
STATUTORY INSTRUMENTS

2000 No. 3185

The Child Support (Decisions and Appeals) (Amendment) Regulations 2000

Insertion of regulations 15A, 15B, 15C and 15D

10. After regulation 15 (jobseeker's allowance determinations on incomplete evidence) there shall be inserted the following regulations—

“Provision of information

15A.—(1) Where the Secretary of State has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, he may request further information or evidence from the applicant to enable a decision on that application to be made and any such information or evidence shall be provided within one month of the date of notification of the request, or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case.

(2) Where any information or evidence requested in accordance with paragraph (1) is not provided within the time limit specified in that paragraph, the Secretary of State may, where he is able to do so, proceed to make the decision in the absence of that information or evidence.

Procedure in relation to an application made under section 16 or 17 of the Child Support Act in connection with a previously determined variation

15B.—(1) Subject to paragraph (3), where the Secretary of State has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, he—

- (a) shall give notice of the application to the relevant persons, other than the applicant, informing them of the grounds on which the application has been made and any relevant information or evidence the applicant has given, except information or evidence falling within paragraph (2);
 - (b) may invite representations, which need not be in writing but shall be in writing if in any case he so directs, from the relevant persons other than the applicant on any matter relating to that application, to be submitted to the Secretary of State within 14 days of notification or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case; and
 - (c) shall set out the provisions of paragraphs (2)(b) and (c), (4) and (5) in relation to such representations.
- (2) The information or evidence referred to in paragraphs (1)(a), (4)(a) and (7), is—
- (a) details of the nature of the long-term illness or disability of the relevant other child which forms the basis of a variation application on the ground in regulation 11 of the Variations Regulations (special expenses — illness or disability of relevant

other child) where the applicant requests they should not be disclosed and the Secretary of State is satisfied that disclosure is not necessary in order to be able to determine the application;

- (b) medical evidence or medical advice which 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;
- (c) the address of a relevant person or qualifying child, or any other information which could reasonably be expected to lead to that person or child being located, where the Secretary of State considers that there would be a risk of harm or undue distress to that person or that child or any other children living with that person if the address or information were disclosed.

(3) The Secretary of State need not act in accordance with paragraph (1) if—

- (a) he is satisfied on the information or evidence available to him, that he will not agree to a variation of the maintenance calculation in force, but if, on further consideration he is minded to do so he shall, before doing so, comply with the provisions of this regulation; and
- (b) were the application to succeed, the decision as revised or superseded would be less advantageous to the applicant than the decision before it was so revised or superseded.

(4) Where the Secretary of State receives representations from the relevant persons he—

- (a) may, if he considers it reasonable to do so, send a copy of the representations concerned (excluding material falling within paragraph (2) above) to the applicant and invite any comments he may have within 14 days or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case; and
- (b) where the Secretary of State acts under sub-paragraph (a), shall not proceed to make a decision in response to the application until he has received such comments or the period referred to in sub-paragraph (a) has expired.

(5) Where the Secretary of State has not received representations from the relevant persons notified in accordance with paragraph (1) within the time limit specified in sub-paragraph (b) of that paragraph, he may proceed to make a decision under section 16 or 17 of the Child Support Act in response to the application, in their absence.

(6) In considering an application for a revision or supersession the Secretary of State shall take into account any representations received at the date upon which he makes a decision under section 16 or 17 of the Child Support Act, from the relevant persons including any representations received in connection with the application in accordance with paragraphs (1)(b), (4)(a) and (7).

(7) Where any information or evidence requested by the Secretary of State under regulation 15A is received after notification has been given under paragraph (1), he may, if he considers it reasonable to do so and except where such information or evidence falls within paragraph (2), send a copy of such information or evidence to the relevant persons and may invite them to submit representations, which need not be in writing unless the Secretary of State so directs in any particular case, on that information or evidence.

(8) Where the Secretary of State is considering making a decision under section 16 or 17 of the Child Support Act in accordance with this regulation, he shall apply the factors to be taken into account for the purposes of section 28F of the Child Support Act set out in regulation 21 of the Variations Regulations (factors to be taken into account and not to be taken into account) as factors to be taken into account and not to be taken into account when considering making a decision under this regulation.

- (9) In this regulation “relevant person” means—
- (a) a non-resident parent, or a person treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations (persons treated as non-resident parents), whose liability to pay child support maintenance may be affected by any variation agreed;
 - (b) a person with care, or a child to whom section 7 of the Child Support Act applies, where the amount of child support maintenance payable by virtue of a calculation relevant to that person with care or in respect of that child may be affected by any variation agreed.

Notification of a decision made under section 16 or 17 of the Child Support Act

15C.—(1) Subject to paragraphs (2) and (5) to (11), a notification of a decision made following the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, shall set out, in relation to the decision in question—

- (a) the effective date of the maintenance calculation;
- (b) where relevant, the non-resident parent’s net weekly income;
- (c) the number of qualifying children;
- (d) the number of relevant other children;
- (e) the weekly rate;
- (f) the amounts calculated in accordance with Part I of Schedule 1 to the Child Support Act and, where there has been agreement to a variation or a variation has otherwise been taken into account, the Variations Regulations;
- (g) where the weekly rate is adjusted by apportionment or shared care or both, the amount calculated in accordance with paragraph 6, 7 or 8, as the case may be, of Part I of Schedule 1 to the Child Support Act; and
- (h) where the amount of child support maintenance which the non-resident parent is liable to pay is decreased in accordance with regulation 9 of the Maintenance Calculations and Special Cases Regulations (care provided in part by local authority) or 11 (non-resident parent liable to pay maintenance under a maintenance order) of those Regulations, the adjustment calculated in accordance with that regulation.

(2) A notification of a revision or supersession of a maintenance calculation made under section 12(1) of the Child Support Act shall set out the effective date of the maintenance calculation, the default rate, the number of qualifying children on which the rate is based and whether any apportionment has been applied under regulation 7 of the Maintenance Calculation Procedure Regulations (default rate) and shall state the nature of the information required to enable a decision under section 11 of that Act to be made by way of section 16 of that 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), 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 officer concerned who is exercising functions of the Secretary of State under the Child Support Act) 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) Where a decision as to the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, is made under section 16 or 17 of that Act, a notification under paragraph (1) or (2) shall include information as to the provisions of sections 16, 17 and 20 of that Act.

(5) Where the Secretary of State makes a decision that a maintenance calculation shall cease to have effect—

- (a) he shall immediately notify the non-resident parent and person with care, so far as that is reasonably practicable;
- (b) where a decision has been superseded in a case where a child under section 7 of the Child Support Act ceases to be a child for the purposes of that Act, he shall immediately notify the persons in sub-paragraph (a) and the other qualifying children within the meaning of section 7 of that Act; and
- (c) any notice under sub-paragraphs (a) and (b) shall specify the date with effect from which that decision took effect.

(6) Where the Secretary of State, under the provisions of section 16 or 17 of the Child Support Act, has made a decision that an adjustment shall cease, or adjusted the amount payable under a maintenance calculation, he shall immediately notify the relevant persons, so far as that is reasonably practicable, that the adjustment has ceased or of the amount and period of the adjustment, and the amount payable during the period of the adjustment.

(7) Where the Secretary of State has made a decision under section 16 of the Child Support Act, revising a decision under section 41A or 47 of that Act, he shall immediately notify the relevant persons so far as that is reasonably practicable, of the amount of child support maintenance payable, the amount of arrears, the amount of the penalty payment or fees to be paid, as the case may be, the method of payment and the day by which payment is to be made.

(8) Where the non-resident parent appeals against a decision made by the Secretary of State under section 41A or 47 of the Child Support Act and the Secretary of State makes a decision under section 16 of that Act, before the appeal is decided he shall notify the relevant persons, so far as that is reasonably practicable of either the new amount of the penalty payment or the fee to be paid or that the amount is no longer payable, the method of payment and the day by which payment is to be made.

(9) Paragraphs (1) to (3) shall not apply where the Secretary of State has decided not to supersede a decision under section 17 of the Child Support Act, and he shall, so far as that is reasonably practicable, notify the relevant persons of that decision.

(10) A notification under paragraphs (6) to (9) shall include information as to the provisions of sections 16, 17 and 20 of the Child Support Act.

(11) Where paragraph (9) applies, and the Secretary of State decides not to supersede under regulation 6B, he shall notify the relevant person, in relation to the decision in question of—

- (a) the fact that regulation 6B applies to the decision;
- (b) the non-resident parent's net income figure fixed for the purposes of the maintenance calculation in force in accordance with Part I of Schedule 1 to the Child Support Act;
- (c) the non-resident parent's net income figure provided by that parent to the Secretary of State with the application for supersession under regulation 6A(3);

- (d) the decision of the Secretary of State not to supersede; and
- (e) the right to appeal against the decision under section 20 of the Child Support Act.

(12) Where an appeal lapses in accordance with section 16(6) or 28F(5) of the Child Support Act, the Secretary of State shall, so far as that is reasonably practicable, notify the relevant persons that the appeal has lapsed.

Procedure in relation to the adjustment of the amount payable under a maintenance calculation

15D.—(1) Where the Secretary of State has adjusted the amount payable under a maintenance calculation under the provisions of regulation 10(1) and (3A) of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations and that maintenance calculation is subsequently replaced by a fresh maintenance calculation made by virtue of a revision under section 16 of the Child Support Act or of a decision under section 17 of that Act superseding an earlier decision, that adjustment shall, subject to paragraph (2), continue to apply to the amount payable under that fresh maintenance calculation unless the Secretary of State is satisfied that such adjustment would not be appropriate in all the circumstances of the case.

(2) Where the Secretary of State is satisfied that the adjustment referred to in paragraph (1) would not be appropriate, he may make a decision under section 17 of the Child Support Act, superseding an earlier decision making an adjustment, and—

- (a) the adjustment shall cease; or
- (b) he may adjust the amount payable under that fresh maintenance calculation,

as he sees fit, having regard to the matters specified in regulation 10(1)(b)(i) to (iii) of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations.”.