
STATUTORY INSTRUMENTS

1996 No. 635

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

PART II

Procedure on an application for a departure direction and preliminary consideration

Procedure in relation to the determination of an application

8.—(1) Where an application has not failed within the meaning of section 28D of the Act, the Secretary of State shall—

- (a) give notice of that application to the relevant persons other than the applicant;
- (b) send to them a copy of the application and any relevant information the applicant has given except where the Secretary of State considers that information to be harmful information;
- (c) invite representations in writing from the relevant persons on any matter relating to that application; and
- (d) set out the provisions of paragraphs (4) and (5) in relation to such representations.

(2) The notice referred to in paragraph (1) shall be given as soon as reasonably practicable after—

- (a) completion of the preliminary consideration of that application under section 28B of the Act; or
- (b) where the Secretary of State has requested information or evidence under regulation 6, receipt of that information or evidence or the expiry of the period of 14 days referred to in regulation 6(2).

(3) For the purposes of this regulation “harmful information” means medical evidence or medical advice that has not been disclosed to the applicant or a relevant person and which the Secretary of State considers would be harmful to the health of the applicant or that relevant person if disclosed to him.

(4) Where the Secretary of State does not receive written representations from a relevant person within 14 days of the date on which representations were invited under paragraph (1) or (6), he may, in the absence of written representations from that person, proceed to determine the application.

(5) The Secretary of State may, if he considers it reasonable to do so, send a copy of any written representations made following an invitation under paragraph (1)(c), whether or not they were received within the time specified in paragraph (4), to the applicant and invite him to submit representations in writing on any matters contained in those representations and the provisions of paragraph (4) shall apply to any representations so made.

(6) Where any information or evidence requested by the Secretary of State under regulation 6 is received after notification has been given under paragraph (1), the Secretary of State may, if he considers it reasonable to do so and except where he considers that information to be harmful information, send a copy of such information or evidence to the relevant persons and invite them to submit representations in writing on that information or evidence.

(7) 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) may be conveyed to other persons, any document given or sent under the provisions of paragraph (1), (5), (6) or (9) 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 Secretary of State) 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.

(8) In deciding whether to make a departure direction under section 28F of the Act, the Secretary of State shall take into account—

- (a) any information given by the applicant for that direction; and
- (b) any written representations made by the applicant or by a relevant person and received by him at the date upon which he determines the application,

and may in addition take into account—

- (i) any relevant information received by him or by a child support officer, in relation to any application for a maintenance assessment or for a review of a maintenance assessment made in respect of the absent parent, person with care and any child in respect of whom the current assessment was made;
- (ii) any relevant information acquired by him in connection with any of his functions under any of the benefit Acts or the Jobseekers Act 1995⁽¹⁾.

(9) Where the Secretary of State has determined an application he shall, as soon as is reasonably practicable—

- (a) notify the relevant persons of that determination;
- (b) where a departure direction has been given, refer the case to a child support officer.

(10) A notification under paragraph (9)(a) shall set out—

- (a) the reasons for that determination;
- (b) where a departure direction has been given, the basis on which the amount of child support maintenance is to be fixed by any assessment made in consequence of that direction.

(1) 1995 c. 18.