
STATUTORY INSTRUMENTS

1992 No. 1813

**The Child Support (Maintenance
Assessment Procedure) Regulations 1992**

**PART I
GENERAL**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Assessment Procedure) 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;

“applicable amount” is to be construed in accordance with Part IV of the Income Support Regulations;

“applicable amounts Schedule” means Schedule 2 to the Income Support Regulations⁽¹⁾;

“award period” means a period in respect of which an award of family credit or disability working allowance is made;

“balance of the reduction period” means, in relation to a direction that is or has been in force, the portion of the period specified in a direction in respect of which no reduction of relevant benefit has been made;

“benefit week”, in relation to income support, has the same meaning as in the Income Support Regulations, and, in relation to family credit and disability working allowance, is to be construed in accordance with the Social Security (Claims and Payments) Regulations 1987⁽²⁾;

“direction” means reduced benefit direction;

“disability working allowance” has the same meaning as in the Social Security Contributions and Benefits Act 1992⁽³⁾;

“day to day care” has the same meaning as in the Maintenance Assessments and Special Cases Regulations;

“effective application” means any application that complies with the provisions of regulation 2;

“effective date” means the date on which a maintenance assessment takes effect for the purposes of the Act;

“Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁴⁾;

⁽¹⁾ Part I of Schedule 2 was substituted by Schedule 3 to S.I.1991/2910 from 6.4.92.

⁽²⁾ S.I. 1987/1968.

⁽³⁾ 1992 c. 4.

⁽⁴⁾ S.I. 1987/1967.

“Information, Evidence and Disclosure Regulations” means the Child Support (Information, Evidence and Disclosure) Regulations 1992(5);

“Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(6);

“maintenance period” has the meaning prescribed in regulation 33;

“obligation imposed by section 6 of the Act” is to be construed in accordance with section 46(1) of the Act;

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

“the parent concerned” means the parent with respect to whom a direction is given;

“protected income level” has the same meaning as in paragraph 6(6) of Schedule 1 to the Act;

“relevant benefit” means income support, family credit or disability working allowance;

“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, references to a direction as being “in operation”, “suspended”, or “in force” shall be construed as follows—

a direction is “in operation” if, by virtue of that direction, relevant benefit is currently being reduced;

a direction is “suspended” if either—

- (a) after that direction has been given, relevant benefit ceases to be payable, or becomes payable at one of the rates indicated in regulation 40(3); or
- (b) at the time that the direction is given, relevant benefit is payable at one of the rates indicated in regulation 40(3),

and these Regulations provide for relevant benefit payable from a later date to be reduced by virtue of the same direction;

a direction is “in force” if it is either in operation or is suspended,

and cognate terms shall be construed accordingly.

(4) The provisions of Schedule 1 shall have effect to supplement the meaning of “child ” in section 55 of the Act.

(5) The provisions of these Regulations shall have general application to cases prescribed in regulations 19 to 26 of the Maintenance Assessments and Special Cases Regulations as cases to be treated as special cases for the purposes of the Act, and the terms “absent parent ” and “person with care ” shall be construed accordingly.

(6) Except where express provision is made to the contrary, where, by any provision of the Act or of these Regulations—

(5) S.I. 1992/1812.

(6) S.I. 1992/1815.

- (a) any document is given or sent to the Secretary of State, that document shall, subject to paragraph (7), be treated as having been so given or sent on the day it is received by the Secretary of State; and
- (b) any document is given or sent to any person, that document shall, if sent by post to that person's last known or notified address, and subject to paragraph (8), be treated as having been given or sent on the second day after the day of posting, excluding any Sunday or any day which is a bank holiday in England, Wales, Scotland or Northern Ireland under the Banking and Financial Dealings Act 1971(7).

(7) Except where the provisions of regulation 8(6), 24(2), 29(3) or 31(6)(a) apply, the Secretary of State may treat a document given or sent to him as given or sent on such day, earlier than the day it was received by him, as he may determine, if he is satisfied that there was unavoidable delay in his receiving the document in question.

(8) Where, by any provision of the Act or of these Regulations, and in relation to a particular application, notice or notification—

- (a) more than one document is required to be given or sent to a person, and more than one such document is sent by post to that person but not all the documents are posted on the same day; or
- (b) documents are required to be given or sent to more than one person, and not all such documents are posted on the same day,

all those documents shall be treated as having been posted on the later or, as the case may be, the latest day of posting.

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

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

PART II

APPLICATIONS FOR A MAINTENANCE ASSESSMENT

Applications under section 4, 6 or 7 of the Act

2.—(1) Any person who applies for a maintenance assessment under section 4 or 7 of the Act shall do so on a form (a “maintenance application form”) provided by the Secretary of State.

(2) Maintenance application forms provided by the Secretary of State under section 6 of the Act or under paragraph (1) shall be supplied without charge by such persons as the Secretary of State appoints or authorises for that purpose.

(3) A completed maintenance application form shall be given or sent to the Secretary of State.

(4) Subject to paragraph (5), an application for a maintenance assessment under the Act shall be an effective application if it is made on a maintenance application form and that form has been completed in accordance with the Secretary of State's instructions.

(5) Where an application is not effective under the provisions of paragraph (4), the Secretary of State may—

- (a) give or send the maintenance application form to the person who made the application, together, if he thinks appropriate, with a fresh maintenance application form, and request that the application be re-submitted so as to comply with the provisions of that paragraph; or
- (b) request the person who made the application to provide such additional information or evidence as the Secretary of State specifies,

and if a completed application form or, as the case may be, the additional information or evidence requested is received by the Secretary of State within 14 days of the date of his request, he shall treat the application as made on the date on which the earlier or earliest application would have been treated as made had it been effective under the provisions of paragraph (4).

(6) Subject to paragraph (7), a person who has made an effective application may amend his application by notice in writing to the Secretary of State at any time before a maintenance assessment is made.

(7) No amendment under paragraph (6) shall relate to any change of circumstances arising after the effective date of a maintenance assessment resulting from an effective application.

Applications on the termination of a maintenance assessment

3.—(1) Where a maintenance assessment has been in force with respect to a person with care and a qualifying child and that person is replaced by another person with care, an application for a maintenance assessment with respect to that person with care and that qualifying child may for the purposes of regulation 30(2)(b)(ii) and subject to paragraph (3) be treated as having been received on a date earlier than that on which it was received.

(2) Where a maintenance assessment has been made in response to an application by a child under section 7 of the Act and either—

- (a) a child support officer cancels that assessment following a request from that child; or
- (b) that child ceases to be a child for the purposes of the Act,

any application for a maintenance assessment with respect to any other children who were qualifying children with respect to the earlier maintenance assessment may for the purposes of regulation 30(2)(b)(ii) and subject to paragraph (3) be treated as having been received on a date earlier than that on which it was received.

(3) No application for a maintenance assessment shall be treated as having been received under paragraph (1) or (2) on a date—

- (a) more than 8 weeks earlier than the date on which the application was received; or
- (b) on or before the first day of the maintenance period in which the earlier maintenance assessment ceased to have effect.

Multiple applications

4.—(1) The provisions of Schedule 2 shall apply in cases where there is more than one application for a maintenance assessment.

(2) The provisions of paragraphs 1, 2 and 3 of Schedule 2 relating to the treatment of two or more applications as a single application shall apply where no request is received for the Secretary of State to cease acting in relation to all but one of the applications.

(3) Where, under the provisions of paragraph 1, 2 or 3 of Schedule 2, two or more applications are to be treated as a single application, that application shall be treated as an application for a

maintenance assessment to be made with respect to all of the qualifying children mentioned in the applications, and the effective date of that assessment shall be determined by reference to the earlier or earliest application.

Notice to other persons of an application for a maintenance assessment

5.—(1) Where an effective application for a maintenance assessment has been made the Secretary of State shall as soon as is reasonably practicable give notice in writing of that application to the relevant persons other than the applicant.

(2) The Secretary of State shall give or send to any person to whom notice has been given under paragraph (1) a form (a “maintenance enquiry form”) and a written request that the form be completed and returned to him for the purpose of enabling the application for the maintenance assessment to be proceeded with.

(3) Where the person to whom notice is being given under paragraph (1) is an absent parent, that notice shall specify the effective date of the maintenance assessment if one is to be made, and set out in general terms the provisions relating to interim maintenance assessments.

Response to notification of an application for a maintenance assessment

6.—(1) Any person who has received a maintenance enquiry form given or sent under regulation 5(2) shall complete that form in accordance with the Secretary of State’s instructions and return it to the Secretary of State within 14 days of its having been given or sent.

(2) Subject to paragraph (3), a person who has returned a completed maintenance enquiry form may amend the information he has provided on that form at any time before a maintenance assessment is made by notifying the Secretary of State in writing of the amendments.

(3) No amendment under paragraph (2) shall relate to any change of circumstances arising after the effective date of any maintenance assessment made in response to the application in relation to which the maintenance enquiry form was given or sent.

Death of a qualifying child

7.—(1) Where the child support officer concerned is informed of the death of a qualifying child with respect to whom an application for a maintenance assessment has been made, he shall—

- (a) proceed with the application as if it had not been made with respect to that child if he has not yet made an assessment;
- (b) treat any assessment already made by him as not having been made if the relevant persons have not been notified of it and proceed with the application as if it had not been made with respect to that child.

(2) Where all of the qualifying children with respect to whom an application for a maintenance assessment has been made have died, and either the assessment has not been made or the relevant persons have not been notified of it, the child support officer shall treat the application as not having being made.

PART III

INTERIM MAINTENANCE ASSESSMENTS

Amount and duration of an interim maintenance assessment

8.—(1) Where a child support officer serves notice under section 12(4) of the Act of his intention to make an interim maintenance assessment, he shall not make the interim assessment before the end of a period of 14 days commencing with the date that notice was given or sent.

(2) The amount of child support maintenance fixed by an interim maintenance assessment shall be 1.5 multiplied by the amount of the maintenance requirement in respect of the qualifying child or qualifying children concerned calculated in accordance with the provisions of paragraph 1 of Schedule 1 to the Act, and paragraphs 2 to 9 of that Schedule shall not apply to interim maintenance assessments.

(3) Where the provisions of regulation 30(2)(a) or (4) apply, the effective date of an interim maintenance assessment shall be such date, being not earlier than the first and not later than the seventh day following the expiry of the period of 14 days specified in paragraph (1), as falls on the same day of the week as the date specified in regulation 30(2)(a).

(4) Where a maintenance assessment is made after an interim maintenance assessment has been in force, child support maintenance calculated in accordance with Part I of Schedule 1 to the Act shall be payable in respect of the period preceding that during which the interim maintenance assessment was in force.

(5) The child support maintenance payable under the provisions of paragraph (4) shall be payable in respect of the period between the effective date of the assessment (or, where separate assessments are made for different periods under paragraph 15 of Schedule 1 to the Act, the effective date of the assessment in respect of the earliest such period) and the effective date of the interim maintenance assessment.

(6) Where a child support officer is satisfied that there was unavoidable delay by the absent parent in completing and returning a maintenance enquiry form under the provisions of regulation 6(1), or in providing information or evidence that is required by the Secretary of State for the determination of an application for a maintenance assessment, he may cancel an interim maintenance assessment which is in force.

(7) An interim maintenance assessment shall not be cancelled under paragraph (6) with effect from a date earlier than that on which the provisions of regulation 6(1) could have been complied with.

(8) Subject to paragraphs (6), (7) and (10), the child support maintenance payable in respect of any period in respect of which an interim maintenance assessment is in force shall not be adjusted following the making of a maintenance assessment.

(9) An interim maintenance assessment shall cease to have effect on the first day of the maintenance period during which the Secretary of State receives the information which enables a child support officer to make the maintenance assessment or assessments in relation to the same absent parent, person with care, and qualifying child or qualifying children, calculated in accordance with Part I of Schedule 1 to the Act.

(10) Where a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act is made following an interim maintenance assessment and the amount of child support maintenance payable under that assessment in respect of the period during which the interim maintenance assessment was in force is higher than the amount fixed by the interim maintenance assessment determined in accordance with paragraph (2), the amount of child support maintenance payable in respect of that period shall be that fixed by the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act.

(11) Subject to regulation 9(6), for the purposes of sections 17 and 18 of the Act a maintenance assessment shall not include an interim maintenance assessment.

(12) The provisions of regulations 29, 31, 32, 33(5) and 55 shall not apply to interim maintenance assessments.

Cancellation of an interim maintenance assessment

9.—(1) An absent parent with respect to whom an interim maintenance assessment is in force may apply to a child support officer for that interim assessment to be cancelled.

(2) Any application made under paragraph (1) shall be in writing, and shall include a statement of the grounds for the application.

(3) A child support officer who receives an application under the provisions of paragraph (1), shall—

- (a) decide whether the interim maintenance assessment is to be cancelled and, if so, the date with effect from which it is to be cancelled;
- (b) in any case where he does cancel an interim maintenance assessment, decide whether it is appropriate for a maintenance assessment to be made in accordance with the provisions of Part I of Schedule 1 to the Act;
- (c) in any case where he has decided that it is appropriate for a maintenance assessment to be made in accordance with the provisions of Part I of Schedule 1 to the Act, make that assessment.

(4) Where a child support officer has made a decision under paragraph (3), he shall immediately notify the applicant, so far as that is reasonably practicable, and shall give the reasons for his decision in writing.

(5) A notification under paragraph (4) shall include information as to the provisions of sections 18 and 20 of the Act and regulation 24(1) and, where an assessment is made in accordance with the provisions of Part I of Schedule 1 to the Act, the provisions of sections 16 and 17 of the Act.

(6) Where a child support officer has made a decision following an application under paragraph (1), the absent parent may apply to the Secretary of State for a review of that decision and, subject to the modification set out in paragraph (7), the provisions of section 18(5) to (8) of the Act shall apply to such a review.

(7) The modification referred to in paragraph (6) is that section 18(6) of the Act shall have effect as if for “the refusal, assessment or cancellation in question” there is substituted “the decision following an application under regulation 9(1) of the Child Support (Maintenance Assessment Procedure) Regulations 1992”.

(8) Regulations 10, 11 and 25 shall apply to reviews under paragraph (6).

PART IV

NOTIFICATIONS FOLLOWING CERTAIN DECISIONS BY CHILD SUPPORT OFFICERS

Notification of a new or a fresh maintenance assessment

10.—(1) Where a child support officer makes a new or a fresh maintenance assessment following—

- (a) an application under section 4, 6 or 7 of the Act; or
- (b) a review under section 16, 17, 18 or 19 of the Act,

he shall immediately notify the relevant persons, so far as that is reasonably practicable, of the amount of the child support maintenance under that assessment.

(2) A notification under paragraph (1) shall set out, in relation to the maintenance assessment in question—

- (a) the maintenance requirement;
- (b) the effective date of the assessment;
- (c) the absent parent's assessable income and, where relevant, his protected income level;
- (d) the assessable income of a parent with care;
- (e) details as to the minimum amount of child support maintenance payable by virtue of regulations made under paragraph 7 of Schedule 1 to the Act; and
- (f) details as to apportionment where a case is to be treated as a special case for the purposes of the Act under section 42 of the Act.

(3) Except where a person gives written permission to the Secretary of State that the information, in relation to him, mentioned in sub-paragraphs (a) and (b) below may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the child support officer concerned) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

(4) A notification under paragraph (1) shall include information as to the following provisions—

- (a) where a new maintenance assessment is made following an application under the Act or a fresh maintenance assessment is made following a review under section 16 of the Act, sections 16, 17 and 18 of the Act;
- (b) where a fresh maintenance assessment is made following a review under section 17 of the Act, or following a review under section 19 of the Act where the child support officer conducting such a review is satisfied that if an application were to be made under section 17 of the Act it would be appropriate to make a fresh maintenance assessment, sections 16 and 18 of the Act;
- (c) where a fresh maintenance assessment is made following a review under section 18 of the Act, or following a review under section 19 of the Act where the child support officer conducting such a review is satisfied that if an application were to be made under section 18 of the Act, it would be appropriate to make a fresh maintenance assessment, sections 16, 17 and 20 of the Act.

Notification of a refusal to conduct a review

11.—(1) Where a child support officer refuses an application for a review under section 17 of the Act on the grounds set out in section 17(3) of the Act, or an application for a review under section 18 of the Act on the grounds set out in section 18(6) of the Act, he shall immediately notify the applicant, so far as that is reasonably practicable, and shall give the reasons for his refusal in writing.

(2) A notification under paragraph (1) shall include information as to the following provisions—

- (a) where the refusal is on the grounds set out in section 17(3) of the Act, sections 16 and 18 of the Act and regulations 24(1) and 31(7);
- (b) where the refusal is on the grounds set out in section 18(6) of the Act, sections 16, 17 and 20 of the Act.

Notification of a refusal to make a new or a fresh maintenance assessment

12.—(1) Where a child support officer refuses an application for a maintenance assessment under the Act, or refuses to make a fresh assessment following a review under section 17 or 18 of the Act, he shall immediately notify the following persons, so far as that is reasonably practicable—

- (a) where an application for a maintenance assessment under section 4 or 6 of the Act is refused, the applicant;
- (b) where an application for a maintenance assessment under section 7 of the Act is refused, the applicant child and the other relevant persons who have been notified of the application;
- (c) where there is a refusal to make a fresh assessment following a review under section 17 or 18 of the Act, the relevant persons,

and shall give the reasons for his refusal in writing.

(2) A notification under paragraph (1) shall include information as to the following provisions—

- (a) where an application for a maintenance assessment under the Act is refused, section 18 of the Act and regulation 24(1);
- (b) where there is a refusal to make a fresh assessment following a review under section 17 of the Act, sections 16 and 18 of the Act and regulation 24(1);
- (c) where there is a refusal to make a fresh assessment following a review under section 18 of the Act, sections 16, 17 and 20 of the Act.

Notification of a refusal to cancel a maintenance assessment

13.—(1) Where a child support officer refuses a request under paragraph 16 of Schedule 1 to the Act for a maintenance assessment to be cancelled, or refuses to cancel a maintenance assessment following a review under section 18 of the Act, he shall immediately notify the following persons, so far as that is reasonably practicable—

- (a) where a request for a cancellation under paragraph 16 of Schedule 1 to the Act is refused, the applicant, or, as the case may be, the applicants;
- (b) where the cancellation of a maintenance assessment following a review under section 18 of the Act is refused, the relevant persons,

and shall give the reasons for his refusal in writing.

(2) A notification under paragraph (1) shall include information as to the following provisions—

- (a) where a request for a cancellation under paragraph 16 of Schedule 1 to the Act is refused, sections 16 and 18 of the Act and regulation 24(1);
- (b) where the cancellation of a maintenance assessment following a review under section 18 of the Act is refused, sections 16, 17 and 20 of the Act.

Notification of a cancellation of a maintenance assessment

14.—(1) Where a child support officer cancels a maintenance assessment, he shall immediately notify the relevant persons, so far as that is reasonably practicable, and shall give the reasons for the cancellation in writing.

(2) A notification under paragraph (1) shall include information as to the provisions of section 18 of the Act and regulations 24(1) and 31(8).

Notification of a refusal to reinstate a cancelled maintenance assessment

15.—(1) Where a child support officer, following a review under section 18(3) of the Act, refuses to reinstate a maintenance assessment that has been cancelled, he shall immediately notify the relevant persons, so far as that is reasonably practicable, and shall give the reasons for his refusal in writing.

(2) A notification under paragraph (1) shall include information as to the provisions of section 20 of the Act.

Notification when an applicant under section 7 of the Act ceases to be a child

16. Where a maintenance assessment has been made in response to an application by a child under section 7 of the Act and that child ceases to be a child for the purposes of the Act, a child support officer shall immediately notify, so far as that is reasonably practicable—

- (a) the other qualifying children over the age of 12 and the absent parent with respect to whom that maintenance assessment was made; and
- (b) the person with care.

PART V**PERIODICAL REVIEWS****Intervals between periodical reviews and notice of a periodical review**

17.—(1) Subject to regulation 18(1), a maintenance assessment that has been in force for a period of 52 weeks shall be reviewed by a child support officer under section 16 of the Act.

(2) Where a review under section 17 of the Act results in a fresh maintenance assessment, the next review under the provisions of paragraph (1) shall be conducted when that fresh assessment has been in force for a period of 52 weeks.

(3) A child support officer may decide not to conduct a review under paragraph (1) if a fresh maintenance assessment following such a review would cease to have effect within 28 days of the effective date of that fresh assessment.

(4) Before a child support officer conducts a review under section 16 of the Act, he shall give 14 days' notice of the proposed review to the relevant persons.

(5) Subject to paragraphs (6) and (7), a child support officer shall request every person to whom he is giving notice under paragraph (4) to provide, within 14 days, and in accordance with the provisions of regulations 2 and 3 of the Information, Evidence and Disclosure Regulations such information or evidence as to his current circumstances as may be specified.

(6) The provisions of paragraph (5) shall not apply in relation to any person to whom or in respect of whom income support is payable or to a person with care where income support is payable to or in respect of the absent parent.

(7) The provisions of paragraph (5) shall not apply in relation to a relevant person where—

- (a) a case is prescribed in regulation 22 or 23 of the Maintenance Assessments and Special Cases Regulations as a case to be treated as a special case for the purposes of the Act;
- (b) there has been a review under section 16 or 17 of the Act in relation to another maintenance assessment in force relating to that person;
- (c) the child support officer concerned has notified that person of the assessments following that review not earlier than 13 weeks prior to the date a review under section 16 of the Act is due under paragraph (1); and

- (d) the child support officer has no reason to believe that there has been a change in that person's circumstances.

Review under section 17 of the Act treated as a review under section 16 of the Act

18.—(1) Where, under the provisions of regulation 19(1), a child support officer gives notice of a review under section 17 of the Act, that notice is given or sent not earlier than 8 weeks prior to the next review, under the provisions of regulation 17(1), of the maintenance assessment in force, and the review under section 17 of the Act does not result in a fresh maintenance assessment by virtue of the provisions of regulation 20, 21 or 22, that review shall be treated as a review under section 16 of the Act, and the fresh assessment that would have been made but for the provisions of regulation 20, 21 or 22, as the case may be, shall be the assessment following that review.

(2) Where there is a fresh assessment under the provisions of paragraph (1), the next review under the provisions of regulation 17(1) shall be of that fresh assessment.

PART VI

REVIEWS ON A CHANGE OF CIRCUMSTANCES

Conduct of a review on a change of circumstances

19.—(1) Where a child support officer proposes to conduct a review under section 17 of the Act, he shall give 14 days' notice of the proposed review to the relevant persons.

(2) Subject to paragraphs (3) and (4), and except where the circumstances set out in regulation 17(7) apply, a child support officer proposing to conduct a review under section 17 of the Act shall request every person to whom he is giving notice under paragraph (1) to provide within 14 days, and in accordance with the provisions of regulations 2 and 3 of the Information, Evidence and Disclosure Regulations, such information or evidence as to his current circumstances as may be specified.

(3) The provisions of paragraph (2) shall not apply in relation to any person to whom or in respect of whom income support is payable.

(4) Where an application for a review under section 17 of the Act is made at the time that a review under section 16 of the Act is being conducted, the child support officer concerned may proceed with the review under section 17 of the Act notwithstanding that he has not complied with the provisions of paragraph (2) if in his opinion such compliance is not required in the particular circumstances of the case.

(5) Where a maintenance assessment is in force with respect to a parent with care and an absent parent in response to an application by the parent with care under section 6 of the Act, and the parent with care authorises the Secretary of State to take action under the Act to recover child support maintenance from that absent parent in relation to an additional child of whom she is a parent with care and he is an absent parent, that authorisation shall be treated by the Secretary of State as an application for a review under section 17 of the Act.

Fresh assessments following a review on a change of circumstances

20.—(1) Subject to paragraphs (2) and (3) and regulations 21 and 22, a child support officer who has completed a review under section 17 of the Act shall not make a fresh assessment if the difference between the amount of child support maintenance fixed by the assessment currently in force and the amount that would be fixed if a fresh assessment were to be made as a result of the review is less than £10.00 per week.

(2) Where a child support officer who has completed a review under section 17 of the Act determines that, were a fresh assessment to be made as a result of the review, the circumstances of the absent parent are such that the provisions of paragraph 6 of Schedule 1 to the Act would apply to that assessment, he shall not make a fresh assessment if the difference between the amount of child support maintenance fixed by the original assessment and the amount that would be fixed if a fresh assessment were to be made as a result of the review is less than £1.00 per week.

(3) Where a child support officer who has completed a review under section 17 of the Act determines that, were a fresh assessment to be made as a result of the review, the children in respect of whom that assessment would be made are not identical with the children in respect of whom the original assessment was made, he shall not make a fresh assessment if the difference between the amount of child support maintenance fixed by the original assessment and the amount that would be fixed if a fresh assessment were to be made as a result of the review is less than £1.00 per week.

Fresh assessments following a review on a change of circumstances: special case prescribed by regulation 22 of the Maintenance Assessments and Special Cases Regulations

21.—(1) The provisions of paragraphs (2) and (3) shall apply on a review under section 17 of the Act where a case is to be treated as a special case for the purposes of the Act by virtue of regulation 22 of the Maintenance Assessments and Special Cases Regulations.

(2) Where there is a change in the circumstances of the absent parent (whether or not there is also a change in the circumstances of one or more of the persons with care), a child support officer shall not make fresh assessments if the difference between the aggregate amount of child support maintenance fixed by the assessments currently in force and the aggregate amount that would be fixed if fresh assessments were to be made as a result of the review is less than £10.00 per week or, where the circumstances of the absent parent are such that the provisions of paragraph 6 of Schedule 1 to the Act would apply to those fresh assessments, that difference is less than £1.00 per week.

(3) Where there is a change in the circumstances of one or more of the persons with care but not in that of the absent parent, the provisions of regulation 20 shall apply in relation to each fresh assessment.

Fresh assessments following a review on a change of circumstances: special case prescribed by regulation 23 of the Maintenance Assessments and Special Cases Regulations

22.—(1) The provisions of paragraph (2) shall apply on a review under section 17 of the Act where a case is to be treated as a special case for the purposes of the Act by virtue of regulation 23 of the Maintenance Assessments and Special Cases Regulations.

(2) Where there is a change in the circumstances of the person with care or in the circumstances of one or more of the absent parents, the provisions of regulation 20 shall apply to each fresh assessment.

Reviews conducted under section 19 of the Act as if a review under section 17 of the Act had been applied for

23. The provisions of regulations 20, 21 and 22 shall apply to a review under section 19 of the Act which has been conducted as if an application for a review under section 17 of the Act had been made.

PART VII

REVIEWS OF A DECISION BY A CHILD SUPPORT OFFICER

Time limits for an application for a review of a decision by a child support officer

24.—(1) Subject to paragraph (2), the Secretary of State shall not refer any application for a review under section 18(1), (3) or (4) of the Act or under section 18 of the Act as extended by regulation 9(6) to a child support officer unless that application is received by the Secretary of State within 28 days of the date of notification to the applicant of the decision whose review he seeks.

(2) Where the Secretary of State receives an application for a review under section 18(1), (3) or (4) of the Act or under section 18 of the Act as extended by regulation 9(6) more than 28 days after the date of notification to the applicant of the decision whose review he seeks, the Secretary of State may refer that application to a child support officer if he is satisfied that there was unavoidable delay in making the application.

Notice of a review of a decision by a child support officer

25.—(1) Where on an application for a review under section 18 of the Act a child support officer proposes to conduct such a review, he shall give 14 days' notice of the proposed review to the relevant persons.

(2) A child support officer proposing to conduct a review under section 18 of the Act shall—

- (a) send to the relevant persons the applicant's reasons for making the application for the review;
- (b) where a maintenance assessment is in force, send to the relevant persons the information that was included, under the provisions of regulation 10(2), in the notification of that assessment made under the provisions of regulation 10(1);
- (c) invite representations, either in person or in writing, from the relevant persons on any matter relating to the review and set out the provisions of paragraphs (3) to (6) in relation to such representations.

(3) Subject to paragraph (4), where the child support officer conducting the review does not within 14 days of the date on which notice of the review was given receive a request from a relevant person to make representations in person, or receives such a request and arranges for an appointment for such representations to be made but that appointment is not kept, he may complete the review in the absence of such representations from that person.

(4) Where the child support officer conducting the review is satisfied that there was good reason for failure to keep an appointment, he shall provide for a further opportunity for the making of representations by the relevant person concerned before he completes the review.

(5) Where the child support officer conducting the review does not receive written representations from a relevant person within 14 days of the date on which notice of the review was given, he may complete the review in the absence of written representations from that person.

(6) Except where a person gives written permission to the Secretary of State that the information, in relation to him, mentioned in sub-paragraphs (a) and (b) below may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the child support officer concerned) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person other than a qualifying child or relevant person being identified.

Procedure on a review of a decision by a child support officer

26.—(1) Where the Secretary of State has referred more than one application for a review to a child support officer under section 18 of the Act in relation to the same decision and that child support officer proposes to conduct a review but has not given notice under regulation 25(1), he shall give notice to the relevant persons under regulation 25(1) and shall conduct one review taking account of all the representations made and all the evidence before him.

(2) Where the child support officer conducting a review under section 18 of the Act has given notice under regulation 25(1) and has a further application referred to him by the Secretary of State in relation to the same decision before he has completed his review, he shall notify the person who has made that further application that he is already conducting a review of that decision and that he will take into account the information contained in that application.

Review following an application under section 18(1)(b) of the Act

27. Where a child support officer has completed a review following an application for a review under section 18(1)(b) of the Act, regulations 20 to 22 shall apply in relation to any fresh assessment following that review.

Reviews conducted under section 19 of the Act as if a review under section 18(1)(b) of the Act had been applied for

28. The provisions of regulation 27 shall apply to a review under section 19 of the Act which has been conducted as if an application for a review under section 18(1)(b) of the Act had been made.

Extension of provisions of section 18(2) of the Act

29.—(1) The provisions of section 18(2) of the Act shall apply where a maintenance assessment has been in force but is no longer in force if the condition specified in paragraph (2) is satisfied.

(2) The condition mentioned in paragraph (1) is that, subject to paragraph (3), the application for a review under section 18(2) of the Act as extended by this regulation is received by the Secretary of State within 28 days of the date of notification to the applicant of the maintenance assessment whose review he seeks.

(3) Where the Secretary of State receives such an application more than 28 days after the date of notification to the applicant of the maintenance assessment whose review he seeks, the Secretary of State may refer that application to a child support officer if he is satisfied that there was unavoidable delay.

PART VIII

COMMENCEMENT AND TERMINATION OF MAINTENANCE ASSESSMENTS AND MAINTENANCE PERIODS

Effective dates of new maintenance assessments

30.—(1) Subject to regulation 8(3), the effective date of a new maintenance assessment following an application under section 4, 6 or 7 of the Act shall be the date determined in accordance with paragraphs (2) to (4).

(2) Where no maintenance assessment is in force with respect to the person with care and absent parent, the effective date of a new assessment shall be—

- (a) the date a maintenance enquiry form is given or sent to an absent parent in a case where the application for a maintenance assessment is made by a person with care or by a child under section 7 of the Act; or
- (b) the date an effective maintenance application form is received by the Secretary of State in a case where the application for a maintenance assessment—
 - (i) is made by an absent parent; or
 - (ii) is an application in relation to which the provisions of regulation 3 have been applied.
- (3) The provisions of regulation 1(6)(b) shall not apply to paragraph (2)(a).
- (4) Where a child support officer is satisfied that an absent parent has deliberately avoided receipt of a maintenance enquiry form, he may determine the date on which the form would have been given or sent but for such avoidance, and that date shall be the relevant date for the purposes of paragraph (2)(a).

Effective dates of maintenance assessments following a review under sections 16 to 19 of the Act

31.—(1) Where a fresh maintenance assessment is made following a review under section 16 of the Act, the effective date of that assessment shall be 52 weeks after the effective date of the previous assessment.

(2) Subject to paragraph (4), where an application is made under section 17 of the Act for a review of a maintenance assessment in force, and a fresh maintenance assessment is made in accordance with the provisions of regulation 20, 21 or 22, the effective date of that assessment shall be the first day of the maintenance period in which the application is received.

(3) Where a case falls within regulation 18(1), the effective date of the fresh assessment shall be the first day of the maintenance period in which the assessment is made.

(4) Where an application is made under section 17 of the Act for a review of a maintenance assessment in force following the death of a qualifying child and a fresh maintenance assessment is made in accordance with the provisions of regulation 20, 21 or 22, the effective date of that assessment shall be the first day of the maintenance period during the course of which that child died.

(5) Where, following a review under section 18(1)(a) of the Act, a maintenance assessment is made following a refusal to make a maintenance assessment, the effective date of that assessment shall be the effective date of the assessment that would have been made if the application for a maintenance assessment had not been refused.

(6) Subject to paragraphs (7), (10) and (11), where an application is made under section 18(2) of the Act for a review of a maintenance assessment in force, the effective date of a fresh assessment (if one is made) following such a review shall be—

- (a) where the application is received by the Secretary of State within 28 days of the date of notification of that assessment, or on a later date but the Secretary of State is satisfied that there was unavoidable delay, the effective date as determined on the review;
- (b) subject to sub-paragraph (a), where the application is received by the Secretary of State later than 28 days after the date of notification of that assessment, the first day of the maintenance period in which the application is received.

(7) Where an application is made under section 18(1)(b) of the Act for a review of a refusal of an application under section 17 of the Act for the review of a maintenance assessment which is in force, the effective date of a fresh maintenance assessment (if one is made) shall be the date determined under paragraph (2).

(8) Where, following a review under section 18(3) of the Act, a cancelled maintenance assessment is reinstated, the effective date of the reinstated assessment shall be the date on which the cancelled assessment ceased to have effect.

(9) Where there has been a misrepresentation or failure to disclose a material fact on the part of the person with care or absent parent in connection with an application for a maintenance assessment under the Act, or a review under section 16 or 17 of the Act, and that misrepresentation or failure has resulted in an incorrect assessment or a series of incorrect assessments, the effective date of a fresh assessment (or of a fresh assessment in relation to the earliest relevant period) following discovery of the misrepresentation or failure shall be the effective date of the incorrect assessment or the first incorrect assessment, as the case may be.

(10) Where a fresh maintenance assessment is made on a review under section 18 or 19 of the Act by reason of an assessment having been made in ignorance of a material fact or having been based on a mistake as to a material fact and that ignorance or mistake, as the case may be, is attributable to an operational or administrative error on the part of the Secretary of State or of a child support officer, the effective date of that fresh assessment shall be the effective date of the assessment that has been reviewed.

(11) Subject to paragraphs (9), (10), (12), (13) and (14), where a fresh maintenance assessment is made under section 19 of the Act, the effective date of the assessment shall be the first day of the maintenance period in which the assessment is made.

(12) Where a fresh maintenance assessment is made under section 19 of the Act following the death of a qualifying child, the effective date of that assessment shall be the first day of the maintenance period during which that child died.

(13) Where a child support officer on a review under section 18 or 19 of the Act is satisfied that a maintenance assessment which is or has been in force is defective by reason of a mistake as to the effective date of that assessment, the effective date of a fresh assessment shall be that determined in accordance with regulation 30 or in accordance with paragraphs (1) to (12), as the case may be.

(14) Where a child support officer on a review under section 19 of the Act is satisfied that if an application were to be made under section 18 of the Act it would be appropriate to make a fresh maintenance assessment, and does so, the effective date of that fresh assessment shall be determined in accordance with paragraphs (5) to (8).

Cancellation of a maintenance assessment

32. Where a child support officer cancels a maintenance assessment under paragraph 16(2) or (3) of Schedule 1 to the Act, the assessment shall cease to have effect from the date of receipt of the request for the cancellation of the assessment or from such later date as the child support officer may determine.

Maintenance periods

33.—(1) The child support maintenance payable under a maintenance assessment shall be calculated at a weekly rate and be in respect of successive maintenance periods, each such period being a period of 7 days.

(2) Subject to paragraph (6), the first maintenance period shall commence on the effective date of the first maintenance assessment, and each succeeding maintenance period shall commence on the day immediately following the last day of the preceding maintenance period.

(3) The maintenance periods in relation to a fresh maintenance assessment following a review under section 16, 17, 18 or 19 of the Act shall coincide with the maintenance periods in relation to the earlier assessment, had it continued in force, and the first maintenance period in relation to a

fresh assessment shall commence on the day following the last day of the last maintenance period in relation to the earlier assessment.

(4) The amount of child support maintenance payable in respect of a maintenance period which includes the effective date of a fresh maintenance assessment shall be the amount of maintenance payable under that fresh assessment.

(5) The amount of child support maintenance payable in respect of a maintenance period during the course of which a cancelled maintenance assessment ceases to have effect shall be the amount of maintenance payable under that assessment.

(6) Where a case is to be treated as a special case for the purposes of the Act by virtue of regulation 22 of the Maintenance Assessments and Special Cases Regulations (multiple applications relating to an absent parent) and an application is made by a person with care in relation to an absent parent where there is already a maintenance assessment in force in relation to that absent parent and a different person with care, the maintenance periods in relation to an assessment made in response to that application shall coincide with the maintenance periods in relation to the earlier maintenance assessment, and the first such period shall commence not later than 7 days after the date of notification to the relevant persons of the later maintenance assessment.

PART IX

REDUCED BENEFIT DIRECTIONS

Prescription of disability working allowance for the purposes of section 6 of the Act

34. Disability working allowance shall be a benefit of a prescribed kind for the purposes of section 6 of the Act.

Periods for compliance with obligations imposed by section 6 of the Act

35.—(1) Where the Secretary of State considers that a parent has failed to comply with an obligation imposed by section 6 of the Act he shall serve written notice on that parent that, unless she complies with that obligation, he intends to refer the case to a child support officer for the child support officer to take action under section 46 of the Act if the child support officer considers such action to be appropriate.

(2) The Secretary of State shall not refer a case to a child support officer prior to the expiry of a period of 6 weeks from the date he serves notice under paragraph (1) on the parent in question, and the notice shall contain a statement to that effect.

(3) Where the Secretary of State refers a case to a child support officer and the child support officer serves written notice on a parent under section 46(2) of the Act, the period to be specified in that notice shall be 14 days.

Amount of and period of reduction of relevant benefit under a reduced benefit direction

36.—(1) The reduction in the amount payable by way of a relevant benefit to, or in respect of, the parent concerned and the period of such reduction by virtue of a direction shall be determined in accordance with paragraphs (2) to (9).

(2) Subject to paragraph (6) and regulations 37, 38(7) and 40, there shall be a reduction for a period of 26 weeks from the day specified in the direction under the provisions of section 46(9) of the Act in respect of each such week equal to

$$0.2 \times B$$

where B is an amount equal to the weekly amount, in relation to the week in question, specified in column (2) of paragraph 1(1)(e) of the applicable amounts Schedule.

(3) Subject to paragraph (6) and regulations 37, 38(7) and 40, at the end of the period specified in paragraph (2) there shall be a reduction from the day immediately succeeding the last day of that period for a period of 52 weeks of an amount in respect of each such week equal to

$$0.1 \times B$$

where B has the same meaning as in paragraph (2).

(4) Subject to paragraph (5), a direction shall come into operation on the first day of the second benefit week following the review, carried out by the adjudication officer in consequence of the direction, of the relevant benefit that is payable.

(5) Where the relevant benefit is income support and the provisions of regulation 26(2) of the Social Security (Claims and Payments) Regulations 1987⁽⁸⁾ (deferment of payment of different amount of income support) apply, a direction shall come into operation on such later date as may be determined by the Secretary of State in accordance with those provisions.

(6) Where the benefit payable is income support and there is a change in the benefit week whilst a direction is in operation, the periods of the reductions specified in paragraphs (2) and (3) shall be—

- (a) where the reduction is that specified in paragraph (2), a period greater than 25 weeks but less than 26 weeks;
- (b) where the reduction is that specified in paragraph (3), a period greater than 51 weeks but less than 52 weeks,

and ending on the last day of the last benefit week falling entirely within the period of 26 weeks specified in paragraph (2), or the period of 52 weeks specified in paragraph (3), as the case may be.

(7) Where the weekly amount specified in column (2) of paragraph 1(1)(e) of the applicable amounts Schedule changes on a day when a direction is in operation, the amount of the reduction of the relevant benefit shall be changed—

- (a) where the benefit is income support, from the first day of the first benefit week to commence for the parent concerned on or after the day that weekly amount changes;
- (b) where the benefit is family credit or disability working allowance, from the first day of the next award period of that benefit for the parent concerned commencing on or after the day that weekly amount changes.

(8) Only one direction in relation to a parent shall be in force at any one time.

(9) Where a direction has been in operation for the aggregate of the periods specified in paragraphs (2) and (3) (“the full period”), no further direction shall be given with respect to the same parent on account of that parent’s failure to comply with the obligations imposed by section 6 of the Act in relation to any child in relation to whom the direction that has been in operation for the full period was given.

Modification of reduction under a reduced benefit direction to preserve minimum entitlement to relevant benefit

37. Where in respect of any benefit week the amount of the relevant benefit that would be payable after it has been reduced following a direction would, but for this regulation, be nil or less than the minimum amount of that benefit that is payable as determined—

- (a) in the case of income support, by regulation 26(4) of the Social Security (Claims and Payments) Regulations 1987;

⁽⁸⁾ S.I. 1987/1968; relevant amending instruments are S.I. 1988/522 and 1989/136.

- (b) in the case of family credit and disability working allowance, by regulation 27(2) of those Regulations,

the amount of that reduction shall be decreased to such extent as to raise the amount of that benefit to the minimum amount that is payable.

Suspension of a reduced benefit direction when relevant benefit ceases to be payable

38.—(1) Where relevant benefit ceases to be payable to, or in respect of, the parent concerned at a time when a direction is in operation, that direction shall, subject to paragraph (2), be suspended for a period of 52 weeks from the date the relevant benefit has ceased to be payable.

(2) Where a direction has been suspended for a period of 52 weeks and no relevant benefit is payable at the end of that period, it shall cease to be in force.

(3) Where a direction is suspended and relevant benefit again becomes payable to or in respect of the parent concerned, the amount payable by way of that benefit shall, subject to regulations 40, 41 and 42, be reduced in accordance with that direction for the balance of the reduction period.

(4) The amount or, as the case may be, amounts of the reduction to be made during the balance of the reduction period shall be determined in accordance with regulation 36(2) and (3).

(5) No reduction in the amount of benefit under paragraph (3) shall be made before the expiry of a period of 14 days from service of the notice specified in paragraph (6), and the provisions of regulation 36(4) shall apply as to the date when the direction again comes into operation.

(6) Where relevant benefit again becomes payable to or in respect of a parent with respect to whom a direction is suspended she shall be notified in writing by a child support officer that the amount of relevant benefit paid to or in respect of her will again be reduced, in accordance with the provisions of paragraph (3), if she continues to fail to comply with the obligations imposed by section 6 of the Act.

(7) Where a direction has ceased to be in force by virtue of the provisions of paragraph (2), a further direction in respect of the same parent given on account of that parent's failure to comply with the obligations imposed by section 6 of the Act in relation to one or more of the same qualifying children shall, unless it also ceases to be in force by virtue of the provisions of paragraph (2), be in operation for the balance of the reduction period relating to the direction that has ceased to be in force, and the provisions of paragraph (4) shall apply to it.

Reduced benefit direction where family credit or disability working allowance is payable and income support becomes payable

39.—(1) Where a direction is in operation in respect of a parent to whom or in respect of whom family credit or disability working allowance is payable, and income support becomes payable to or in respect of that parent, income support shall become a relevant benefit for the purposes of that direction, and the amount payable by way of income support shall be reduced in accordance with that direction for the balance of the reduction period.

(2) The amount or, as the case may be, the amounts of the reduction to be made during the balance of the reduction period shall be determined in accordance with regulation 36(2) and (3).

Suspension of a reduced benefit direction when a modified applicable amount is payable

40.—(1) Where a direction is given or is in operation at a time when income support is payable to or in respect of the parent concerned but her applicable amount falls to be calculated under the provisions mentioned in paragraph (3), that direction shall be suspended for so long as the applicable amount falls to be calculated under the provisions mentioned in that paragraph, or 52 weeks, whichever period is the shorter.

(2) Where a case falls within paragraph (1) and a direction has been suspended for a period of 52 weeks, it shall cease to be in force.

(3) The provisions of paragraph (1) shall apply where the applicable amount in relation to the parent concerned falls to be calculated under—

- (a) regulation 19 of and Schedule 4 to the Income Support Regulations (applicable amounts for persons in residential care and nursing homes);
- (b) regulation 21 of and paragraphs 1 to 3 of Schedule 7 to the Income Support Regulations (patients);
- (c) regulation 21 of and paragraphs 10B, 10C, 10D and 13 of Schedule 7 to the Income Support Regulations (persons in residential accommodation).

Termination of a reduced benefit direction following compliance with obligations imposed by section 6 of the Act

41.—(1) Where a parent with care with respect to whom a direction is in force complies with the obligations imposed by section 6 of the Act, that direction shall cease to be in force on the date determined in accordance with paragraph (2) or (3), as the case may be.

(2) Where the direction is in operation, it shall cease to be in force on the last day of the benefit week during the course of which the parent concerned complied with the obligations imposed by section 6 of the Act.

(3) Where the direction is suspended, it shall cease to be in force on the date on which the parent concerned complied with the obligations imposed by section 6 of the Act.

Review of a reduced benefit direction

42.—(1) Where a parent with care with respect to whom a direction is in force gives the Secretary of State reasons—

- (a) additional to any reasons given by her in response to the notice served on her under section 46(2) of the Act for having failed to comply with the obligations imposed by section 6 of the Act; or
- (b) as to why she should no longer be required to comply with the obligations imposed by section 6 of the Act,

the Secretary of State shall refer the matter to a child support officer who shall conduct a review of the direction (“a review”) to determine whether the direction is to continue or is to cease to be in force.

(2) Where a parent with care with respect to whom a direction is in force gives a child support officer reasons of the kind mentioned in paragraph (1), a child support officer shall conduct a review to determine whether the direction is to continue or is to cease to be in force.

(3) A review shall not be carried out by the child support officer who gave the direction with respect to the parent concerned.

(4) Where the child support officer who is conducting a review considers that the parent concerned is no longer to be required to comply with the obligations imposed by section 6 of the Act, the direction shall cease to be in force on the date determined in accordance with paragraph (5) or (6), as the case may be.

(5) Where the direction is in operation, it shall cease to be in force on the last day of the benefit week during the course of which the parent concerned gave the reasons specified in paragraph (1).

(6) Where the direction is suspended, it shall cease to be in force on the date on which the parent concerned gave the reasons specified in paragraph (1).

(7) The provisions of section 20 of the Act shall apply in relation to a decision of a child support officer following a review.

(8) A child support officer shall on completing a review immediately notify the parent concerned of his decision, so far as that is reasonably practicable, and shall give the reasons for his decision in writing.

(9) A notification under paragraph (8) shall include information as to the provisions of section 20 of the Act.

Termination of a reduced benefit direction where a maintenance assessment is made following an application by a child under section 7 of the Act

43. Where a qualifying child of a parent with respect to whom a direction is in force applies for a maintenance assessment to be made with respect to him under section 7 of the Act, and an assessment is made in response to that application in respect of all of the qualifying children in relation to whom the parent concerned failed to comply with the obligations imposed by section 6 of the Act, that direction shall cease to be in force from the date determined in accordance with regulation 45.

Termination of a reduced benefit direction where a maintenance assessment is made following an application by an absent parent under section 4 of the Act

44. Where—

- (a) an absent parent applies for a maintenance assessment to be made under section 4 of the Act with respect to all of his qualifying children in relation to whom the other parent of those children is a person with care;
- (b) a direction is in force with respect to that other parent following her failure to comply with the obligations imposed by section 6 of the Act in relation to those qualifying children; and
- (c) an assessment is made in response to that application by the absent parent for a maintenance assessment,

that direction shall cease to be in force on the date determined in accordance with regulation 45.

Date from which a reduced benefit direction ceases to be in force following a termination under regulation 43 or 44

45.—(1) The date a direction ceases to be in force under the provisions of regulation 43 or 44 shall be determined in accordance with paragraphs (2) and (3).

(2) Where the direction is in operation, it shall cease to be in force on the last day of the benefit week during the course of which the Secretary of State is supplied with the information that enables a child support officer to make the assessment.

(3) Where the direction is suspended, it shall cease to be in force on the date on which the Secretary of State is supplied with the information that enables a child support officer to make the assessment.

Cancellation of a reduced benefit direction in cases of error

46. Where a child support officer is satisfied that a direction was given as a result of an error on the part of the Secretary of State or a child support officer, or though not given as a result of such an error has not subsequently ceased to be in force as a result of such an error, the child support officer shall cancel the direction and it shall be treated as not having been given, or as having ceased to be in force on the date it would have ceased to be in force if that error had not been made, as the case may be.

Reduced benefit directions where there is an additional qualifying child

47.—(1) Where a direction is in operation or would be in operation but for the provisions of regulation 40 and a child support officer gives a further direction with respect to the same parent on account of that parent failing to comply with the obligations imposed by section 6 of the Act in relation to an additional qualifying child of whom she is a person with care, the earlier direction shall cease to be in force on the last day of the benefit week preceding the benefit week on the first day of which, in accordance with the provisions of regulation 36(4), the further direction comes into operation, or would come into operation but for the provisions of regulation 40.

(2) Where a further direction comes into operation in a case falling within paragraph (1), the provisions of regulation 36 shall apply to it.

(3) Where a direction has ceased to be in force by virtue of regulation 38(2) and a child support officer gives a direction with respect to the same parent on account of that parent's failure to comply with the obligations imposed by section 6 of the Act in relation to an additional qualifying child, no further direction shall be given with respect to that parent on account of her failure to comply with the obligations imposed by section 6 of the Act in relation to one or more children in relation to whom the direction that has ceased to be in force by virtue of regulation 38(2) was given.

(4) Where a case falls within paragraph (1) or (3) and the further direction, but for the provisions of this paragraph would cease to be in force by virtue of the provisions of regulation 41 or 42, but the earlier direction would not have ceased to be in force by virtue of the provisions of those regulations, the later direction shall continue in force for a period ("the extended period") calculated in accordance with the provisions of paragraph (5) and the reduction of relevant benefit shall be determined in accordance with paragraphs (6) and (7).

(5) The extended period for the purposes of paragraph (4) shall be

$$(78 - F - S)\text{weeks}$$

where—

F is the number of weeks for which the earlier direction was in operation; and

S is the number of weeks for which the later direction has been in operation.

(6) Where the extended period calculated in accordance with paragraph (5) is greater than 52 weeks, there shall be a reduction of relevant benefit in respect of the number of weeks in excess of 52 determined in accordance with regulation 36(2), and a reduction of relevant benefit in respect of the remaining 52 weeks determined in accordance with regulation 36(3).

(7) Where the extended period calculated in accordance with paragraph (5) is equal to or less than 52 weeks, there shall be a reduction of relevant benefit in respect of that period determined in accordance with regulation 36(3).

(8) In this regulation "an additional qualifying child" means a qualifying child of whom the parent concerned is a person with care and who was either not such a qualifying child at the time the earlier direction was given or had not been born at the time the earlier direction was given.

Suspension and termination of a reduced benefit direction where the sole qualifying child ceases to be a child or where the parent concerned ceases to be a person with care

48.—(1) Where, whilst a direction is in operation—

(a) there is, in relation to that direction, only one qualifying child, and that child ceases to be a child within the meaning of the Act; or

(b) the parent concerned ceases to be a person with care,

the direction shall be suspended from the last day of the benefit week during the course of which the child ceases to be a child within the meaning of the Act, or the parent concerned ceases to be a person with care, as the case may be.

(2) Where, under the provisions of paragraph (1), a direction has been suspended for a period of 52 weeks and no relevant benefit is payable at that time, it shall cease to be in force.

(3) If during the period specified in paragraph (1) the former child again becomes a child within the meaning of the Act or the parent concerned again becomes a person with care and relevant benefit is payable to or in respect of that parent, a reduction in the amount of that benefit shall be made in accordance with the provisions of paragraphs (3) to (7) of regulation 38.

Notice of termination of a reduced benefit direction

49.—(1) Where a direction ceases to be in force under the provisions of regulations 41 to 44 or 46 to 48, or is suspended under the provisions of regulation 48, a child support officer shall serve notice of such termination or suspension, as the case may be, on the adjudication officer and shall specify the date on which the direction ceases to be in force or is suspended, as the case may be.

(2) Any notice served under paragraph (1) shall set out the reasons why the direction has ceased to be in force or has been suspended.

(3) The parent concerned shall be served with a copy of any notice served under paragraph (1).

Rounding provisions

50. Where any calculation made under this Part of these Regulations results in a fraction of a penny, that fraction shall be treated as a penny if it exceeds one half, and shall otherwise be disregarded.

PART X

MISCELLANEOUS PROVISIONS

Persons who are not persons with care

51.—(1) For the purposes of the Act the following categories of person shall not be persons with care—

- (a) a local authority;
- (b) a person with whom a child who is looked after by a local authority is placed by that authority under the provisions of the Children Act 1989⁽⁹⁾;
- (c) in Scotland, a person with whom a child is boarded out by a local authority under the provisions of section 21 of the Social Work (Scotland) Act 1968⁽¹⁰⁾.

(2) In paragraph (1) above—

“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;

“a child who is looked after by a local authority” has the same meaning as in section 22 of the Children Act 1989.

Terminations of maintenance assessments

52.—(1) Where the Secretary of State is satisfied that a question arises as to whether a maintenance assessment has ceased to have effect under the provisions of paragraph 16(1)(a) to (d)

⁽⁹⁾ 1989 c. 41.

⁽¹⁰⁾ 1968 c. 49.

of Schedule 1 to the Act, he shall refer that question (a “termination question”) to a child support officer.

(2) Where a child support officer has made a decision on a termination question (a “termination decision”) he shall immediately notify the following persons of his decision, so far as that is reasonably practicable—

- (a) in a case falling within paragraph 16(1)(a) of Schedule 1 to the Act, the surviving relevant persons;
- (b) in a case falling within paragraph 16(1)(b), (c) or (d) of Schedule 1 to the Act, the relevant persons.

(3) Any notification under paragraph (2) shall give the reasons for the termination decision made, include information as to the provisions of section 18 of the Act, and explain the provisions of paragraph (4).

(4) The persons specified in paragraph (2) may apply to the Secretary of State for a review of a termination decision as if it were a case falling within section 18 of the Act and, subject to the modifications set out in paragraph (5), section 18(5) to (9) and (11) of the Act shall apply to such a review.

(5) The modifications referred to in paragraph (4) are—

- (a) section 18(6) of the Act shall have effect as if for “the refusal, assessment or cancellation” there is substituted “the termination decision”;
- (b) section 18(9) of the Act shall have effect as if for “a maintenance assessment or (as the case may be) a fresh maintenance assessment” there is substituted “a different termination decision”.

(6) The provisions of regulation 24 as to time limits for an application for a review of a decision by a child support officer shall apply to reviews under paragraph (4).

(7) Where a child support officer has completed a review of a termination decision he shall immediately notify the persons specified in paragraph (2), so far as that is reasonably practicable, of the review decision, give the reasons for that decision in writing, and notify them of the provisions of section 20 of the Act.

(8) Where a case falls within regulation 19 of the Maintenance Assessments and Special Cases Regulations and both absent parents have made an application for a maintenance assessment under section 4 of the Act, the Secretary of State shall be under the duty imposed by section 4(6) of the Act only if both absent parents have, under section 4(5) of the Act, requested the Secretary of State to cease acting under section 4 of the Act.

Authorisation of representative

53.—(1) A person may authorise a representative, whether or not legally qualified, to receive notices and other documents on his behalf and to act on his behalf in relation to the making of applications and the supply of information under any provision of the Act or these Regulations.

(2) Where a person has authorised a representative for the purposes of paragraph (1) who is not legally qualified, he shall confirm that authorisation in writing to the Secretary of State.

Correction of accidental errors in decisions

54.—(1) Subject to regulation 56, accidental errors in any decision or record of a decision may at any time be corrected by a child support officer and a correction made to, or to the record of, a decision shall be deemed to be part of the decision or of that record.

(2) A child support officer who has made a correction under the provisions of paragraph (1) shall immediately notify the persons who were notified of the decision that has been corrected, so far as that is reasonably practicable.

Setting aside of decisions on certain grounds

55.—(1) Subject to paragraph (7) and regulation 56, on an application made by a relevant person, a decision may be set aside by a child support officer on the grounds that the interests of justice so require, and in particular that a relevant document in relation to that decision was not sent to, or was not received at an appropriate time by the person making the application or his representative or was sent but not received at an appropriate time by the child support officer who gave the decision.

(2) Any application made under paragraph (1) shall be in writing, shall include a statement of the grounds for the application, and shall be made by giving or sending it to the Secretary of State within 28 days of the date of notification of the decision in question.

(3) Where an application to set aside a decision is being considered by a child support officer under paragraph (1), he shall notify the relevant persons other than the applicant of the application and they shall be given 14 days to make representations as to that application.

(4) The provisions of regulation 25(6) shall apply to notifications under paragraph (5).

(5) A child support officer who has made a determination on an application to set aside a decision shall immediately notify the relevant persons, so far as that is reasonably practicable, and shall give the reasons for his determination in writing.

(6) For the purposes of determining an application to set aside a decision under this regulation, there shall be disregarded regulation 1(6)(b) and any provision in any enactment or instrument to the effect that any notice or other document required or authorised to be given or sent to any person shall be deemed to have been given or sent if it was sent by post to that person's last known or notified address.

(7) The provisions of paragraphs (1) to (6) shall not apply to any document given or sent under any provision of Part IX.

Provisions common to regulations 54 and 55

56.—(1) In determining whether the time limits specified in regulation 17, 19, 24 or 25 have been complied with, there shall be disregarded any day falling before the day on which notification is given of a correction made to, or to the record of, a decision made under regulation 54 or on which notification is given that a decision shall not be set aside following an application made under regulation 55, as the case may be.

(2) The power to correct errors under regulation 54 or set aside decisions under regulation 55 shall not be taken to limit any other powers to correct errors or set aside decisions that are exercisable apart from these Regulations.

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