
STATUTORY INSTRUMENTS

1996 No. 2907

**The Child Support Departure Direction and
Consequential Amendments Regulations 1996**

PART XI

TRANSITIONAL PROVISIONS

Transitional provisions—application before 2nd December 1996

47.—(1) This paragraph applies in any case where an application for a departure direction has been made before 2nd December 1996⁽¹⁾.

(2) Where paragraph (1) applies, the Secretary of State shall request the applicant to inform him in writing before 2nd December 1997—

- (a) whether he wishes the application to be treated as an application under these Regulations in respect of the maintenance assessment in force on 2nd December 1996; and
- (b) whether there have been any changes in the circumstances which are relevant for the determination or, as the case may be, redetermination of the application which have occurred since his application and, if so, what those changes are.

(3) Where the applicant fully complies with the request set out in paragraph (2), and states that he wishes the application to be treated as described in paragraph (2)(a), the Secretary of State shall treat the application as an application under these Regulations which contains the statement mentioned in section 28A(2)(a) of the Act, and paragraphs (4) to (10) and regulation 48 shall apply.

(4) Where the applicant informs the Secretary of State that there have not been any changes of the kind mentioned in paragraph (2)(b), the Secretary of State shall nevertheless invite representations in writing from the relevant persons other than the applicant.

(5) Where the applicant informs the Secretary of State that there have been changes in the circumstances of the kind mentioned in paragraph (2)(b), the Secretary of State shall—

- (a) give notice that he has been informed of such changes to the relevant persons other than the applicant;
- (b) send to them the information as to such changes which the applicant has given except where the Secretary of State considers that information to be information of the kind falling within paragraph (2) of regulation 8;
- (c) invite representations in writing from the relevant persons other than the applicant as to such changes; and
- (d) set out the provisions of paragraph (6) in relation to such representations.

(6) The following provisions shall apply to information provided under paragraph (2)(b) or representations made following an invitation made in accordance with paragraph (4) or (5)(c)—

(1) Section 28A of the Act and other provisions of the Act relating to departure directions come fully into force on 2nd December 1996.

- (a) paragraphs (2) to (11) of regulation 8, subject to the modification set out in paragraph (7);
- (b) in relation to an applicant, regulations 6 and 7.

(7) The modification of regulation 8 mentioned in paragraph (6)(a) is that for the references to paragraph (1) or, as the case may be, paragraph (1)(c) of that regulation, there were substituted references to paragraph (5) or, as the case may be, paragraph (5)(c) of this regulation.

(8) Where the Secretary of State has not determined the application in accordance with the Departure Direction Anticipatory Application Regulations, a determination shall be made in accordance with these Regulations.

(9) Where the Secretary of State has determined the application in accordance with the Departure Direction Anticipatory Application Regulations, he shall determine whether there have been any changes in—

- (a) the circumstances referred to in paragraph (2)(b);
- (b) the relevant provisions of these Regulations compared with the corresponding provisions of the Departure Direction Anticipatory Application Regulations.

(10) Where the Secretary of State determines that there have been no changes of the kind referred to in paragraph (9)(a) or (b), and the relevant persons other than the applicant have not made any representations in accordance with paragraph (4), his determination of the application in accordance with the Departure Direction Anticipatory Application Regulations shall take effect.

(11) Where the Secretary of State determines that there have been changes of the kind referred to in paragraph (9)(a) or (b), or where the relevant persons other than the applicant have made representations, he shall make a determination of the application, taking those changes and representations into account, in accordance with these Regulations.

Effective date of departure direction for a case falling within regulation 47

48.—(1) Where the determination made by the Secretary of State by application of the provisions of paragraphs (1) to (10) of regulation 47 is to give a departure direction, that direction shall take effect on the first day of the first maintenance period commencing on or after 2nd December 1996.

(2) Where a case falls within paragraph (1) of regulation 47, and the applicant complies with the request for information mentioned in paragraph (2) of that regulation but not by the date mentioned in that paragraph, his response shall be treated as an application for a departure direction.

Transitional provisions—no application before 2nd December 1996

49.—(1) Where—

- (a) a maintenance assessment was in force on 2nd December 1996;
- (b) no application has been made before that date by any of the persons with respect to whom that assessment was made; and
- (c) an application is made by one of those persons on the grounds set out in section 28A(2) (a) of the Act (the effect of the current assessment) on or after that date and before 2nd December 1997,

any departure direction given in response to that application shall take effect on the first day of the first maintenance period commencing on or after 2nd December 1996.

Transitional provisions—new maintenance assessment made before 2nd December 1996 whose effective date is on or after 2nd December 1996

50. Where a new maintenance assessment is made before 2nd December 1996 but the effective date of that assessment is a date on or after 2nd December 1996—

- (a) the provisions of paragraph (1) of regulation 32 shall apply as if for the reference to an application being given or sent within 28 days of the date of notification of the current assessment there were substituted a reference to an application being given or sent before 30th December 1996;
- (b) the provisions of paragraph (2) of regulation 32 shall apply as if for the reference to an application being given or sent later than 28 days after the date of notification of the current assessment there were substituted a reference to an application being given or sent after 29th December 1996.