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STATUTORY INSTRUMENTS

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**2001 No. 18**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments) Amendment Regulations 2001**

<i>Made</i>	- - - -	<i>8th January 2001</i>
<i>Laid before Parliament</i>		<i>10th January 2001</i>
<i>Coming into force</i>	- -	<i>31st January 2001</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 5(1)(p), 189(1), (5) and (6) and 191 of the Social Security Administration Act 1992<sup>(1)</sup> and section 43(2) of the Child Support Act 1991<sup>(2)</sup>, and of all other powers enabling him in that behalf, and after reference to the Social Security Advisory Committee<sup>(3)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) Amendment Regulations 2001, and shall come into force on 31st January 2001.

(2) In these Regulations—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987<sup>(4)</sup>.

**Amendment of the Claims and Payments Regulations**

2. In the Claims and Payments Regulations—

- (a) in regulation 35 at the end of paragraph (1) there shall be inserted the words “and Schedule 9B”; and
- (b) after Schedule 9A there shall be inserted the Schedule set out in the Schedule to these Regulations.

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(1) 1992 c. 5. Section 191 is cited for the meaning assigned to the word “prescribed”.

(2) 1991 c. 48. Section 43 was substituted by section 21 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(3) See section 172(1) of the Social Security Administration Act 1992.

(4) S.I.1987/1968; relevant amending instruments are S.I. 1988/522, 1992/1026, 1993/478, 2113, 1996/481, 2344, 1999/1510, 2860.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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**Transitional provision**

3. No deduction shall be made under paragraph 7A or 7B of Schedule 9 to the Claims and Payments Regulations in respect of maintenance to which Schedule 9B applies.

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

8th January 2001

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

SCHEDULE

Regulation 2

“SCHEDULE 9B

Regulation 35

DEDUCTIONS FROM BENEFIT IN RESPECT OF CHILD SUPPORT  
MAINTENANCE AND PAYMENT TO PERSONS WITH CARE

**Interpretation**

1. In this Schedule—

“the Act” means the Child Support Act 1991(5),

“beneficiary” means a person who has been awarded a specified benefit and includes each member of a joint-claim couple awarded joint-claim jobseeker’s allowance,

“maintenance” means maintenance which a non-resident parent is liable to pay under the Act at a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1 to the Act, and includes such maintenance payable at a transitional rate in accordance with Regulations made under section 29(3)(a) of the Child Support, Pensions and Social Security Act 2000(6),

“specified benefit” means either a benefit, pension or allowance mentioned in section 5(2) of the Social Security Administration Act 1992(7) and which is prescribed for the purpose of paragraph 4(1)(b) or (c) of Schedule 1 to the Act or a war disablement pension or a war widow’s pension within the meaning of section 150(2) of the Social Security Contributions and Benefits Act 1992(8).

**Deductions**

2.—(1) Subject to paragraphs 5 and 6, the Secretary of State may deduct from a specified benefit awarded to a beneficiary, an amount equal to the amount of maintenance which is payable by the beneficiary (or in the case of income support or income-based jobseeker’s allowance, payable either by the beneficiary or his partner) and pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the liability to pay maintenance.

(2) A deduction may only be made from one of the specified benefits in any one week.

(3) No deduction may be made unless the amount of the relevant specified benefit is not less than the total of the amounts to be deducted under this Schedule plus 10 pence.

**Arrears**

3.—(1) Except where income support or income-based jobseeker’s allowance is payable to the beneficiary or his partner, the Secretary of State may deduct the sum of £1 per week from a specified benefit which the beneficiary has been awarded and, subject to sub-paragraph (2), pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the beneficiary’s liability to pay arrears of maintenance.

(5) 1991 c. 48 Schedule 1 Part I was substituted by the child support, Pensions and Social Security Act 2000 (c. 19) section 1(3) and Part I of Schedule 1.

(6) 2000 c. 19.

(7) 1992 c. 5; section 5(2) was amended by the Jobseekers Act 1995 (c. 18), Schedule 2 paragraph 39.

(8) 1992 c. 4.

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(2) Deductions made under sub-paragraph (1) may be retained by the Secretary of State in the circumstances set out in regulation 8 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992<sup>(9)</sup>.

### **Apportionment**

4. Where maintenance is payable to more than one person with care, the amount deducted shall be apportioned between the persons with care in accordance with paragraphs 6, 7 and 8 of Schedule 1 to the Act.

### **Flat rate maintenance**

5.—(1) This sub-paragraph applies where the beneficiary and his partner are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Act and either of them has been awarded income support or income-based jobseeker's allowance.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5 may be deducted in respect of the sum of both partners' liability to pay maintenance, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000<sup>(10)</sup> and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

### **Flat rate maintenance (polygamous marriage)**

6.—(1) This sub-paragraph applies where two or more members of a polygamous marriage are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Act and any member of the polygamous marriage has been awarded income support or income-based jobseeker's allowance.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5 may be deducted in respect of the sum of all the members' liability to pay maintenance, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

(3) In this paragraph "polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy.

### **Notice**

7. When the Secretary of State commences making deductions, he shall notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made and shall give further such notice when there is a change to any of the particulars specified in the notice.

### **General**

8. A deduction made in accordance with this Schedule is a deduction by way of recovery for the purposes of regulation 40(3) of the Income Support (General) Regulations 1987<sup>(11)</sup> and regulation 103(3) of the Jobseeker's Allowance Regulations 1996<sup>(12)</sup>.

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<sup>(9)</sup> S.I. 1992/1816. Regulation 8 was substituted by regulation 2 of S.I. 1995/3261 and amended by the Child Support Collection and Enforcement and Miscellaneous Amendments Regulations 2000.

<sup>(10)</sup> S.I. 2000/ .

<sup>(11)</sup> S.I. 1987/1967; relevant amending instruments are S.I. 1988/2022, 1998/563.

<sup>(12)</sup> S.I. 1996/207, to which there are amendments not relevant to these Regulations.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the Secretary of State to deduct an amount in respect of certain child support maintenance liabilities from certain social security benefits or war pensions awarded to a beneficiary who is a non-resident parent (or in some cases his partner) and pay it to the person with care. The relevant provisions of the Child Support Act come into force on different dates for different types of cases. Consequently the right to make deductions under these Regulations will take effect on different dates for different types of cases.

Regulation 2 amends the Social Security (Claims and Payments) Regulations 1987 to give effect to the provisions set out in the Schedule. By virtue of regulation 3, the right to deduct under the existing provisions of the Claims and Payments Regulations will be phased out.

The Schedule to these Regulations provides for deduction from specified benefits and payment to the person with care (paragraph 2), deduction of £1 per week in respect of arrears (paragraph 3), apportionment of the amount deducted between persons with care (paragraph 4), deductions limited to £5 where partners (or parties to a polygamous marriage) are liable for flat rate maintenance (paragraphs 5 and 6) and notice requirements (paragraph 7).

These Regulations do not impose any cost on business.