

Draft Regulations laid before Parliament under section 52(2)(a) of the Child Support Act 1991 and section 55(5)(a) of the Child Maintenance and Other Payments Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No.

FAMILY LAW

CHILD SUPPORT

The Child Support (Management of Payments and Arrears and Fees) (Amendment) Regulations 2023

Made - - - -

Coming into force - -

26th February 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 41E, 51(1) and 52(4) of the Child Support Act 1991(a) (“the 1991 Act”) and sections 6(1) and 55(3) and (4) of the Child Maintenance and Other Payments Act 2008(b) (“the 2008 Act”).

In accordance with section 52(2)(a) of the 1991 Act(c) and section 55(5)(a) of the 2008 Act(d), a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Child Support (Management of Payments and Arrears and Fees) (Amendment) Regulations 2023.

(2) These Regulations come into force on 26th February 2024.

(3) These Regulations extend to England and Wales and Scotland.

-
- (a) 1991 c. 48; section 41E was inserted by section 33 of the Child Maintenance and Other Payments Act 2008 (c. 6) and amended by paragraph 85 of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007).
- (b) 2008 c. 6; section 6(1) was amended by paragraph 72(2) of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007).
- (c) Section 52(2)(a) was substituted by section 25 of the Child Support, Pensions and Social Security Act 2000 (c. 19) and amended by paragraph 1(22) of Schedule 7 to the Child Maintenance and Other Payments Act 2008 (c. 6); paragraph 8 of Schedule 11 to the Welfare Reform Act 2012 (c. 5) and section 3(5) of the Child Support Collection (Domestic Abuse) Act 2023 (c. 24).
- (d) Section 55(5)(a) was amended by paragraph 90(a) of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007).

PART 2

The Child Support (Management of Payments and Arrears) Regulations 2009

Interpretation

2. In this Part “the 2009 Regulations” means the Child Support (Management of Payments and Arrears) Regulations 2009(a).

Amendment of the 2009 Regulations

3. The 2009 Regulations are amended in accordance with regulations 4 to 6.

Amendment to regulation 13G (circumstances in which the Secretary of State may exercise the power in section 41E of the 1991 Act)

4. In regulation 13G—

- (a) omit the “or” after paragraph (i);
- (b) at the end of paragraph (j) insert—
“;
- (k) the arrears relate to liability for child support maintenance accrued under a 2012 scheme case(b) where all of the following apply—
 - (i) a maintenance calculation(c) has ceased to have effect under one or more of the following provisions of the 1991 Act—
 - (aa) section 4(5) and (6) (a person who requested a maintenance calculation requests the Secretary of State to cease acting)(d);
 - (bb) section 7(6) and (7) (child in Scotland who requested a maintenance calculation requests the Secretary of State to cease acting)(e);
 - (cc) Schedule 1, paragraph 16(1) (termination of calculations)(f),

-
- (a) S.I. 2009/3151; relevant amending instruments are S.I. 2012/3002, S.I. 2018/1279, S.I. 2019/1084 and S.I. 2022/503.
 - (b) “a 2012 scheme case” is defined in regulation 2(1) of S.I. 2009/3151 and was inserted by regulation 4(2)(a) of S.I. 2018/1279.
 - (c) “maintenance calculation” is defined in section 54 of the Child Support Act 1991 (c. 48) and was inserted by paragraph 11(20)(d) of Schedule 3 to the Child Support, Pensions and Social Security Act (c. 19) and applies differently to cases specified in article 3 of S.I. 2003/192.
 - (d) Section 4(5) of the Child Support Act 1991 (c. 48) was amended by paragraph 3(6) of Schedule 3 to the Child Maintenance and Other Payments Act 2008 (c. 6) and paragraph 3(e) of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007). Section 4(6) of the Child Support Act 1991 (c. 48) was amended by paragraph 3(7) of Schedule 3 to the Child Maintenance and Other Payments Act 2008 (c. 6) and paragraph 3(f) of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007).
 - (e) Section 7(6) and (7) of the Child Support Act 1991 (c. 48) were amended by paragraph 5(6) of Schedule 3 to the Child Maintenance and Other Payments Act 2008 (c. 6) and paragraph 4(e) of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007).
 - (f) Paragraph 16(1) of Schedule 1 to the Child Support Act 1991 (c. 48) applies differently to cases specified in article 3 of S.I. 2003/192. Paragraph 16(1) was amended by section 1(2), paragraphs 11(2) and 22(c)(i) of Schedule 3 and Part 1 of Schedule 9 to the Child Support, Pensions and Social Security Act 2000 (c. 19).

- (ii) the arrears are less than £7, and
 - (iii) the non-resident parent^(a) has failed to make any payments within the 3 month period which precedes the date of the decision of the Secretary of State under section 41E(1) of the 1991 Act (power to write off arrears)^(b); or
- (1) the arrears relate to liability for child support maintenance accrued under a 2012 scheme case where all of the following apply—
- (i) the Secretary of State does not have jurisdiction to make a maintenance calculation under section 44 of the 1991 Act^(c),
 - (ii) as a result of sub-paragraph (i), the Secretary of State has made a supersession decision under section 17(1) of the 1991 Act^(d),
 - (iii) the arrears are less than £7, and
 - (iv) the non-resident parent has failed to make any payments within the 3 month period which precedes the date of the decision of the Secretary of State under section 41E(1) of the 1991 Act (power to write off arrears).^(e).

Amendment to regulation 13H (Secretary of State required to give notice)

5. In regulation 13H, in paragraph (2) (Secretary of State required to give notice: exceptions), after “13G(j),” insert “13G(k), 13G(l),”.

Amendment to regulation 13J (notification of decision to write off)

6. In regulation 13J, in paragraph (2) (notification of decision to write off: exceptions), for “regulation 13K(1)(a) or (2)(a)” substitute “regulations 13G(k) or (l) or 13K(1)(a) or (2)(a)”.

PART 3

The Child Support Fees Regulations 2014

Omission of Part 2

7. Omit Part 2 (application fee) of the Child Support Fees Regulations 2014^(e).

-
- (a) “non-resident parent” is defined in section 3(2) of the Child Support Act 1991 (c. 48) and was amended by paragraph 11(2) of Schedule 3 to the Child Support, Pensions and Social Security Act 2000.
 - (b) Section 41E of the Child Support Act 1991 (c. 48) was inserted by section 33 of the Child Maintenance and Other Payments Act 2008 (c. 6) and amended by paragraph 85 of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007).
 - (c) Section 44 of the Child Support Act 1991 (c. 48) was amended by paragraph 41 of Schedule 7 to the Social Security Act 1998 (c. 14); sections 1(2) and 22, paragraph 11(2) of Schedule 3 and Part 1 of Schedule 9 to the Child Support, Pensions and Social Security Act 2000 (c. 19); paragraph 123 of Schedule 1 to the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941); paragraph 13 of Schedule 7 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I.2011/1484); paragraph 55 of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007) and paragraph 19 of the Schedule to the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519).
 - (d) Section 17(1) of the Child Support Act 1991 (c. 48) was inserted by section 41 of the Social Security Act 1998 (c. 14) and amended by section 9(2), Part 1 of Schedule 9 to the Child Support, Pensions and Social Security Act 2000 (c. 19); paragraph 13 of Schedule 3 and Schedule 8 to the Child Maintenance and Other Payments Act 2008 (c. 6); paragraph 79 of Schedule 3 to the Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833); paragraph 2(2) of Schedule 12 to the Welfare Reform Act 2012 (c. 5) and paragraph 12(2) of the Schedule to the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I.2012/2007).
 - (e) S.I. 2014/612, to which there are amendments not relevant to these Regulations.

Signed by authority of the Secretary of State for Work and Pensions

Date *Name*
Parliamentary Under Secretary of State for Work and Pensions
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulations 3 to 6 amend the Child Support (Management of Payments and Arrears) Regulations 2009 (S.I. 2009/3151) to make provision for further circumstances in which the Secretary of State may extinguish liability in respect of arrears of child support maintenance where it appears to the Secretary of State that it would be unfair or otherwise inappropriate to enforce liability in respect of those arrears.

These further circumstances in which the Secretary of State may extinguish liability arise when a maintenance calculation has ceased under specific provisions of the Child Support Act 1991, the arrears are less than £7 and the non-resident parent has failed to make any payments in the three months preceding the date on which the Secretary of State makes the decision to extinguish liability.

Regulation 7 revokes Part 2 of the Child Support Fees Regulations 2014 (S.I. 2014/612) to remove the application fee for child support maintenance from the date the revocation comes into force in accordance with regulation 1(2).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An Explanatory Memorandum has been published alongside these Regulations on www.legislation.gov.uk.

© Crown copyright 2023

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

£5.78

<http://www.legislation.gov.uk/id/ukdsi/2023/9780348253641>

ISBN 978-0-34-825364-1



9 780348 253641