
STATUTORY INSTRUMENTS

2008 No. 2544

**The Child Support (Miscellaneous
Amendments) (No. 2) Regulations 2008**

Amendment of the Collection and Enforcement Regulations

2.—(1) The Collection and Enforcement Regulations are amended in accordance with the following paragraphs.

(2) In regulation 3 (method of payment)—

(a) in paragraph (1)—

(i) omit sub-paragraph (h);

(ii) after sub-paragraph (h), add—

“(i) by deduction from earnings order.”;

(b) in paragraph (1A)(1) omit sub-paragraph (c);

(c) after paragraph (2), add—

“(3) Where the Secretary of State is considering specifying a deduction from earnings order by virtue of paragraph (1)(i), that method of payment is not to be used in any case where there is good reason not to use it.

(4) For the purposes of paragraph (3) the matters which are to be taken into account in determining whether there is good reason not to use that method of payment are whether the making of a deduction from earnings order is likely to result in the disclosure of the parentage of a child and the impact of that disclosure on—

(a) the liable person’s employment;

(b) any relationship between the liable person and a third party.

(5) For the purposes of paragraph (3) the circumstances in which good reason not to use that method of payment is to be regarded as existing are—

(a) a member of the liable person’s or parent with care’s family is employed by the same relevant employer as the liable person;

(b) that family member’s employment requires knowledge of the relevant employer’s functions in giving effect to the deduction from earnings order; and

(c) as a consequence of these circumstances the liable person’s employment status or family relationships may be adversely affected by the use of a deduction from earnings order as a method of payment.

(6) For the purposes of paragraph (3) the matters which are not to be taken into account in determining whether there is good reason not to use that method of payment are—

(a) the liable person’s preference for a different method of payment;

(1) Paragraph (1A) was inserted into regulation 3 by regulation 2 of [S.I. 2001/162](#) and substituted by regulation 3 of [S.I. 2006/1520](#).

- (b) the liable person’s preference for a relevant employer not to be informed about that parent’s maintenance liability;
- (c) that a third party would become aware of the liable person’s maintenance liability,

unless they are relevant to any matter falling within paragraph (4) or circumstance falling within paragraph (5).

(7) Where the Secretary of State is considering specifying the method of payment set out in paragraph (1)(i) and decides that there is no good reason not to use it, that method is not to be specified until—

- (a) the time within which an appeal against that decision may ordinarily be brought (including any period during which a further appeal may ordinarily be brought) has ended; or
- (b) if an appeal is brought on the grounds set out in regulation 22(3A), the time at which proceedings on the appeal (including any proceedings on a further appeal) have been concluded.

(8) Nothing in this regulation is to prevent the Secretary of State exercising his powers under section 31 of the Act to make a deduction from earnings order where the Secretary of State considers it is appropriate in the circumstances of the case, unless he has specified a deduction from earnings order as a method of payment by virtue of paragraph (1)(i).

(9) In this regulation—

“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“family” means partner, parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, grand-parent, grand-child, uncle, aunt, nephew, niece, or if any of the preceding persons is one member of a couple, the other member of that couple;

“partner” means where a person is a member of a couple the other member of that couple; and

“relevant employer” means the employer of a liable person in respect of whom the order under section 31 of the Act would be made but for paragraph (3).”.

(3) In regulation 11 (protected earnings rate)(2)—

- (a) in paragraph (2), for “paragraph (3) or paragraph (4)” substitute “paragraph (3), paragraph (4) or paragraph (5)”;

(2) The relevant amending instruments are [S.I. 1995/1045](#), [S.I. 1996/1945](#) and [S.I. 1999/1510](#).

- (b) after paragraph (4), add—
 - “(5) This paragraph applies where the liable person—
 - (a) has more than one employer; and
 - (b) the Secretary of State makes an order under section 31 of the Act (“an order”) against that person in respect of more than one employer.
 - (6) Where paragraph (5) applies, the protected earnings rate for each order is to be divided proportionately between the earnings of the liable person with each employer in accordance with paragraph (7).
 - (7) The amount to be specified as the protected earnings rate in respect of any period in an order is an amount equal to the percentage of the liable person’s exempt income which is the same as the amounts earned with an employer, as a percentage of the total earnings with the employers.
 - (8) Any reference to an “employer” in paragraphs (6) and (7) is to be construed as a reference to an employer subject to an order made in respect of a liable person.”
- (4) In regulation 22 (appeals against deduction from earnings orders)—
 - (a) at the beginning of paragraph (2), insert “Subject to paragraph (2A),”;
 - (b) after paragraph (2), insert—
 - “(2A) Any appeal against a decision of the Secretary of State that the exclusion required by regulation 3(3) does not apply is—
 - (a) where the liable person is resident in the United Kingdom, to be made within 28 days of the date on which that decision is given or sent to the liable person;
 - (b) where the liable person is not resident in the United Kingdom, to be made within 56 days of the date on which that decision is given or sent to the liable person.”;
 - (c) at the beginning of paragraph (3), insert “Subject to paragraph (3A),”;
 - (d) after paragraph (3), insert—
 - “(3A) Where the Secretary of State is considering specifying a deduction from earnings order as a method of payment under regulation 3(1)(i) an appeal may also be made against a decision of the Secretary of State that the exclusion required by regulation 3(3) does not apply.”;
 - (e) at the beginning of paragraph (4), insert “Subject to paragraph (5),”;
 - (f) after paragraph (4), add—
 - “(5) Where an appeal is brought on the grounds set out in paragraph (3A), and the court, or as the case may be, the sheriff, is satisfied that the appeal should be allowed the court or the sheriff is to refer the case to the Secretary of State for him to specify whichever of the methods of payment set out in regulation 3(1) he considers to be appropriate in the circumstances.”.