

1998 No. 58
FAMILY LAW
CHILD SUPPORT

**The Child Support (Miscellaneous Amendments)
Regulations 1998**

Made - - - - 15th January 1998

Coming into force in accordance with regulation 1(2) and (3)

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 12(2), 14(1) and (3), 16(1), 21, 28A(3), 28G(4), 29, 32(1), 42, 43(1), 51, 52(4) and 54(b) of, and paragraphs 1, 4, 5, 6, 8, 11 and 14 of Schedule 1, paragraphs 2, 6 and 10 of Schedule 4A, and paragraphs 2, 3, 4, 5 and 6 of Schedule 4B to, the Child Support Act 1991 and of all other powers enabling her in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1. —(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations 1998.

(2) Subject to paragraph (3), these regulations shall come into force on the first commencement day.

(3) Regulations 14, 39(3), 44, 45, 47, 49, 52, 54, 55 and paragraph (5) of regulation 56 shall come into force on the second commencement day.

(4) In these Regulations, unless the context otherwise requires -

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

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

“Departure Direction Regulations” means the Child Support Departure Direction and Consequential Amendments Regulations 1996(f);

(a) 1991 c.48. Sections 28A to 28I of and Schedules 4A and 4B to the Child Support Act 1991 were inserted by sections 1 to 9 of the Child Support Act 1995 (1995 c.34).

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

(c) 1992 c.53.

(d) S.I. 1992/2641; relevant amending instruments are S.I. 1995/1045, 1996/2450, 1996/2907, 1996/3196 and 1997/827.

(e) S.I. 1992/1989.

(f) S.I. 1996/2907.

“first commencement day” means 19th January 1998;

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

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

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

“second commencement day” means 6th April 1998.

[Regulation 2 amends regulation 1 of S.I. 1992/2641.]

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

[Regulation 4 amends regulation 5 of S.I. 1992/2641.]

[Regulation 5 amends regulation 11 of S.I. 1992/2641.]

[Regulation 6 amends regulation 12 of S.I. 1992/1989.]

[Regulation 7 amends regulation 8 of S.I. 1996/2907.]

[Regulation 8 substitutes regulation 9 of S.I. 1996/2907.]

[Regulation 9 amends regulation 11 of S.I. 1996/2907.]

[Regulation 10 inserts regulation 11A in S.I. 1996/2907.]

[Regulation 11 amends regulation 15 of S.I. 1996/2907.]

[Regulation 12 amends regulation 17 of S.I. 1996/2907.]

[Regulation 13 & 14 amends regulation 18 of S.I. 1996/2907.]

[Regulation 15 amends regulation 22 of S.I. 1996/2907.]

[Regulation 16 amends regulation 23 of S.I. 1996/2907.]

[Regulation 17 amends regulation 25 of S.I. 1996/2907.]

[Regulation 18 amends regulation 32 of S.I. 1996/2907.]

[Regulation 19 inserts regulation 34A in S.I. 1996/2907.]

[Regulation 20 amends regulation 37 of S.I. 1996/2907.]

(a) S.I. 1992/1812; relevant amending instruments are S.I. 1995/1045, 1995/3261, 1996/1945 and 1996/2907.

(b) S.I. 1992/1813; relevant amending instruments are S.I. 1993/913, 1994/227, 1995/123, 1995/1045, 1995/3261, 1996/1345 and 1996/3196.

(c) S.I. 1992/1815; relevant amending instruments are S.I. 1993/913, 1994/227, 1995/1045, 1995/3261, 1995/3265, 1996/481, 1996/1345, 1996/1803, 1996/1945, 1996/2907 and 1996/3196.

- [Regulation 21 amends regulation 39 of S.I. 1996/2907.]
- [Regulation 22 amends regulation 40 of S.I. 1996/2907.]
- [Regulation 23 amends regulation 41 of S.I. 1996/2907.]
- [Regulation 24 amends regulation 42 of S.I. 1996/2907.]
- [Regulation 25 inserts regulation 42A in S.I. 1996/2907.]
- [Regulation 26 amends regulation 43 of S.I. 1996/2907.]
- [Regulation 27 amends regulation 44 of S.I. 1996/2907.]
- [Regulation 28 amends regulation 46 of S.I. 1996/2907.]
- [Regulation 29 inserts regulation 46A in S.I. 1996/2907.]
- [Regulation 30 amends regulation 68 of S.I. 1996/2907.]
- [Regulation 31 amends the Schedule to S.I. 1996/2907.]
- [Regulation 32 amends regulation 3 of S.I. 1992/1812.]
- [Regulation 33 amends regulation 8 of S.I. 1992/1812.]
- [Regulation 34 amends regulation 9A of S.I. 1992/1812.]
- [Regulation 35 amends regulation 8A of S.I. 1992/1813.]
- [Regulation 36 amends regulation 8D of S.I. 1992/1813.]
- [Regulation 37 amends regulation 9 of S.I. 1992/1813.]
- [Regulation 38 inserts regulation 10A in S.I. 1992/1813.]
- [Regulation 39 amends regulation 17 of S.I. 1992/1813.]
- [Regulation 40 amends regulation 30A of S.I. 1992/1813.]
- [Regulation 41 amends Sch. 2 para 6 of S.I. 1992/1813.]
- [Regulation 42 amends regulation 1 of S.I. 1992/1815.]
- [Regulation 43 amends regulation 2 of S.I. 1992/1815.]
- [Regulation 44 amends regulation 3 of S.I. 1992/1815.]
- [Regulation 45 amends regulation 6 of S.I. 1992/1815.]
- [Regulation 46 & 47 amends regulation 9 of S.I. 1992/1815.]

[Regulation 48 & 49 amends regulation 11 of S.I. 1992/1815.]

[Regulation 50 amends regulation 15 of S.I. 1992/1815.]

[Regulation 51 amends regulation 16 of S.I. 1992/1815.]

[Regulation 52 amends regulation 19 of S.I. 1992/1815.]

[Regulation 53 amends regulation 22 of S. I. 1992/1815.]

[Regulation 54 amends regulation 26 of S.I. 1992/1815.]

[Regulation 55 amends regulation 28 of S.I. 1992/1815.]

[Regulation 56 amends Sch. 1 of S.I. 1992/1815.]

[Regulation 57 amends Sch. 2 of S.I. 1992/1815.]

[Regulation 58 amends Sch. 3 of S.I. 1992/1815.]

Transitional provisions

Reg. 59 substituted by
art. 45 of S.I. 1999/
1510 as from 1.6.99.

►59.—(1) A decision with respect to a maintenance assessment in force on the first commencement day shall not be superseded by a decision under section 17 of the Child Support Act 1991 (“the Act”) solely to give effect to regulation 42(2)(d), regulation 50 or regulation 56(2).

(2) The regulations specified in paragraph (1) shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under section 16 of the Act of a decision with respect to a maintenance assessment; or
- (b) a decision under section 17 of the Act which supersedes a decision with respect to a maintenance assessment,

as from whichever is the later of—

- (i) the date as from which that revision or, as the case may be, supersession takes effect; or
- (ii) the first day of the first maintenance period which begins on or after the first commencement day, as the case may be.

(3) A decision with respect to a maintenance assessment in force on the second commencement day shall not be superseded by a decision under section 17 of the Act solely to give effect to regulations 44, 45, 47, 49, 52, 54, 55 and 56(5).

(4) The regulations specified in paragraph (3) shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under section 16 of the Act of a decision with respect to a maintenance assessment; or
- (b) a decision under section 17 of the Act which supersedes a decision with respect to a maintenance assessment,

as from whichever is the later of—

- (i) the date as from which that revision or, as the case may be, supersession takes effect; or
- (ii) the first day of the first maintenance period which begins on or after the second commencement day, as the case may be.◀

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

15th January 1998

Patricia Hollis
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various regulations made under the Child Support Act 1991.

The Child Support Appeal Tribunals (Procedure) Regulations 1992 are amended to remove the obligation on clerks to tribunals to ask the parties whether they want an oral hearing of an application on certain limited technical grounds to set aside a decision (regulation 5).

The Child Support (Collection and Enforcement) Regulations 1992 are amended to make provision for the appropriate amount of a deduction to be made when a person is paid in advance (regulation 6).

The Child Support Departure Direction and Consequential Amendments Regulations 1996 are amended in the following respects -

- (a) regulation 8 is amended to provide for notification of an application for a departure direction not to be given to other interested persons where the Secretary of State is satisfied a direction is unlikely to be given (regulation 7);
- (b) regulation 11A is inserted to make provision for a departure direction to be considered against an assessment which has been made following a review of the assessment in force at the time of the application for that direction (regulation 10);
- (c) regulation 15 is amended to allow the Secretary of State to consider an application for a departure direction in respect of the cost of illness or disability of the absent parent's dependant without deducting from the amount applied for any financial assistance, including benefits, payable in respect of the illness or disability (regulation 11);
- (d) regulation 18 is amended to allow account to be taken in the calculation of the costs incurred in supporting step children of deductions made from benefit in lieu of maintenance where the absent parent is on income support or income-based jobseeker's allowance; and to take account of the abolition of income support lone parent premium and of the higher rate of family premium for lone parents (regulation 13);
- (e) regulation 34A is inserted to make provision for the correction of accidental errors in departure directions (regulation 19);
- (f) regulations 37, 39 and 40 are amended to make it clear that a departure direction can be given for less than the full amount which might have been applicable in the particular case (regulations 20-22).

The Child Support (Information, Evidence and Disclosure) Regulations 1992 are amended to make provision for disclosure of information to courts in connection with proceedings relating to a maintenance order or maintenance agreement (regulation 33).

Regulation 17 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 is amended to provide for the calculation of the date on which a periodical review shall be undertaken in cases where more than one review has taken place since the assessment made on the last periodical review (regulation 39).

The provisions for calculation of exempt and protected income in the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 are amended to reflect the removal of income support lone parent premium and of the higher rate of income support family premium for lone parents (regulations 44 to 49 and 55); and to make clear that where housing costs are shared and the other party does not pay his share, the parent can be allowed the full amount of the housing costs if he pays the other party's share (regulation 50).

Other amendments are of a minor technical or consequential nature.

These Regulations impose no costs on business.

