

1995 No. 1045

**FAMILY LAW
SOCIAL SECURITY
CHILD SUPPORT**

**The Child Support and Income Support
(Amendment) Regulations 1995**

Made - - - - *10th April 1995*

Coming into force

Regulations 1 and 58 *13th April 1995*

Remainder *18th April 1995*

Whereas a draft of this instrument was laid before Parliament in accordance with section 52(2) of the Child Support Act 1991(a) and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 8(11), 10(1), 12(2) and (3), 14(1) and (3), 16(1), 17(4), 18(11), 21(2), 29(2), 32, 41(3), 42, 43(1), 46(11), 47, 51, 52, 54 and 57 of, and paragraphs 4(3), 5(1) and (2), 6(2), (4) and (5), 7(1), 8, 9(a) and 11 of Schedule 1 to, the Child Support Act 1991(b) and by sections 135(1), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(c) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(d) and after agreement by the Social Security Advisory Committee that proposals in respect of regulation 62 should not be referred to it(e), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support and Income Support (Amendment) Regulations 1995.

(2) This regulation and regulation 58 of these Regulations shall come into force on 13th April 1995 and all other regulations shall come into force on 18th April 1995.

(3) In these Regulations—

“the Appeals Regulations” means the Child Support Appeal Tribunals (Procedure) Regulations 1992(f);

(a) 1991 c. 48.

(b) Section 54 is cited because of the meaning ascribed to the word “prescribed”.

(c) 1992 c. 4. Section 137(1) is cited because of the meaning ascribed to the word “prescribed”.

(d) 1992 c. 53.

(e) See Section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(f) S.I. 1992/2641.

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

“the Collection and Enforcement Regulations” means the Child Support (Collection and Enforcement) Regulations 1992(b);

“the Fees Regulations” means the Child Support Fees Regulations 1992(c);

“the Information, Evidence and Disclosure Regulations” means the Child Support (Information, Evidence and Disclosure) Regulations 1992(d);

“the Maintenance Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992(e);

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(f);

“the Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(g);

“the Miscellaneous Amendments Regulations” means the Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations 1994(h).

[Regulation 2 amends regulation 2 of S.I. 1992/2641.]

[Regulation 3 amends regulation 3 of S.I. 1992/2641.]

[Regulation 4 inserts regulation 3A into S.I. 1992/2641.]

[Regulation 5 amends regulation 6 of S.I. 1992/2641.]

[Regulation 6 amends regulation 11 of S.I. 1992/2641.]

[Regulations 7-11 revoked by Sch. to S.I. 2009/2909 as from 25.1.10.]

[Regulation 12 amends regulation 4 of S.I. 1992/1989.]

[Regulation 13 amends regulation 5 of S.I. 1992/1989.]

[Regulation 14 amends regulation 8(1) of S.I. 1992/1989.]

[Regulation 15 amends regulation 9 of S.I. 1992/1989.]

[Regulation 16 amends regulation 10 of S.I. 1992/1989.]

[Regulation 17 amends regulation 11 of S.I. 1992/1989.]

[Regulation 18 substitutes regulation 17 of S.I. 1992/1989.]

[Regulation 19 amends regulation 20 of S.I. 1992/1989.]

[Regulation 20 amends regulation 3 of S.I. 1992/3094.]

(a) S.I. 1992/1816. Regulation 4 was amended by S.I. 1993/913.

(b) S.I. 1992/1989. Regulation 8 was amended by S.I. 1993/913 and regulation 9 by S.I. 1994/227.

(c) S.I. 1992/3094. Regulations 1, 3 and 4 were amended by S.I. 1994/227.

(d) S.I. 1992/1812. Regulation 2 was amended by S.I. 1995/123.

(e) S.I. 1992/2645. Regulation 3 was amended by S.I. 1995/123.

(f) S.I. 1992/1813. Regulation 1 was amended by S.I. 1995/123; regulation 8 was amended by S.I. 1993/913 and S.I. 1995/123; regulation 10 was amended by S.I. 1995/123; regulations 19, 40 and 42 were amended by S.I. 1993/913; regulation 30 was amended by S.I. 1995/123; regulation 31 was amended by S.I. 1994/227 and S.I. 1995/123.

(g) S.I. 1992/1815. Regulation 1 and paragraph 3 of Schedule 1 were amended by S.I. 1993/913 and regulation 11 by S.I. 1994/227.

(h) S.I. 1994/227.

- [Regulation 21 amends regulation 4 of S.I. 1992/3094.]
- [Regulation 22 amends regulation 2 of S.I. 1992/1812.]
- [Regulation 23 amends regulation 3 of S.I. 1992/1812.]
- [Regulation 24 inserts regulation 9A into S.I. 1992/1812.]
- [Regulation 25 amends regulation 1(2) of S.I. 1992/2645.]
- [Regulation 26 substitutes regulation 2 of S.I. 1992/2645.]
- [Regulation 27 amends regulation 3 of S.I. 1992/2645.]
- [Regulation 28 amends regulation 8 of S.I. 1992/1813.]
- [Regulation 29 amends regulation 9 of S.I. 1992/1813.]
- [Regulation 30 amends regulation 10 of S.I. 1992/1813.]
- [Regulation 31 amends regulation 11 of S.I. 1992/1813.]
- [Regulation 32 amends regulation 13 of S.I. 1992/1813.]
- [Regulation 33 amends regulation 14 of S.I. 1992/1813.]
- [Regulation 34 amends regulation 17 of S.I. 1992/1813.]
- [Regulation 35 amends regulation 19 of S.I. 1992/1813.]
- [Regulation 36 amends regulation 30 of S.I. 1992/1813.]
- [Regulation 37 amends regulation 31 of S.I. 1992/1813.]
- [Regulation 38 amends regulation 36 of S.I. 1992/1813.]
- [Regulation 39 amends regulation 40 of S.I. 1992/1813.]
- [Regulation 40 amends regulation 42 of S.I. 1992/1813.]
- [Regulation 41 amends regulation 1 of S.I. 1992/1815.]
- [Regulation 42 amends regulation 2 of S.I. 1992/1815.]
- [Regulation 43 amends regulation 6 of S.I. 1992/1815.]
- [Regulation 44 amends regulation 9 of S.I. 1992/1815.]
- [Regulation 45 amends regulation 10 of S.I. 1992/1815.]
- [Regulation 46 amends regulation 11 of S.I. 1992/1815.]
- [Regulation 47 amends regulation 12 of S.I. 1992/1815.]
- [Regulation 48 amends regulation 15 of S.I. 1992/1815.]
- [Regulation 49 amends regulation 16 of S.I. 1992/1815.]
- [Regulation 50 revokes regulation 17 of S.I. 1992/1815.]
- [Regulation 51 amends regulation 22 of S.I. 1992/1815.]
- [Regulation 52 amends regulation 25 of S.I. 1992/1815.]
- [Regulation 53 amends regulation 26 of S.I. 1992/1815.]
- [Regulation 54 amends Schedule 1 to S.I. 1992/1815.]
- [Regulation 55 amends Schedule 2 to S.I. 1992/1815.]
- [Regulation 56 amends Schedule 3 to S.I. 1992/1815.]
- [Regulation 57 inserts Schedules 3A and 3B into S.I. 1992/1815.]
- [Regulation 58 amends Schedule 4 to S.I. 1992/1815.]
- [Regulation 59 amends Schedule 5 to S.I. 1992/1815.]
- [Regulation 60 amends regulation 7 of S.I. 1994/227.]
- [Regulation 61 amends regulation 11 of S.I. 1994/227.]

[Regulation 62 revoked by Sch. 4 to S.I. 1995/1613 as from 2.10.95.]

Amendments to reg. 63
made by art. 37 of S.I.
1999/1510 as from
1.6.99.

Reviews consequent upon the amendments made by these regulations

63.—(1) ▶Subject to paragraph (3), a decision with respect to a maintenance assessment in force on 13th April 1995 or 18th April 1995 shall not be superseded by a decision under section 17 of the Act if the difference between the amount of child support maintenance currently in force and the amount that would be fixed if the fresh assessment were to be made as a result of a supersession is—◀

- (a) less than £1.00 per week where the amount fixed by the assessment currently in force is more than the amount that would be fixed by the fresh assessment; or
- (b) less than £10.00 per week in all other cases.

(2) Paragraph (1) applies to the following provisions—

- (a) regulation 28(8);
- (b) regulation 43;
- (c) regulation 44(2);
- (d) regulation 45;
- (e) regulation 46(2)(d) and (e), (4) and (6);
- (f) regulation 47;
- (g) regulation 50;
- (h) regulation 51;
- (i) regulation 54(10) and (11).

(3) Paragraph (1) shall not apply to a ▶decision under section 17 of the Child Support Act 1991 which falls to be made◀ in consequence only of the amendments made by regulations 44(2), 45, 46(2)(d) and (e) and 51 unless the person to whom the assessment relates ▶notified◀ the Secretary of State before 18th July 1995 that he wishes a child support officer to consider whether the assessment in his case should be reviewed; but the Secretary of State may accept a later notification for the purposes of this paragraph if he is satisfied that there is good cause for the delay in giving it.

(4) ▶◀

(5) ▶◀

(6) Where a maintenance assessment is in force on 18th April 1995 and—

- (a) the relevant person notifies the Secretary of State on or after 18th July 1995 that he wishes ▶the question to be considered ◀ of whether an amount should be allowed in the computation of the relevant person's exempt income or protected income in respect of travelling costs or his exempt income in respect of a qualifying transfer of property; and
- (b) the Secretary of State is not satisfied that there was good cause for the delay on the part of the relevant person in giving the notification,

the effective date of any assessment ▶by virtue of a decision under section 17 of the

Act superseding an earlier decision◀ shall be the first day of the maintenance period in which the Secretary of State is so notified.

Transitional provisions

64.—(1) Where a maintenance assessment, other than an interim maintenance assessment, is in force on 18th April 1995 ▶and◀ the amount of child support payable under that assessment would be affected by the provisions of these Regulations, only the provisions mentioned in paragraphs (2) and (3) shall apply to that assessment until that assessment is reviewed under section 16, 17 or 18 of the Act.

Word “and” substituted for “or on that date there is in force a decision of a child support officer under s. 43 of the Act and that decision or” by reg. 50(2) of S.I. 1995/3261 as from 22.1.96.

(2) The provisions of these Regulations to which paragraph (1) refers are—

- (a) regulation 34;
- (b) regulation 43;
- (c) regulation 46(6);
- (d) regulation 47;
- (e) regulation 50;
- (f) regulation 54(10) and (11);
- (g) ▶◀.

Reg. 64(2)(g) (“regulation 59”) deleted by reg. 50(3) of S.I. 1995/3261 as from 22.1.96.
Words in reg. 64(3) & (4) substituted by art. 38(a) of S.I. 1999/1510 as from 1.6.99.

(3) The provisions of regulations 44(2), 45, 46(2)(d) and (e) and 51 and Schedules 1 and 2 to these Regulations shall not apply in a case where there is a maintenance assessment in force on the 18th April 1995 until ▶a relevant person applies for a decision under section 17 of the Child Support Act 1991 superseding an earlier decision on the ground that a qualifying transfer of property has been made or that he has travelling costs.◀

(4) Where on 18th April 1995 in any particular case there is in force a maintenance assessment which is subject to an adjustment made under the provisions of regulation 10 of the Arrears Regulations as in force prior to that date that adjustment shall continue until whichever is the earlier of—

- (a) ▶a decision under section 17 of the Child Support Act 1991 superseding a decision with respect to◀ that assessment on grounds other than the coming into force of these Regulations; or
- ▶(b) a decision under regulation 13 or 16 of the Arrears Regulations is made on an application made by a relevant person.◀

(5) Regulations 12 and 13 shall not apply to a case in which there is an existing assessment until the Secretary of State first reviews the period by reference to which payments are to be made after these Regulations come into force.

Signed by authority of the Secretary of State for Social Security.

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

10th April 1995

[Sch. 1 inserts Sch. 3A into S.I. 1992/1815.]

[Sch. 2 inserts Sch. 3B into S.I. 1992/1815.]

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various regulations made under the Child Support Act 1991 (“the Act”). They also amend, in one respect, the Income Support (General) Regulations 1987.

The Child Support Appeal Tribunals (Procedure) Regulations 1992 are amended to make provision for a pending appeal to continue when a party thereto dies (regulation 4).

The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992 are amended to remove the liability for interest in respect of any day after 17th April 1995 (regulation 7). They are also amended to make new provisions for overpaid maintenance to be set off against arrears of maintenance and against current maintenance payable (regulation 8).

The Child Support (Collection and Enforcement) Regulations 1992 are amended to provide for a protected earnings rate in deduction from earnings orders in respect of interim maintenance assessments and in cases where arrears are due under a previous assessment but there is no current assessment in existence (regulation 17). The regulations are also amended to define the grounds upon which magistrates may discharge a deduction from earnings order as defective (regulation 14) and to make further provision for discharge of a deduction from earnings order by the Secretary of State (regulation 19).

The Child Support Fees Regulations 1992 are amended to provide that no assessment fee or collection fee shall be payable where it would otherwise have become payable on or after 18th April 1995 and before 6th April 1997 (regulation 20).

The Child Support (Information, Evidence and Disclosure) Regulations 1992 are amended to require Crown servants to provide information in certain circumstances (regulation 22) and to make provision for information given by one party to a maintenance assessment to be disclosed to the other in certain circumstances (regulation 24).

The Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 are amended to provide for maintenance orders under certain enactments to be relevant for the purposes of sections 8 and 10 of the Act (regulations 26 and 27).

The Child Support (Maintenance Assessment Procedure) Regulations 1992 are amended to make provision for two further categories of interim maintenance assessment (regulation 28); for periodical reviews under section 16 of the Act to take place every 104 weeks (regulation 34); and for the effective date of a maintenance assessment in certain circumstances to be 8 weeks after a maintenance enquiry form has been sent to an absent parent (regulation 36).

The Child Support (Maintenance Assessments and Special Cases) Regulations 1992 are amended to require a child support officer, in certain circumstances, to make allowances for travel to work costs and for certain property transfers in the calculation of child support maintenance (regulations 44 and 45 and Schedules 1 and 2); and to provide that an absent parent must be left with not less than 70 per cent of his net income after deduction of the amount payable under a maintenance assessment (regulation 46). The requirement to apportion housing costs has been removed (regulation 50).

The Income Support (General) Regulations 1987 are amended so that if a person loses income support in respect of mortgage interest on receiving child support maintenance and that maintenance in specified cases is later reduced or terminated, the claimant’s previous entitlement to income support on account of mortgage interest

will be restored provided the period since he was last entitled to benefit does not exceed 26 weeks (regulation 62).

The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations 1994 are amended to provide that the transitional provisions will not apply to Category D interim maintenance assessments and that the special provision for the amount of a maintenance assessment made following a review under section 17 of the Act where the transitional provisions apply shall also apply to reviews under sections 18 or 19 of the Act (regulations 60 and 61).

Other amendments are of a minor, technical, or consequential nature.

An assessment of the cost to business of applying these Regulations has been placed in the libraries of both Houses of Parliament. Copies can be obtained from: DSS, Room 9/03, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

