
STATUTORY INSTRUMENTS

1992 No. 1812

FAMILY LAW

CHILD SUPPORT

The Child Support (Information, Evidence
and Disclosure) Regulations 1992

Made - - - - 20th July 1992
Coming into force - - 5th April 1993

Whereas a draft of this instrument was laid before Parliament in accordance with section 52(2) of the Child Support Act 1991(1) and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 4(4), 6(9), 7(5), 14(1) and (3), 50(5), 51, 54 and 57 of, and paragraphs 16(10) of Schedule 1 to and 2(4) of Schedule 2 to, the Child Support Act 1991(2), and of all other powers enabling him in that behalf hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Information, Evidence and Disclosure) Regulations 1992 and shall come into force on 5th April 1993.

(2) In these Regulations, unless the context otherwise requires—

“the Act ” means the Child Support Act 1991;

“appropriate authority ” means—

- (a) in relation to housing benefit, the housing or local authority concerned; and
- (b) in relation to council tax benefit, the billing authority or, in Scotland, the levying authority;

(1) 1991 c. 48.

(2) Section 54 is cited because of the meaning ascribed to the word “prescribed”.

“local authority ” means, in relation to England and Wales, the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London and, in relation to Scotland, a regional council or an islands council;

“Maintenance Assessments and Special Cases Regulations ” means the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(3);

“Maintenance Assessment Procedure Regulations ” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(4);

“parent with care ” means a person who, in respect of the same child or children, is both a parent and a person with care;

“related proceedings ” means proceedings in which a relevant court order was or is being sought;

“relevant court order ” means—

- (a) an order as to periodical or capital provision or as to variation of property rights made under an enactment specified in paragraphs (a) to (e) of section 8(11) of the Act or prescribed under section 8(11)(f) of the Act in relation to a qualifying child or a relevant person; or
- (b) an order under Part II of the Children Act 1989(5) (Orders With Respect To Children In Family Proceedings) in relation to a qualifying child or, in Scotland, an order under section 3 of the Law Reform (Parent and Child) (Scotland)Act 1986(6) or a decree of declarator under section 7 of that Act in relation to a qualifying child;

“relevant person ” means—

- (a) a person with care;
- (b) an absent parent;
- (c) a parent who is treated as an absent parent under regulation 20 of the Maintenance Assessments and Special Cases Regulations;
- (d) where the application for an assessment is made by a child under section 7 of the Act, that child,

in respect of whom a maintenance assessment has been applied for or is or has been in force.

(3) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) S.I.1992/1815.

(4) S.I. 1992/1813.

(5) 1989 c. 41.

(6) 1986 c. 9.

PART II

FURNISHING OF INFORMATION OR EVIDENCE

Persons under a duty to furnish information or evidence

2.—(1) Where an application for a maintenance assessment has been made under the Act, a person falling within a category listed in paragraph (2) shall, subject to the restrictions specified in that paragraph, furnish such information or evidence as is required by the Secretary of State and which is needed to enable a determination to be made in relation to one or more of the matters listed in regulation 3(1), and the person concerned has that information or evidence in his possession or can reasonably be expected to acquire that information or evidence.

(2) The persons who may be required to furnish information or evidence, and the matter or matters with respect to which such information or evidence may be required, are as follows—

- (a) the relevant persons, with respect to the matters listed in regulation 3(1);
- (b) a person who is alleged to be a parent of a child with respect to whom an application for a maintenance assessment has been made who denies that he is one of that child's parents, with respect to the matters listed in sub-paragraphs (b) and (d) of regulation 3(1);
- (c) the current or recent employer of the absent parent or the parent with care in relation to whom an application for a maintenance assessment has been made, with respect to the matters listed in sub-paragraphs (d), (e), (f), (h) and (j) of regulation 3(1);
- (d) the local authority in whose area a person falling within a category listed in sub-paragraphs (a) and (b) above resides or has resided, with respect to the matter listed in sub-paragraph (a) of regulation 3(1);
- (e) a person specified in paragraph (3) below, in any case where, in relation to the qualifying child or qualifying children or the absent parent—
 - (i) there is or has been a relevant court order; or
 - (ii) there have been, or are pending, related proceedings before a court, with respect to the matters listed in sub-paragraphs (g), (h) and (k) of regulation 3(1).

(3) The persons who may be required to furnish information or evidence in relation to a relevant court order or related proceedings under the provisions of paragraph (2)(e) are—

- (a) in England and Wales—
 - (i) in relation to the High Court, the senior district judge of the principal registry of the Family Division or, where proceedings were instituted in a district registry, the district judge;
 - (ii) in relation to a county court, the proper officer of that court within the meaning of Order 1, Rule 3 of the County Court Rules 1981(7);
 - (iii) in relation to a magistrates' court, the clerk to the justices of that court;
- (b) in Scotland—
 - (i) in relation to the Court of Session, the Deputy Principal Clerk of Session;
 - (ii) in relation to a sheriff court, the sheriff clerk.

Purposes for which information or evidence may be required

3.—(1) The Secretary of State may require information or evidence under the provisions of regulation 2 only if that information or evidence is needed to enable—

- (a) a decision to be made as to whether, in relation to an application for a maintenance assessment, there exists a qualifying child, an absent parent and a person with care;
- (b) a decision to be made as to whether a child support officer has jurisdiction to make a maintenance assessment under section 44 of the Act;
- (c) a decision to be made, where more than one application has been made, as to which application is to be proceeded with;
- (d) an absent parent to be identified;
- (e) an absent parent to be traced;
- (f) the amount of child support maintenance payable by an absent parent to be assessed;
- (g) the amount payable under a relevant court order to be ascertained;
- (h) the amounts specified in sub-paragraphs (f) and (g) to be recovered from an absent parent;
- (i) the amount of interest payable with respect to arrears of child support maintenance to be determined;
- (j) the amount specified in sub-paragraph (i) to be recovered from an absent parent;
- (k) any related proceedings to be identified.

(2) The information or evidence to be furnished in accordance with regulation 2 may in particular include information and evidence as to—

- (a) the habitual residence of the person with care, the absent parent and any child in respect of whom an application for a maintenance assessment has been made;
- (b) the name and address of the person with care and of the absent parent, their marital status, and the relationship of the person with care to any child in respect of whom the application for a maintenance assessment has been made;
- (c) the name, address and date of birth of any such child, that child's marital status, and any education that child is undergoing;
- (d) the persons who have parental responsibility for (or, in Scotland, parental rights over) any qualifying child where there is more than one person with care;
- (e) the time spent by a qualifying child in respect of whom an application for a maintenance assessment has been made with each person with care, where there is more than one such person;
- (f) the matters relevant for determining, in a case falling within section 26 of the Act (disputes about parentage), whether that case falls within one of the Cases set out in subsection (2) of that section, and if it does not, the matters relevant for determining the parentage of a child whose parentage is in dispute;
- (g) the name and address of any current or recent employer of an absent parent or a parent with care, and the gross earnings and the deductions from those earnings deriving from each employment;
- (h) the address from which an absent parent or parent with care who is self-employed carries on his trade or business, the trading name, and the gross receipts and expenses and other outgoings of the trade or business;
- (i) any other income of an absent parent and a parent with care;
- (j) any income, other than earnings, of a qualifying child;
- (k) amounts payable and paid under a relevant court order or a maintenance agreement;

- (l) the persons living in the same household as the absent parent or living in the same household as the parent with care, their relationship to the absent parent or the parent with care, as the case may be, and to each other, and, in the case of the children of any such party, the dates of birth of those children;
- (m) the matters set out in sub-paragraphs (g) and (h) in relation to the persons specified in sub-paragraph (l) other than any children living in the same household as the absent parent or the parent with care, as the case may be;
- (n) income other than earnings of the persons living in the same household as the absent parent or the parent with care;
- (o) benefits related to disability that the absent parent, parent with care and other persons living in the same household as the absent parent or the parent with care are entitled to or would be entitled to if certain conditions were satisfied;
- (p) the housing costs to be taken into account for the purposes of determining assessable or disposable income;
- (q) the identifying details of any bank, building society or similar account held in the name of the absent parent or the person with care, and statements relating to any such account;
- (r) the matters relevant for determining whether—
 - (i) a maintenance assessment has ceased to have effect or should be cancelled under the provisions of paragraph 16 of Schedule 1 to the Act;
 - (ii) a person is a child within the meaning of section 55 of the Act.

Information from an appropriate authority in connection with housing benefit or council tax benefit

4. For the purposes of paragraph 2 of Schedule 2 to the Act, “relevant information ” means—
- (a) information as to the amount of housing costs of an absent parent or person with care which are treated as eligible rent for housing benefit purposes, and the entitlement to housing benefit at the date the Secretary of State gives a direction under paragraph 2(2) of that Schedule;
 - (b) information as to the amount of council tax payable by an absent parent or person with care, and as to the entitlement to council tax benefit at the date the Secretary of State gives a direction under paragraph 2(2) of that Schedule.

Time within which information or evidence is to be furnished

5. Subject to the provisions of regulations 2(5), 6(1), 17(5) and 19(2) of the Maintenance Assessment Procedure Regulations, any information or evidence furnished in accordance with regulations 2 and 3 shall be furnished as soon as is reasonably practicable in the particular circumstances of the case.

Continuing duty of persons with care

6. Where a person with care with respect to whom a maintenance assessment has been made believes that, by virtue of section 44 or 55 of, or paragraph 16 of Schedule 1 to, the Act, the assessment has ceased to have effect or should be cancelled, she shall, as soon as is reasonably practicable, inform the Secretary of State of that belief, and of the reasons for it, and shall provide such other information as the Secretary of State may reasonably require, with a view to assisting the Secretary of State or a child support officer in determining whether the assessment has ceased to have effect, or should be cancelled.

Powers of inspectors in relation to Crown residences

7. Subject to Her Majesty not being in residence, an inspector appointed under section 15 of the Act may enter any Crown premises for the purpose of exercising any powers conferred on him by that section.

PART III

DISCLOSURE OF INFORMATION

Disclosure of information to a court or tribunal

8. The Secretary of State or a child support officer may disclose any information held by them for the purposes of the Act to—

- (a) a court;
- (b) any tribunal or other body or person mentioned in the Act;
- (c) any tribunal established under the benefit Acts,

where such disclosure is made for the purposes of any proceedings before any of those bodies relating to this Act or to the benefit Acts.

Disclosure of information to an appropriate authority for use in the exercise of housing benefit or council tax benefit functions

9. The Secretary of State or a child support officer may disclose information held by him for the purposes of the Act to, and as required by, an appropriate authority for use in the exercise of its functions relating to housing benefit or council tax benefit.

Disclosure of information to the Secretary of State

10. A child support officer may disclose any information held by him for the purposes of the Act to, and as required by, the Secretary of State for use in connection with the functions of the Secretary of State under any of the benefit Acts.

Employment to which section 50 of the Act applies

11. For the purposes of section 50 of the Act (unauthorised disclosure of information) the following kinds of employment are prescribed in addition to those specified in paragraphs (a) to (e) of section 50(5)—

- (a) the Comptroller and Auditor General;
- (b) the Parliamentary Commissioner for Administration;
- (c) the Health Service Commissioner for England;
- (d) the Health Service Commissioner for Wales;
- (e) the Health Service Commissioner for Scotland;
- (f) any member of the staff of the National Audit Office;
- (g) any other person who carries out the administrative work of that Office, or who provides, or is employed in the provision of, services to it;
- (h) any officer of any of the Commissioners referred to in paragraphs (b) to (e) above; and

- (i) any person who provides, or is employed in the provision of, services to the Department of Social Security.

Signed by authority of the Secretary of State for Social Security.

20th July 1992

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the furnishing of information or evidence required in connection with the determination of any application under the Child Support Act 1991 (“the Act ”), or questions arising in connection with such an application, or related to the collection or enforcement of child support maintenance or other maintenance under the Act. The Regulations also provide for the disclosure, by the Secretary of State or a child support officer, of information held by them for the purposes of the Act.

Regulation 1 contains interpretation provisions.

Regulation 2 prescribes the persons who are under a duty to furnish information or evidence, and regulation 3 prescribes the purposes for which information or evidence may be required.

Regulation 4 prescribes the information that can be obtained from an appropriate authority in connection with housing benefit or council tax benefit.

Regulation 5 makes provision as to time limits for furnishing information or evidence, and regulation 6 provides for a continuing duty of persons with care.

Regulation 7 provides for inspectors appointed under section 15 of the Act to enter Crown premises for the purpose of exercising powers conferred by that section.

Regulation 8 provides for the disclosure of information by the Secretary of State or a child support officer to a court or tribunal, and regulation 9 for the disclosure of information to an appropriate authority for use in the exercise of its functions relating to housing benefit or council tax benefit.

Regulation 10 provides for the disclosure of information by a child support officer to the Secretary of State in connection with the Secretary of State’s functions under the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992.

Regulation 11 prescribes employments, additional to those specified in section 50 of the Act, to which the provisions of that section, relating to the unauthorised disclosure of information, apply.