liable to pay at a flat rate (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because the non-resident parent falls within specified legislation<sup>2</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 1; 2 CS (NI) Order 91, Sch 1, para 4(1)(b), 4(1)(c) or 4(2), Child Support, Pensions and Social Security Act (NI)2000, sec 28(2)(A)*

### Meaning of non-resident parent

D3008 Non-resident parent<sup>1</sup> means

1. that parent which is not living in the same household with the child **and**
2. the child has his home with a person who is, in relation to him, a person with care.

*1 CS (NI) Order 91, art 4(2)*

### Meaning of person with care

D3009 A person is a person with care<sup>1</sup> as defined within specified legislation<sup>2</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 1(1); 2 CS (NI) Order 91, art 4(3)*

### Meaning of specified benefit

D3010 Specified benefit<sup>1</sup> means

1. Universal Credit **or**

2. new style Jobseeker's Allowance (hereafter referred to as Jobseeker's Allowance) **or**

3. new style Employment and Support Allowance.(hereafter referred to as Employment and Support Allowance).

**Note 1:** ADM chapter M1 contains guidance on the meaning of new style Jobseeker's Allowance and new style Employment and Support Allowance.

**Note 2:** The term specified benefit has a different meaning under this section to the Contribution to Maintenance scheme detailed in D2225 et seq.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 1*

## Deductions from specified benefit

D3011 The Child Maintenance Service will decide under which scheme the child maintenance liability is to be assessed.

D3012 Where the Child Maintenance Service decision maker determines that the non-resident parent is liable for a Child Maintenance Deduction, the Child Maintenance Service decision maker will also determine whether that deduction is at a standard or non-standard rate.

D3013 Requests for Flat Rate Maintenance deductions or Child Maintenance Deduction and any fee will be sent

1. electronically, to the relevant Department IT system **or**
2. manually, to the relevant Department office.

The request may be on behalf of a non-resident parent who is in receipt of a specified benefit, or is the partner of a claimant who is in receipt of a specified benefit, and paid to the person with care<sup>1</sup>.

**Note 1:** From 11.8.14, any collection fee payable by a non-resident parent may be deducted and retained in discharge of the non-resident parent's liability to pay that fee.

**Note 2:** Charging of any collection fee will only apply to new applications made under the 2012 scheme.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 2(1)*

D3014 A deduction for maintenance and any fee may only be made from one specified benefit in respect of the same period<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 2(2)*

D3015

### Amount of specified benefit to be left after a deduction of Flat Rate Maintenance or Child Maintenance Deduction

D3016 No amount may be deducted from the claimant's award of Employment and Support Allowance or Jobseeker's Allowance, if it would reduce the amount of benefit payable to the claimant to less than 10 pence<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 2(3)*

D3017 No amount may be deducted from any Universal Credit awarded to the claimant, if it would reduce the amount payable to the claimant to less than 1 penny<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 2(4)*

D3018 – D3019

## Arrears

D3020 **[See ADM Memo 12/19]** No deduction will be made for arrears of child maintenance under the 2012 scheme.

D3021 Except where Universal Credit is awarded to the beneficiary, a Flat Rate Maintenance deduction of £1.20 per week may be made from Employment and Support Allowance or Jobseeker's Allowance which the beneficiary has been awarded, and subject to D3022, paid to the person with care, to discharge the beneficiary's liability to pay arrears of maintenance. Any amount deducted in respect of a fee may be retained in discharge of any liability to pay that fee<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 3(1)*

D3022 Where deductions are made under D3021, the deductions may be retained by the Department in circumstances set out in specified legislation<sup>2</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 3(2);*

*2 CS (Arrears, Interest, and Adjustment of Maintenance Assessments) Regs (NI) 92, reg 8*

D3023 Within D3021, the meaning of maintenance<sup>1</sup> is periodical payments of Child Support Maintenance which are required to be paid in accordance with a maintenance calculation, as defined within specified legislation<sup>2</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 3(3); 2 CS (NI) Order 91, art 4(6)*

D3024 – D3026

## Apportionment

D3027 Where maintenance is payable to more than one person with care<sup>1</sup>, the amount deducted in respect of maintenance must be apportioned between the persons with care in accordance with specified legislation<sup>2</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 4; 2 CS (NI) Order 91, Sch 1, paras 6, 7 & 8*

D3028

## Claimant and partner liable to pay maintenance

### Flat Rate Maintenance deductions

D3029 A Flat Rate Maintenance deduction applies where the beneficiary and that person's partner are each liable to pay maintenance at a flat rate under the 2003 scheme, and either of them has been awarded Universal Credit, whether as a single claimant or as joint claimants<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 5(1)*

D3030 An amount not exceeding an amount equal to the flat rate of maintenance may be deducted<sup>1</sup> from such an award in respect of the total liability of both partners to pay maintenance in the proportions described in specified legislation<sup>2</sup>, and must be paid to discharge the respective liabilities to pay maintenance.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 5(2); 2 CS (MCSC) Regs (NI) 01, reg 4(3); CSMC Regs (NI) 12, reg 43(3)*

D3031

### Child Maintenance Deduction

D3032 An amount not exceeding an amount equal to the flat rate of maintenance and any fee may be deducted<sup>1</sup> from such an award in respect of the total liability of both partners to pay maintenance and any fee in the proportions described in specified legislation<sup>2</sup>, and must be paid to discharge the respective liabilities to pay maintenance.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 5(2); 2 CS (MCSC) Regs (NI) 01, reg 4(3); CSMC Regs (NI) 12, reg 44(3)*

D3033 In a case where the claimant **and** their partner are

1. both non resident parents **and**
2. in receipt of a specified benefit **and**
3. both liable for a standard or non-standard rate of Child Maintenance Deduction and any fee

the total sum of the deduction for each Non Resident Parent must not exceed the flat rate of maintenance and any fee<sup>1</sup>.

**Note 1:** Where Universal Credit is awarded and the claimant and partner are both liable to pay a standard rate of maintenance, one deduction of £30.33 per month will be taken from the award of Universal Credit. Child Maintenance Group will then apportion that deduction between the persons with care<sup>2</sup>.

**Note 2:** The amount of any fee may be retained in discharge of any liability to pay that fee.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 5(2); CS(MCSC) Regs, (NI) 01 reg 4(3); CS (MCSC) Regs (NI) 12, reg 43(3); 2 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 4*

D3034 In a case where the claimant and their partner are both non resident parents, there could be a mix of Child Maintenance Deductions at a standard and non-standard rate of deductions.

## Claimant or partner liable to pay maintenance

### Child Maintenance Deduction

D3035 In the case where the claimant **or** their partner is

1. a non resident parent **and**
2. in receipt of a specified benefit **and**
3. liable for a standard or non-standard rate of Child Maintenance Deduction and any fee

the amount of the standard rate deduction is £7.00 per week (£30.33 per month) and the non-standard rate deduction is any amount up to and including £6.99 per week (£30.29 per month). The amount of any fee may be retained in discharge of any liability to pay that fee<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 2(1); CS (NI) Order 91, Sch 1, part 1, para 4(1)*

D3036 – D3040

### Priority of deductions

D3041 Flat Rate Maintenance deductions and Child Maintenance Deductions are not subject to being Third Party Deductions. However they are included within the list showing the priority order for certain types of debt (D2043 **8.**). Therefore, where there is more than one deduction being made and there is insufficient Universal Credit in payment or all of the deductions, were they to be made would exceed the maximum 40% deduction rate, the priority order<sup>1</sup> listed at D2043 should be followed.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 5, para 4*

### Notice

D3042 When Flat Rate Maintenance or Child Maintenance Deductions commence, the decision maker must notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made. Further notice



must be given when there is a change to any of the particulars specified in the notice<sup>1</sup>.

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 6*

## Prevention of duplicate deductions

D3043 Where a deduction from benefit applies under specified legislation<sup>1</sup>, no deduction from benefit will be made under alternative specified legislation<sup>2</sup> unless the amount of

1. new style Employment and Support Allowance **or**
2. new style Jobseeker's Allowance **or**
3. Universal Credit

is insufficient to meet the deduction (see DMG 33609 (Income Support/income-based Jobseeker's Allowance), DMG 46421 (income-related Employment and Support Allowance), DMG 79895 (State Pension Credit).

*1 UC, PIP, JSA & ESA (C&P) Regs (NI) 16, Sch 6, para 5; 2 SS (C&P) Regs (NI), Sch 8C, paras 5 & 6*

D3044 – D3999

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