
STATUTORY INSTRUMENTS

1996 No. 2907

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

PART XIII

CONSEQUENTIAL AMENDMENTS

Amendment of regulation 1 of the Appeals Regulations

52. In paragraph (2) of regulation 1 of the Appeals Regulations (citation, commencement and interpretation)—

- (a) in the definition of “party to the proceedings”—
 - (i) in sub-paragraph (d), after the word “officer” there shall be inserted the words “except where the proceedings relate only to an appeal under section 28H of the Act or to a referral;”;
 - (ii) after sub-paragraph (d) there shall be added the following sub-paragraph—

“(dd) the Secretary of State where the proceedings relate to an appeal under section 28H of the Act;”;
- (b) in the definition of “proceedings”, for the words “or application” there shall be substituted the words “, application or referral”;
- (c) after the definition of “proceedings”, there shall be inserted the following definition—

““referral” means a reference by the Secretary of State to a tribunal under section 28D(1)(b) of the Act;”;
- (d) in the definition of “tribunal”, after the words “section 21 of” there shall be inserted the words “or regulations made under paragraph 9 of Schedule 4A to,”.

Amendment of regulation 3 of the Appeals Regulations

53.—(1) Regulation 3 of the Appeals Regulations (making an appeal or application and time limits), shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (a) of paragraph (1), after the words “section 20(1)” there shall be inserted the words “, 28H(1)”.

(3) In paragraph (5), for the words “as the case may be, paragraph (4)” there shall be substituted the words “(4) or in section 20(2) or 28H(3) of the Act, as the case may be”.

Amendment of regulation 5 of the Appeals Regulations

54.—(1) Regulation 5 of the Appeals Regulations (directions) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), after the words “a chairman may” there shall be inserted the words “, subject to paragraph (3),”.

(3) In paragraph (2), after the word “may” there shall be inserted the words “, subject to paragraph (3).”.

(4) After paragraph (2), there shall be added the following paragraphs—

“(3) In the case of an appeal under section 28H of the Act or of a referral, as the case may be, a direction requiring the Secretary of State to provide information shall have effect only if that information is information of which he is aware or which he has in his possession in connection with his functions under the Act.

(4) Where a chairman is considering whether to give a direction under paragraph (1) or the terms of any direction, he may direct that an oral hearing be held by a tribunal to determine whether a direction shall be given under that paragraph and the terms of any direction which may be given.

(5) The provisions of these Regulations shall apply to a hearing held under the provisions of paragraph (4).”.

Amendment of regulation 6 of the Appeals Regulations

55. After paragraph (1B) of regulation 6 of the Appeals Regulations (striking out of proceedings), there shall be inserted the following paragraph—

“(1C) In the case of an appeal under section 28H of the Act, no direction shall be given under paragraph (1B) requiring the Secretary of State to provide information other than information of which he is aware or which he has in his possession in connection with his functions under the Act.”.

Amendment of regulation 7 of the Appeals Regulations

56.—(1) Regulation 7 of the Appeals Regulations (withdrawal of appeals and applications), shall be amended in accordance with the following provisions of this regulation.

(2) In heads (i) and (ii) of sub-paragraph (b) of paragraph (1), after the words “child support officer” there shall be added the words “or, in the case of an appeal under section 28H of the Act, the Secretary of State”.

(3) In paragraph (1A), after the words “child support officer” there shall be inserted the words “or, in the case of an appeal under section 28H of the Act, the Secretary of State”.

Amendment of regulation 10 of the Appeals Regulations

57. In paragraph (1) of regulation 10 of the Appeals Regulations (summoning of witnesses), for the words “appeal or application” wherever they appear there shall be substituted the words “appeal, application or referral”.

Amendment of regulation 11 of the Appeals Regulations

58.—(1) Regulation 11 of the Appeals Regulations (hearings) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraphs (1), (2A) and (2B), for the words “appeal or application” wherever they appear there shall be substituted the words “appeal, application or referral”.

(3) In paragraph (8), after sub-paragraph (e), there shall be inserted the following sub-paragraph—

“(ee) any person undergoing training to enable him to act in the name of the Secretary of State in relation to applications for a departure direction under section 28A of the Act and any person acting on behalf of the Secretary of

State in the training or supervision of persons undergoing that training or in the monitoring of standards of decisions made by persons on behalf of the Secretary of State in relation to those applications;”.

Insertion of regulations 11A and 11B into the Appeals Regulations

59. After regulation 11 of the Appeals Regulations there shall be inserted the following regulations—

“Hearing by chairman sitting alone

11A.—(1) The prescribed circumstances for the purpose of paragraph 9 of Schedule 4A to the Act (child support appeal tribunals) are—

- (a) in relation to a referral, where an application has been made on the grounds set out in paragraph 3 or 4 of Schedule 4B to the Act;
- (b) in relation to an appeal under section 28H of the Act, where that appeal is against the rejection of an application by the Secretary of State under section 28B(2) of the Act or a decision of the Secretary of State on an application made on the grounds set out in paragraph 3 or 4 of Schedule 4B to the Act; or
- (c) in relation to an appeal under section 28H of the Act or to any referral, where a chairman has directed that an oral hearing be held by a tribunal under regulation 5(4).

(2) Where the circumstances set out in sub-paragraph (a), (b) or (c) of paragraph (1) apply, a chairman may decide that the appeal or referral shall be dealt with by a tribunal constituted by the chairman of the tribunal sitting alone.

Consideration of more than one appeal under section 28H of the Act

11B. A tribunal which is considering an appeal under section 28H of the Act in respect of a departure direction which relates to a maintenance assessment may, if it considers it appropriate to do so, consider at the same time any appeal under that section in respect of another departure direction which relates to the same maintenance assessment.”.

Amendment of regulation 13 of the Appeals Regulations

60.—(1) Regulation 13 of the Appeals Regulations (decisions) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3A), for the words “and of the terms of any direction under section 20(4) of the Act” there shall be substituted the words “, of the terms of any direction under section 20(4) of the Act and of the terms of any decision made by the tribunal under section 28H(4)(c) of the Act or on a referral”.

(3) After paragraph (3E), there shall be inserted the following paragraph—

“(3F) Paragraphs (1) and (3D) shall not apply where the tribunal is constituted in accordance with the provisions of regulation 11A.”.

(4) For paragraph (4), there shall be substituted the following paragraph—

“(4) A child support officer may apply to the tribunal or another tribunal for directions or further directions and the tribunal may give such directions or further directions as it thinks fit where the child support officer—

- (a) to whom a case is referred by the Secretary of State under section 20(3) of the Act (procedure following a successful appeal) is uncertain, having regard to the

terms of the decision and of any directions contained in it, how he should deal with the case; or

- (b) who has been notified of a decision of a tribunal on an appeal under section 28H of the Act or on a referral is uncertain, having regard to the terms of that decision or of any departure direction given by that tribunal, how he should deal with the case.”.

Amendment of regulation 14 of the Appeals Regulations

61.—(1) Regulation 14 of the Appeals Regulations (corrections) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), after the words “Subject to” there shall be inserted the words “paragraph (3) and”.

(3) After paragraph (2), there shall be added the following paragraph—

“(3) Paragraphs (1) and (2) shall not apply to referrals.”.

Amendment of regulation 10 of the Arrears Regulations

62. In paragraph (2) of regulation 10 of the Arrears Regulations (adjustment of the amount payable under a maintenance assessment), after the word “subsequently” there shall be inserted the words “revised as a result of a departure direction having been given or”.

Amendment of regulation 8 of the Information, Evidence and Disclosure Regulations

63. Regulation 8 of the Information, Evidence and Disclosure Regulations (disclosure of information to a court or tribunal) shall be numbered paragraph (1) of that regulation and after paragraph (1) there shall be added the following paragraph—

“(2) For the purposes of this regulation “proceedings” includes the determination of an application referred to a child support appeal tribunal under section 28D(1)(b) of the Act.”.

Amendment of regulation 9A of the Information, Evidence and Disclosure Regulations

64. For sub-paragraph (c) of paragraph (2) of regulation 9A of the Information, Evidence and Disclosure Regulations (disclosure of information to other persons), there shall be substituted the following sub-paragraph—

“(c) the personal representative of a relevant person where—

(i) a review or appeal was pending at the date of death of that person and the personal representative is dealing with that review or appeal on behalf of that person; or

(ii) an application for a departure direction had been made but not determined at the date of death of that person and the personal representative is dealing with that application on behalf of that person.”.

Amendment of regulation 10 of the Information, Evidence and Disclosure Regulations

65. In paragraph (1) of regulation 10 of the Information, Evidence and Disclosure Regulations (disclosure of information by the Secretary of State), for the words “or in connection with an assessment which is or has been in force” there shall be substituted the words “,an assessment which is or has been in force or in connection with a departure direction.”.

Amendment of regulation 10A of the Information, Evidence and Disclosure Regulations

66. In paragraph (2) of regulation 10A of the Information, Evidence and Disclosure Regulations (disclosure of information by a child support officer), the words “or in connection with” shall be omitted and at the end, there shall be added the words “or in connection with a departure direction”.

Amendment of regulation 10 of the Maintenance Assessment Procedure Regulations

67.—(1) Regulation 10 of the Maintenance Assessment Procedure Regulations (notification of a new or a fresh maintenance assessment), shall be amended in accordance with the following provisions of this regulation.

(2) For sub-paragraphs (a) and (b) of paragraph (1), there shall be substituted the following sub-paragraphs—

“(a) makes a new or fresh maintenance assessment following an application under section 4, 6 or 7 of the Act, a review under section 16, 17, 18 or 19 of the Act, or the giving or cancellation of a departure direction;

(b) makes a new interim maintenance assessment under section 12 of the Act, substitutes an interim maintenance assessment for one which is in force in accordance with regulation 8 or 9, or gives or cancels a departure direction; or”.

(3) In paragraph (2), after sub-paragraph (h), there shall be added the following sub-paragraph—

“(i) where the notification under paragraph (1)(a) or (b) follows the giving, or cancellation of a departure direction, the amounts calculated in accordance with Part I of Schedule 1 to the Act, or in accordance with regulation 8A, which have been changed as a result of the giving or cancellation of that departure direction.”.

(4) After paragraph (2A), there shall be added the following paragraph—

“(2AA) where a fresh Category D interim maintenance assessment is made following the giving or cancellation of a departure direction, a notification under paragraph (1) shall set out in relation to that interim maintenance assessment the amounts calculated in accordance with regulation 8A which have changed as a result of the giving or cancellation of that departure direction.”.

(5) For sub-paragraphs (a) and (b) of paragraph (2B) there shall be substituted the following sub-paragraphs—

“(a) the matters listed in sub-paragraphs (a), (b) and (d) to (f) of paragraph (2);

(b) where known, the absent parent’s assessable income; and

(c) where the Category B interim maintenance assessment is made following the giving or cancellation of a departure direction, the amounts calculated in accordance with regulation 8A which have changed as a result of the giving or cancellation of that departure direction.”.

(6) In paragraph (4) for sub-paragraph (d) there shall be substituted the following sub-paragraphs—

“(d) where a fresh maintenance assessment is made following a review under section 19 of the Act, sections 16, 17 and 18 of the Act;

(e) where a fresh maintenance assessment is made following the giving of a departure direction, sections 16, 17 and 18 of the Act.”.

(7) After paragraph (5) there shall be added the following paragraph—

“(6) Where a fresh Category D interim maintenance assessment is made following the giving or cancellation of a departure direction, a notification under paragraph (1) shall include information as to sections 16 and 19(1) of the Act.”.

Amendment of the Maintenance Assessments and Special Cases Regulations

68.—(1) The Maintenance Assessments and Special Cases Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) of regulation 1, after the definition of “day to day care” there shall be inserted the following definition—

““Departure Direction and Consequential Amendments Regulations” means the Child Support Departure Direction and Consequential Amendments Regulations 1996(1);”.

(3) In paragraph (4) of regulation 1, there shall be inserted at the beginning the words “These Regulations are subject to the provisions of Parts VIII and IX of the Departure Direction and Consequential Amendments Regulations and”.

(4) In paragraph (2)(c) of regulation 9, after head (iv) there shall be added the following head—

“(v) where a departure direction has been given on the grounds that a case falls within regulation 27 of the Departure Direction and Consequential Amendments Regulations (partner’s contribution to housing costs), the amount of the housing costs which corresponds to the percentage of the housing costs mentioned in regulation 40(7) of those Regulations.”.

(5) In regulation 22—

(a) in paragraph (2), after the words “and in these Regulations” there shall be inserted the words “, and subject to paragraph (2ZA),”; and

(b) after paragraph (2), there shall be inserted the following paragraph—

“(2ZA) Where a case falls within regulation 39(1)(a) of the Departure Direction and Consequential Amendment Regulations, for the purposes of assessing the amount of child support maintenance payable in respect of an application for child support maintenance before a departure direction in respect of the maintenance assessment in question is given, for references to the assessable income of an absent parent in the Act and in these Regulations there shall be substituted references to the amount calculated by the formula—

$$(A + T) \times \frac{B}{D}$$

where A, T, B and D have the same meanings as in paragraph (2).”.