
STATUTORY INSTRUMENTS

2004 No. 98

SOCIAL SECURITY

The Social Security (Child Maintenance Premium) Amendment Regulations 2004

Made - - - - 15th January 2004
Laid before Parliament 23rd January 2004
Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(a), (d) and (e), 136(3) and (5)(b), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and sections 12(1) and (4)(b), 35(1) and 36(2) and (4) of the Jobseekers Act 1995⁽²⁾, and of all other powers enabling him in that behalf, after consultation, in respect of regulation 4 of these Regulations, with organisations appearing to him to be representative of the authorities concerned⁽³⁾ and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it⁽⁴⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Child Maintenance Premium) Amendment Regulations 2004 and shall come into force in accordance with paragraphs (2) and (3) below.

(2) This regulation and regulation 4 shall come into force on 16th February 2004.

(3) Regulations 2 and 3 shall come into force—

- (a) on 16th February 2004 in relation to any particular case in respect of which type of case section 23 of the 2000 Act⁽⁵⁾ has before 16th February 2004 come into force;
- (b) where sub-paragraph (a) does not apply, in relation to any particular case, on the date on which section 23 of the 2000 Act comes into force in relation to that type of case;

(1) 1992 c. 4; section 137 is an interpretation provision and is cited because of the meaning there given to the word “prescribed”.
(2) 1995 c. 18; section 35(1) is an interpretation provision and is cited because of the meaning there given to the words “prescribed” and “regulations”.
(3) See section 176(1) of the Social Security Administration Act 1992 (c. 5) as amended by section 103 of, and paragraph 23 of Schedule 9 to, the Local Government Finance Act 1992.
(4) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992; paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
(5) 2000 c. 19. The relevant commencement order is S.I. 2003/192 (C. 11) as amended by S.I. 2003/346 (C. 21).

- (c) in relation to a person who, on or after 16th February 2004—
- (i) makes a claim for income support or an income-based jobseeker’s allowance; and
 - (ii) on or after the date of that claim receives any payment of child maintenance made voluntarily,
- on 16th February 2004; or
- (d) in relation to a person who—
- (i) on 16th February 2004 is entitled to income support or an income-based jobseeker’s allowance; and
 - (ii) on or after 16th February 2004 receives any payment of child maintenance made voluntarily and that payment is the first payment of child maintenance received by that person whilst he is entitled to income support or an income-based jobseeker’s allowance,
- on 16th February 2004 if a payment referred to in head (ii) is received on that day, or on the day on which such a payment is received where it is received after 16th February 2004.
- (4) In this regulation—
- “the 1991 Act” means the Child Support Act 1991(6);
- “the 2000 Act” means the Child Support, Pensions and Social Security Act 2000;
- “child maintenance” shall have the same meaning as that prescribed for the purposes of section 74A(7) of the Social Security Administration Act 1992;
- “an income-based jobseeker’s allowance” has the meaning given by section 1(4) of the Jobseekers Act 1995(8);
- “payment of child maintenance made voluntarily” means any payment of child maintenance other than such a payment made—
- (a) under a court order;
 - (b) under a maintenance assessment made under the 1991 Act prior to its amendment by the 2000 Act or under a maintenance calculation made under the 1991 Act after its amendment by the 2000 Act;
 - (c) under an agreement for maintenance;
 - (d) in accordance with section 28J of the 1991 Act(9) (voluntary payments); or
 - (e) by the Secretary of State in lieu of child maintenance, including any payment made by the Secretary of State under section 27 of the 2000 Act (temporary compensation payment scheme).

Amendment of the Income Support (General) Regulations 1987

2. For paragraph 73 of Schedule 9 to the Income Support (General) Regulations 1987(10) (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“73.—(1) Subject to sub-paragraph (3), any payment of child maintenance where the child or young person in respect of whom the payment is made is a member of the claimant’s family except where the person making the payment is the claimant or the claimant’s partner.

(6) 1991 c. 48.

(7) Section 74A was inserted by section 25 of the Child Support Act 1995 (c. 34).

(8) This definition was amended by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 7, paragraph 2(4)(a).

(9) Section 28J was inserted by section 20(1) of the Child Support, Pensions and Social Security Act 2000.

(10) S.I. 1987/1967; paragraph 73 is added by S.I. 2000/3176.

(2) For the purposes of sub-paragraph (1), where more than one payment of child maintenance—

- (a) in respect of more than one child or young person; or
- (b) made by more than one person in respect of a child or young person,

falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) No more than £10 shall be disregarded in respect of each week to which any payment of child maintenance is attributed in accordance with regulations 28, 29, 31 and 32(11) (calculation of income) or regulations 60B to 60D(12) (treatment of child support maintenance).

(4) In this paragraph, “child maintenance” shall have the same meaning as that prescribed for the purposes of section 74A of the Social Security Administration Act 1992(13) (payment of benefit where maintenance payments collected by Secretary of State) and shall include any payment made by the Secretary of State in lieu of such maintenance.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

3. For paragraph 70 of Schedule 7 to the Jobseeker’s Allowance Regulations 1996(14) (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“70.—(1) Subject to sub-paragraph (3), any payment of child maintenance where the child or young person in respect of whom the payment is made is a member of the claimant’s family except where the person making the payment is the claimant or the claimant’s partner.

(2) For the purposes of sub-paragraph (1), where more than one payment of child maintenance—

- (a) in respect of more than one child or young person; or
- (b) made by more than one person in respect of a child or young person,

falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) No more than £10 shall be disregarded in respect of each week to which any payment of child maintenance is attributed in accordance with regulations 93, 94, 96 and 97(15) (calculation of income) or regulations 126, 128 and 129(16) (treatment of child support maintenance).

(4) In this paragraph, “child maintenance” shall have the same meaning as that prescribed for the purposes of section 74A of the Administration Act and shall include any payment made by the Secretary of State in lieu of such maintenance.”.

(11) Regulations 28, 29, 31 and 32 were amended by S.I. 1988/663, 1445, 2022, 1989/1323, 1990/547, 1991/1559, 1995/482, 1996/206, 1997/65, 1998/563, 1999/2556, 2000/681, 1981 and 2402.

(12) Regulations 60B to 60D were inserted by S.I. 1993/846 and amended by S.I. 1996/940, 1944 and 2001/158.

(13) 1992 c. 5. Section 74A was inserted by section 25 of the Child Support Act 1995 (c. 34). The meaning of “child maintenance” is prescribed by S.I. 1996/940, as amended by S.I. 2001/158.

(14) S.I. 1996/207; paragraph 70 is added by S.I. 2000/3176.

(15) Regulations 93, 94, 96 and 97 were amended by S.I. 1997/65, 454, 1998/563, 1999/2860, 2000/681, 1978 and 2002/2402.

(16) Regulation 128 was amended by S.I. 2001/158 and regulation 129 was amended by S.I. 1996/2538.

Amendment of the Social Security (Child Maintenance Premium and Miscellaneous Amendments) Regulations 2000

4.—(1) For regulation 1 of the Social Security (Child Maintenance Premium and Miscellaneous Amendments) Regulations 2000(17) (citation and commencement) there shall be substituted the following regulation—

“Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Child Maintenance Premium and Miscellaneous Amendments) Regulations 2000 and shall come into force—

- (a) in relation to any particular case, on the date on which section 23 of the 2000 Act comes into force in relation to that type of case (“the commencement date”);
- (b) in relation to a person who, on or after 16th February 2004—
 - (i) makes a claim for income support or an income-based jobseeker’s allowance; and
 - (ii) on or after the date of that claim receives any payment of child maintenance made voluntarily,
- (c) in relation to a person who—
 - (i) on 16th February 2004 is entitled to income support or an income-based jobseeker’s allowance; and
 - (ii) on or after 16th February 2004 receives any payment of child maintenance made voluntarily and that payment is the first payment of child maintenance received by that person whilst he is entitled to income support or an income-based jobseeker’s allowance,

on 16th February 2004 if a payment referred to in head (ii) above is received on that day, or on the day on which such a payment is received where it is received after 16th February 2004.

(2) In this regulation—

“the 1991 Act” means the Child Support Act 1991;

“the 2000 Act” means the Child Support, Pensions and Social Security Act 2000;

“child maintenance” shall have the same meaning as that prescribed for the purposes of section 74A of the Social Security Administration Act 1992;

“an income-based jobseeker’s allowance” has the meaning given by section 1(4) of the Jobseekers Act 1995;

“payment of child maintenance made voluntarily” means any payment of child maintenance other than such a payment made—

- (a) under a court order;
- (b) under a maintenance assessment made under the 1991 Act prior to its amendment by the 2000 Act or under a maintenance calculation made under the 1991 Act after its amendment by the 2000 Act;
- (c) under an agreement for maintenance;
- (d) in accordance with section 28J of the 1991 Act; or

(e) by the Secretary of State in lieu of child maintenance, including any payment made by the Secretary of State under section 27 of the 2000 Act.”.

(2) In regulation 2 of the Social Security (Child Maintenance Premium and Miscellaneous Amendments) Regulations 2000 (child maintenance: income support and jobseeker’s allowance) paragraphs (1)(b) and (2)(b) shall be omitted.

Signed by authority of the Secretary of State for Work and Pensions.

15th January 2004

P.Hollis
Parliamentary Under-Secretary of State,
Department for Work and Pensions

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987 (S.I.1987/1967) (“the Income Support Regulations”), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker’s Allowance Regulations”) and the Social Security (Child Maintenance Premium and Miscellaneous Amendments) Regulations 2000 (S.I. 2000/3176) (“the Child Maintenance Premium Regulations”).

Regulation 1 provides for citation, commencement and interpretation. Regulations 1 and 4 apply from 16th February 2004. Regulations 2 and 3 apply—

- from 16th February 2004 in relation to a case in respect of which section 23 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”) has before 16th February 2004 come into force (section 23 relates to the abolition of the child maintenance bonus) (regulation 1(3)(a));
- where regulation 1(3)(a) does not apply, from the date on which section 23 of the 2000 Act is commenced for different types of cases (regulation 1(3)(b));
- from 16th February 2004 in respect of a person who, on or after that date, makes a claim for income support or an income-based jobseeker’s allowance and on or after that date receives a payment of child maintenance made voluntarily (regulation 1(3)(c));
- in respect of a person who, on 16th February 2004, is entitled to income support or an income-based jobseeker’s allowance and on or after that date first receives a payment of child maintenance made voluntarily whilst he is entitled to that benefit, from 16th February 2004 if the first such payment of child maintenance is received on that date, or from the day on which the first such payment of child maintenance is received if it is received after that date (regulation 1(3)(d)).

The Income Support Regulations and the Jobseeker’s Allowance Regulations are amended to make it clear that when more than one payment of child maintenance is made—

- in respect of more than one child or young person, or
- by more than one person in respect of a child or young person,

all such payments which are to be taken into account in any week shall be aggregated and treated as a single payment of child maintenance (regulations 2 and 3).

The Income Support Regulations and the Jobseeker’s Allowance Regulations are also amended to ensure that when payments of child maintenance are made otherwise than weekly the child maintenance premium disregard is applied to each weekly equivalent amount of child maintenance paid (regulations 2 and 3).

Regulation 4(1) substitutes a new regulation for regulation 1 of the Child Maintenance Premium Regulations (citation and commencement) to ensure that those Regulations apply—

- from 16th February 2004 in respect of a person who, on or after that date, makes a claim for income support or an income-based jobseeker’s allowance and on or after that date receives a payment of child maintenance made voluntarily; or
- in respect of a person who, on that date, is entitled to income support or an income-based jobseeker’s allowance and on or after 16th February 2004 first receives a payment of child maintenance made voluntarily whilst he is entitled to that benefit, from 16th February 2004 if

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the first such payment of child maintenance is received on that date, or from the day on which the first such payment of child maintenance is received if it is received after that date.

Regulation 4(2) omits regulation 2(1)(b) and (2)(b) of the Child Maintenance Premium Regulations as a consequence of the amendments made by regulations 2 and 3 of these Regulations.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.