
STATUTORY INSTRUMENTS

1992 No. 1813

**The Child Support (Maintenance
Assessment Procedure) Regulations 1992**

PART IX

REDUCED BENEFIT DIRECTIONS

Prescription of disability working allowance for the purposes of section 6 of the Act

34. Disability working allowance shall be a benefit of a prescribed kind for the purposes of section 6 of the Act.

Periods for compliance with obligations imposed by section 6 of the Act

35.—(1) Where the Secretary of State considers that a parent has failed to comply with an obligation imposed by section 6 of the Act he shall serve written notice on that parent that, unless she complies with that obligation, he intends to refer the case to a child support officer for the child support officer to take action under section 46 of the Act if the child support officer considers such action to be appropriate.

(2) The Secretary of State shall not refer a case to a child support officer prior to the expiry of a period of 6 weeks from the date he serves notice under paragraph (1) on the parent in question, and the notice shall contain a statement to that effect.

(3) Where the Secretary of State refers a case to a child support officer and the child support officer serves written notice on a parent under section 46(2) of the Act, the period to be specified in that notice shall be 14 days.

Amount of and period of reduction of relevant benefit under a reduced benefit direction

36.—(1) The reduction in the amount payable by way of a relevant benefit to, or in respect of, the parent concerned and the period of such reduction by virtue of a direction shall be determined in accordance with paragraphs (2) to (9).

(2) Subject to paragraph (6) and regulations 37, 38(7) and 40, there shall be a reduction for a period of 26 weeks from the day specified in the direction under the provisions of section 46(9) of the Act in respect of each such week equal to

$$0.2 \times B$$

where B is an amount equal to the weekly amount, in relation to the week in question, specified in column (2) of paragraph 1(1)(e) of the applicable amounts Schedule.

(3) Subject to paragraph (6) and regulations 37, 38(7) and 40, at the end of the period specified in paragraph (2) there shall be a reduction from the day immediately succeeding the last day of that period for a period of 52 weeks of an amount in respect of each such week equal to

$$0.1 \times B$$

where B has the same meaning as in paragraph (2).

(4) Subject to paragraph (5), a direction shall come into operation on the first day of the second benefit week following the review, carried out by the adjudication officer in consequence of the direction, of the relevant benefit that is payable.

(5) Where the relevant benefit is income support and the provisions of regulation 26(2) of the Social Security (Claims and Payments) Regulations 1987⁽¹⁾ (deferment of payment of different amount of income support) apply, a direction shall come into operation on such later date as may be determined by the Secretary of State in accordance with those provisions.

(6) Where the benefit payable is income support and there is a change in the benefit week whilst a direction is in operation, the periods of the reductions specified in paragraphs (2) and (3) shall be—

- (a) where the reduction is that specified in paragraph (2), a period greater than 25 weeks but less than 26 weeks;
- (b) where the reduction is that specified in paragraph (3), a period greater than 51 weeks but less than 52 weeks,

and ending on the last day of the last benefit week falling entirely within the period of 26 weeks specified in paragraph (2), or the period of 52 weeks specified in paragraph (3), as the case may be.

(7) Where the weekly amount specified in column (2) of paragraph 1(1)(e) of the applicable amounts Schedule changes on a day when a direction is in operation, the amount of the reduction of the relevant benefit shall be changed—

- (a) where the benefit is income support, from the first day of the first benefit week to commence for the parent concerned on or after the day that weekly amount changes;
- (b) where the benefit is family credit or disability working allowance, from the first day of the next award period of that benefit for the parent concerned commencing on or after the day that weekly amount changes.

(8) Only one direction in relation to a parent shall be in force at any one time.

(9) Where a direction has been in operation for the aggregate of the periods specified in paragraphs (2) and (3) (“the full period”), no further direction shall be given with respect to the same parent on account of that parent’s failure to comply with the obligations imposed by section 6 of the Act in relation to any child in relation to whom the direction that has been in operation for the full period was given.

Modification of reduction under a reduced benefit direction to preserve minimum entitlement to relevant benefit

37. Where in respect of any benefit week the amount of the relevant benefit that would be payable after it has been reduced following a direction would, but for this regulation, be nil or less than the minimum amount of that benefit that is payable as determined—

- (a) in the case of income support, by regulation 26(4) of the Social Security (Claims and Payments) Regulations 1987;
- (b) in the case of family credit and disability working allowance, by regulation 27(2) of those Regulations,

the amount of that reduction shall be decreased to such extent as to raise the amount of that benefit to the minimum amount that is payable.

⁽¹⁾ S.I.1987/1968; relevant amending instruments are S.I. 1988/522 and 1989/136.

Suspension of a reduced benefit direction when relevant benefit ceases to be payable

38.—(1) Where relevant benefit ceases to be payable to, or in respect of, the parent concerned at a time when a direction is in operation, that direction shall, subject to paragraph (2), be suspended for a period of 52 weeks from the date the relevant benefit has ceased to be payable.

(2) Where a direction has been suspended for a period of 52 weeks and no relevant benefit is payable at the end of that period, it shall cease to be in force.

(3) Where a direction is suspended and relevant benefit again becomes payable to or in respect of the parent concerned, the amount payable by way of that benefit shall, subject to regulations 40, 41 and 42, be reduced in accordance with that direction for the balance of the reduction period.

(4) The amount or, as the case may be, amounts of the reduction to be made during the balance of the reduction period shall be determined in accordance with regulation 36(2) and (3).

(5) No reduction in the amount of benefit under paragraph (3) shall be made before the expiry of a period of 14 days from service of the notice specified in paragraph (6), and the provisions of regulation 36(4) shall apply as to the date when the direction again comes into operation.

(6) Where relevant benefit again becomes payable to or in respect of a parent with respect to whom a direction is suspended she shall be notified in writing by a child support officer that the amount of relevant benefit paid to or in respect of her will again be reduced, in accordance with the provisions of paragraph (3), if she continues to fail to comply with the obligations imposed by section 6 of the Act.

(7) Where a direction has ceased to be in force by virtue of the provisions of paragraph (2), a further direction in respect of the same parent given on account of that parent's failure to comply with the obligations imposed by section 6 of the Act in relation to one or more of the same qualifying children shall, unless it also ceases to be in force by virtue of the provisions of paragraph (2), be in operation for the balance of the reduction period relating to the direction that has ceased to be in force, and the provisions of paragraph (4) shall apply to it.

Reduced benefit direction where family credit or disability working allowance is payable and income support becomes payable

39.—(1) Where a direction is in operation in respect of a parent to whom or in respect of whom family credit or disability working allowance is payable, and income support becomes payable to or in respect of that parent, income support shall become a relevant benefit for the purposes of that direction, and the amount payable by way of income support shall be reduced in accordance with that direction for the balance of the reduction period.

(2) The amount or, as the case may be, the amounts of the reduction to be made during the balance of the reduction period shall be determined in accordance with regulation 36(2) and (3).

Suspension of a reduced benefit direction when a modified applicable amount is payable

40.—(1) Where a direction is given or is in operation at a time when income support is payable to or in respect of the parent concerned but her applicable amount falls to be calculated under the provisions mentioned in paragraph (3), that direction shall be suspended for so long as the applicable amount falls to be calculated under the provisions mentioned in that paragraph, or 52 weeks, whichever period is the shorter.

(2) Where a case falls within paragraph (1) and a direction has been suspended for a period of 52 weeks, it shall cease to be in force.

(3) The provisions of paragraph (1) shall apply where the applicable amount in relation to the parent concerned falls to be calculated under—

- (a) regulation 19 of and Schedule 4 to the Income Support Regulations (applicable amounts for persons in residential care and nursing homes);
- (b) regulation 21 of and paragraphs 1 to 3 of Schedule 7 to the Income Support Regulations (patients);
- (c) regulation 21 of and paragraphs 10B, 10C, 10D and 13 of Schedule 7 to the Income Support Regulations (persons in residential accommodation).

Termination of a reduced benefit direction following compliance with obligations imposed by section 6 of the Act

41.—(1) Where a parent with care with respect to whom a direction is in force complies with the obligations imposed by section 6 of the Act, that direction shall cease to be in force on the date determined in accordance with paragraph (2) or (3), as the case may be.

(2) Where the direction is in operation, it shall cease to be in force on the last day of the benefit week during the course of which the parent concerned complied with the obligations imposed by section 6 of the Act.

(3) Where the direction is suspended, it shall cease to be in force on the date on which the parent concerned complied with the obligations imposed by section 6 of the Act.

Review of a reduced benefit direction

42.—(1) Where a parent with care with respect to whom a direction is in force gives the Secretary of State reasons—

- (a) additional to any reasons given by her in response to the notice served on her under section 46(2) of the Act for having failed to comply with the obligations imposed by section 6 of the Act; or
- (b) as to why she should no longer be required to comply with the obligations imposed by section 6 of the Act,

the Secretary of State shall refer the matter to a child support officer who shall conduct a review of the direction (“a review”) to determine whether the direction is to continue or is to cease to be in force.

(2) Where a parent with care with respect to whom a direction is in force gives a child support officer reasons of the kind mentioned in paragraph (1), a child support officer shall conduct a review to determine whether the direction is to continue or is to cease to be in force.

(3) A review shall not be carried out by the child support officer who gave the direction with respect to the parent concerned.

(4) Where the child support officer who is conducting a review considers that the parent concerned is no longer to be required to comply with the obligations imposed by section 6 of the Act, the direction shall cease to be in force on the date determined in accordance with paragraph (5) or (6), as the case may be.

(5) Where the direction is in operation, it shall cease to be in force on the last day of the benefit week during the course of which the parent concerned gave the reasons specified in paragraph (1).

(6) Where the direction is suspended, it shall cease to be in force on the date on which the parent concerned gave the reasons specified in paragraph (1).

(7) The provisions of section 20 of the Act shall apply in relation to a decision of a child support officer following a review.

(8) A child support officer shall on completing a review immediately notify the parent concerned of his decision, so far as that is reasonably practicable, and shall give the reasons for his decision in writing.

(9) A notification under paragraph (8) shall include information as to the provisions of section 20 of the Act.

Termination of a reduced benefit direction where a maintenance assessment is made following an application by a child under section 7 of the Act

43. Where a qualifying child of a parent with respect to whom a direction is in force applies for a maintenance assessment to be made with respect to him under section 7 of the Act, and an assessment is made in response to that application in respect of all of the qualifying children in relation to whom the parent concerned failed to comply with the obligations imposed by section 6 of the Act, that direction shall cease to be in force from the date determined in accordance with regulation 45.

Termination of a reduced benefit direction where a maintenance assessment is made following an application by an absent parent under section 4 of the Act

44. Where—

- (a) an absent parent applies for a maintenance assessment to be made under section 4 of the Act with respect to all of his qualifying children in relation to whom the other parent of those children is a person with care;
- (b) a direction is in force with respect to that other parent following her failure to comply with the obligations imposed by section 6 of the Act in relation to those qualifying children; and
- (c) an assessment is made in response to that application by the absent parent for a maintenance assessment,

that direction shall cease to be in force on the date determined in accordance with regulation 45.

Date from which a reduced benefit direction ceases to be in force following a termination under regulation 43 or 44

45.—(1) The date a direction ceases to be in force under the provisions of regulation 43 or 44 shall be determined in accordance with paragraphs (2) and (3).

(2) Where the direction is in operation, it shall cease to be in force on the last day of the benefit week during the course of which the Secretary of State is supplied with the information that enables a child support officer to make the assessment.

(3) Where the direction is suspended, it shall cease to be in force on the date on which the Secretary of State is supplied with the information that enables a child support officer to make the assessment.

Cancellation of a reduced benefit direction in cases of error

46. Where a child support officer is satisfied that a direction was given as a result of an error on the part of the Secretary of State or a child support officer, or though not given as a result of such an error has not subsequently ceased to be in force as a result of such an error, the child support officer shall cancel the direction and it shall be treated as not having been given, or as having ceased to be in force on the date it would have ceased to be in force if that error had not been made, as the case may be.

Reduced benefit directions where there is an additional qualifying child

47.—(1) Where a direction is in operation or would be in operation but for the provisions of regulation 40 and a child support officer gives a further direction with respect to the same parent on account of that parent failing to comply with the obligations imposed by section 6 of the Act in

relation to an additional qualifying child of whom she is a person with care, the earlier direction shall cease to be in force on the last day of the benefit week preceding the benefit week on the first day of which, in accordance with the provisions of regulation 36(4), the further direction comes into operation, or would come into operation but for the provisions of regulation 40.

(2) Where a further direction comes into operation in a case falling within paragraph (1), the provisions of regulation 36 shall apply to it.

(3) Where a direction has ceased to be in force by virtue of regulation 38(2) and a child support officer gives a direction with respect to the same parent on account of that parent's failure to comply with the obligations imposed by section 6 of the Act in relation to an additional qualifying child, no further direction shall be given with respect to that parent on account of her failure to comply with the obligations imposed by section 6 of the Act in relation to one or more children in relation to whom the direction that has ceased to be in force by virtue of regulation 38(2) was given.

(4) Where a case falls within paragraph (1) or (3) and the further direction, but for the provisions of this paragraph would cease to be in force by virtue of the provisions of regulation 41 or 42, but the earlier direction would not have ceased to be in force by virtue of the provisions of those regulations, the later direction shall continue in force for a period ("the extended period") calculated in accordance with the provisions of paragraph (5) and the reduction of relevant benefit shall be determined in accordance with paragraphs (6) and (7).

(5) The extended period for the purposes of paragraph (4) shall be

$(78 - F - S)$ weeks

where—

F is the number of weeks for which the earlier direction was in operation; and

S is the number of weeks for which the later direction has been in operation.

(6) Where the extended period calculated in accordance with paragraph (5) is greater than 52 weeks, there shall be a reduction of relevant benefit in respect of the number of weeks in excess of 52 determined in accordance with regulation 36(2), and a reduction of relevant benefit in respect of the remaining 52 weeks determined in accordance with regulation 36(3).

(7) Where the extended period calculated in accordance with paragraph (5) is equal to or less than 52 weeks, there shall be a reduction of relevant benefit in respect of that period determined in accordance with regulation 36(3).

(8) In this regulation "an additional qualifying child" means a qualifying child of whom the parent concerned is a person with care and who was either not such a qualifying child at the time the earlier direction was given or had not been born at the time the earlier direction was given.

Suspension and termination of a reduced benefit direction where the sole qualifying child ceases to be a child or where the parent concerned ceases to be a person with care

48.—(1) Where, whilst a direction is in operation—

(a) there is, in relation to that direction, only one qualifying child, and that child ceases to be a child within the meaning of the Act; or

(b) the parent concerned ceases to be a person with care,

the direction shall be suspended from the last day of the benefit week during the course of which the child ceases to be a child within the meaning of the Act, or the parent concerned ceases to be a person with care, as the case may be.

(2) Where, under the provisions of paragraph (1), a direction has been suspended for a period of 52 weeks and no relevant benefit is payable at that time, it shall cease to be in force.

(3) If during the period specified in paragraph (1) the former child again becomes a child within the meaning of the Act or the parent concerned again becomes a person with care and relevant benefit is payable to or in respect of that parent, a reduction in the amount of that benefit shall be made in accordance with the provisions of paragraphs (3) to (7) of regulation 38.

Notice of termination of a reduced benefit direction

49.—(1) Where a direction ceases to be in force under the provisions of regulations 41 to 44 or 46 to 48, or is suspended under the provisions of regulation 48, a child support officer shall serve notice of such termination or suspension, as the case may be, on the adjudication officer and shall specify the date on which the direction ceases to be in force or is suspended, as the case may be.

(2) Any notice served under paragraph (1) shall set out the reasons why the direction has ceased to be in force or has been suspended.

(3) The parent concerned shall be served with a copy of any notice served under paragraph (1).

Rounding provisions

50. Where any calculation made under this Part of these Regulations results in a fraction of a penny, that fraction shall be treated as a penny if it exceeds one half, and shall otherwise be disregarded.