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STATUTORY INSTRUMENTS

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**2004 No. 2415**

**The Child Support (Miscellaneous  
Amendments) Regulations 2004**

**Amendment of the Child Support (Transitional Provisions) Regulations 2000**

**8.—**(1) The Child Support (Transitional Provisions) Regulations 2000(1) shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the Act” insert—

““the Arrears, Interest and Adjustment Regulations” means the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(2);”;

(b) in the definition of “new amount” for “in accordance with the conversion decision” substitute “from the case conversion date”.

(3) In regulation 3 (decision and notice of decision), for paragraph (2) substitute—

“(2) Where the Secretary of State acts in accordance with paragraph (1), the information used for the purposes of that supersession will be—

(a) that held by the Secretary of State on the calculation date; or

(b) where—

(i) regulation 5(b) applies; and

(ii) the Secretary of State is unable to make the decision required to be made in accordance with that regulation on the basis of the information referred to in paragraph (a),

that which was used or considered to make the maintenance assessment to be superseded in accordance with regulation 3(1)(a) or (b).”.

(4) After regulation 4 (revision, supersession and appeal of conversion decisions) insert—

**“Revision and supersession of an adjustment**

**4A.** Where, on or after the calculation date, an application is made to the Secretary of State or he acts on his own initiative to revise or supersede an adjustment of the amounts payable under a maintenance assessment, he may revise or supersede that adjustment in accordance with the Decisions and Appeals Regulations.”.

(5) After regulation 5 (outstanding applications at calculation date) insert—

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(1) S.I. 2000/3186, relevant amending instruments are S.I. 2002/1204, S.I. 2003/328, S.I. 2003/347 and S.I. 2003/2779.

(2) S.I. 1992/1816, relevant amending instruments are S.I. 1995/1045, S.I. 1999/1510 (C. 43), S.I. 2001/162 and S.I. 2000/3185.

**“Outstanding revisions and supersessions at calculation date**

**5A.** Regulation 5 shall apply in the same way to a decision of the Secretary of State acting on his own initiative under section 16 or 17 of the former Act to revise or supersede a maintenance assessment, an interim maintenance assessment or a departure direction as it does to an application made for the same purpose.”.

(6) In regulation 9(1) (amount of child support maintenance payable) for “Where” substitute “Subject to regulation 9A, where”.

(7) After regulation 9 insert—

**“Adjustment of the amount of child support maintenance payable**

**9A.—**(1) Subject to paragraph (2), where—

- (a) there has been an overpayment of child support maintenance under a maintenance assessment; and
- (b) the amount payable under that maintenance assessment has been adjusted under regulation 10 of the Arrears, Interest and Adjustment Regulations as it applies to a maintenance assessment,

that adjustment shall apply to the new amount or the transitional amount in the conversion decision, as the case may be, if—

- (i) the overpayment remains on the case conversion date; and
- (ii) the Secretary of State considers it appropriate in all the circumstances of the case having regard to the matters set out in regulation 10(1)(b) of the Arrears, Interest and Adjustment Regulations as it applies to a conversion decision.

(2) Where the conversion decision relates to more than one parent with care, the adjustment of the amount payable under a maintenance assessment which applies to the new amount or the transitional amount, as the case may be, in accordance with paragraph (1) shall only apply in respect of the apportioned amount payable to the parent with care in relation to whom the maintenance assessment subject to the adjustment was made.

(3) In paragraph (2) the “apportioned amount” shall have the meaning given in regulation 11(4).

**Attribution of payments**

**9B.—**(1) Where—

- (a) there are arrears of child support maintenance under a maintenance assessment; and
- (b) the Secretary of State has attributed any payment of child support maintenance made by an absent parent to child support maintenance due as he thinks fit, in accordance with regulation 9 of the Arrears, Interest and Adjustment Regulations as it applies to a maintenance assessment,

that attribution of payments shall apply to the new amount or the transitional amount in the conversion decision, as the case may be, if—

- (i) the arrears remain on the case conversion date; and
- (ii) the Secretary of State has made that attribution of payments as he thought fit, in accordance with regulation 9 of the Arrears, Interest and Adjustment Regulations as it applies to a conversion decision.”.

(8) In regulation 16 (conversion calculation and conversion decision)—

(a) for paragraph (1)(b) substitute—

- “(b) taking into account the information used in accordance with regulation 3(2); and”;
- (b) after paragraph (2B)(3) add—
- “(2C) For the purposes of regulations 9 and 10 of the Arrears, Interest and Adjustment Regulations, a conversion decision shall be treated on or after the case conversion date as if it were a maintenance calculation.”.
- (9) In regulation 27(subsequent decision with effect in transitional period-amount payable)—
- (a) in paragraph (9)(4), for “Subject to paragraph (10), where” substitute “Where”;
- (b) in paragraph (10)(5)—
- (i) for “Where” substitute “Subject to paragraph (11), where”;
- (ii) for the words from “so that the subsequent decision” to “before decision A was made” substitute “as if decision A had not been made.”;
- (c) after paragraph (10) add—
- “(11) In the circumstances set out in paragraph (10), paragraph (9) shall not apply where the decision in place before decision A was made was the decision which took effect from the case conversion date.”.

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(3) Sub-paragraph (2B) was inserted by [S.I. 2003/347](#).

(4) Sub-paragraph (9) was added by [S.I. 2003/328](#) and amended by [S.I. 2003/2779](#).

(5) Sub-paragraph (10) was added by [S.I. 2003/2779](#).