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STATUTORY INSTRUMENTS

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**1996 No. 635**

**The Child Support Departure Direction  
(Anticipatory Application) Regulations 1996**

**PART I**

**General**

**Citation, commencement and interpretation**

**1.—(1)** These Regulations may be cited as the Child Support Departure Direction (Anticipatory Application) Regulations 1996 and shall come into force on 9th April 1996.

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

“the Act” means the Child Support Act 1991;

“applicant” has the same meaning as in Schedule 4B to the Act;

“application” means an application for a departure direction;

“Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>;

“departure direction application form” means the form provided by the Secretary of State in accordance with regulation 4(1);

“effective application” has the meaning given in regulation 4(4);

“effective date” in relation to a departure direction means the date on which that direction takes effect;

“Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992<sup>(2)</sup>;

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

“maintenance period” has the same meaning as in regulation 33 of the Maintenance Assessment Procedure Regulations;

“non-applicant” means—

(a) where the application has been made by a person with care, the absent parent;

(b) where the application has been made by an absent parent, the person with care;

“partner” has the same meaning as in paragraph (2) of regulation 1 of the Maintenance Assessments and Special Cases Regulations<sup>(4)</sup>;

“relevant person” means—

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<sup>(1)</sup> 1992 c. 4.

<sup>(2)</sup> S.I. 1992/1813; the relevant amending instruments are S.I. 1994/227, 1995/123, 1995/1045 and 3261.

<sup>(3)</sup> S.I. 1992/1815; the relevant amending instruments are S.I. 1993/913, 1994/227, 1995/1045 and 3261.

<sup>(4)</sup> Paragraph (2) of regulation 1 has been amended by S.I. 1993/913, 1995/1045 and 3261.

- (a) an absent parent whose liability under a maintenance assessment may be affected by any departure direction given following an application;
- (b) a person with care, or a child to whom section 7 of the Act applies, where the amount of child support maintenance payable under a maintenance assessment relevant to that person with care or that child may be affected by any departure direction given following an application.

(3) In these Regulations, a maintenance assessment calculated in accordance with the provisions of Part I of Schedule 1 to the Act includes an assessment calculated in accordance with provision made under section 12 of the Act.

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

- (a) any document is given or sent to the Secretary of State, that document shall, subject to paragraph (5), be treated as having been so given or sent on the date 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 (6), 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 or Northern Ireland under the Banking and Financial Dealings Act 1971(5).

(5) The Secretary of State may treat any 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.

(6) Where, by any provision 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.

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

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

### **Applications for a departure direction and the determination of applications**

2.—(1) Where a maintenance assessment is in force, a person mentioned in section 28A(1) of the Act may make an application if—

- (a) the person with care resides in the county of Essex, Kent, East Sussex, West Sussex, Surrey, Hertfordshire or Greater London; or

(b) it appears to the Secretary of State that, if an application were to be made and he were to give it a preliminary consideration under section 28B of the Act on the basis of information in his possession prior to 9th April 1996, such a preliminary consideration would not lead him to reject the application.

(2) Applications for a departure direction made before the coming into force of section 28A of the Act shall be determined as if that section and the other provisions of the Act relating to departure directions were in force.

### **Determination of amounts**

**3.—**(1) Where any amount is required to be determined for the purposes of these Regulations, it shall be determined as a weekly amount and, except where the context otherwise requires, any reference to such an amount shall be construed accordingly.

(2) Where any calculation made under these Regulations results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half and shall be otherwise disregarded.