Draft Regulations laid before Parliament under section 52(2) of the Child Support Act 1991 and section 55(5) of the Child Maintenance and Other Payments Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

FAMILY LAW

CHILD SUPPORT

The Child Support Fees Regulations 2014

Made - - - - ***
Coming into force in accordance with regulation 1(3), (4) and (5)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 5(1)(p) and 189(4) of the Social Security Administration Act 1992(**1**), sections 43(1) and 51(1) and (2)(a) of the Child Support Act 1991(**2**) and sections 6(1) to (4) and 55(3) and (4) of the Child Maintenance and Other Payments Act 2008(**3**).

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 52(2) of the Child Support Act 1991 and section 55(5) of the Child Maintenance and Other Payments Act 2008(**4**).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations, so far as made under section 5(1)(p) of the Social Security Administration Act 1992 should not be referred to it.

PART 1

Citation, commencement and interpretation

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support Fees Regulations 2014.

(**1**) 1992 c.5.
(**2**) 1991 c. 48. Section 43 was substituted by section 21 of the Child Support, Pensions and Social Security Act 2000 (c.19) ("the 2000 Act") for certain cases specified in article 3 of the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003 (S.I. 2003/192). Section 43 was further amended by section 139 of the Welfare Reform Act 2012 (c.5).
(**3**) 2008 c. 6. Section 6 was amended by sections 140 and 141 of the Welfare Reform Act 2012.
(**4**) Section 55(5) was amended by S.I. 2012/2007.

(2) In these Regulations—

"the 1991 Act" means the Child Support Act 1991;

"the 2008 Act" means the Child Maintenance and Other Payments Act 2008;

"non-resident parent" has the meaning given in section 3(2) (meaning of certain terms) of the 1991 Act(**5**).

(3) Subject to paragraphs (4) and (5), these Regulations come into force on the day on which section 137 (collection of child support maintenance) of the Welfare Reform Act 2012(**6**) comes into force.

(4) Regulations 6, 7, 8, 14 and 15 come into force on the day falling six weeks after the day on which section 137 of the Welfare Reform Act 2012 comes into force.

(5) This regulation and regulation 13 come into force—

(a) for the purposes of making regulations, on the day following the day on which these Regulations are made; and

(b) for all other purposes, on the day on which section 137 of the Welfare Reform Act 2012 comes into force.

PART 2

Application fee

Interpretation of this Part

2. For the purposes of this Part—

"application fee" means the fee payable under regulation 3(1);

"application for child support maintenance" means an application for child support maintenance under section 4(1) (child support maintenance) or 7(1) (right of child in Scotland to apply for assessment) of the 1991 Act(**7**).

The application fee

3.—(1) On making an application for child support maintenance a fee of £20 is payable to the Secretary of State by the person making the application, whether or not a maintenance calculation is made under the 1991 Act as a result of that application.

(2) For the purposes of section 11(1) and (2) (maintenance calculations) of the 1991 Act(**8**), the Secretary of State is not obliged to determine an application for child support maintenance until the application fee has been paid or is waived under regulation 4 (waiver of the application fee).

Waiver of the application fee

4.—(1) The application fee shall be waived where the person making the application for child support maintenance ("A") satisfies one or both of paragraphs (2) and (3).

(**5**) The term "non-resident parent" was substituted for the term "absent parent" by section 26 of, and paragraph 11(1) and (2) of Schedule 3 to, the 2000 Act.
(**6**) 2012 c. 5.
(**7**) Section 4(1) of the Child Support Act 1991 (c. 48) ("the 1991 Act") was amended by section 1(2)(a) of, and paragraph 11(2) of Schedule 3 to, the 2000 Act. Section 7(1) of the 1991 Act was amended by section 1(2)(a) of, and paragraph 11(2) of Schedule 3 to, the 2000 Act and by Schedule 8 to the Child Maintenance and Other Payments Act 2008 Act (c. 6) ("the 2008 Act").
(**8**) Section 11(1) was substituted by section 1(1) of the 2000 Act.

(2) A is under the age of 19 years at the time of making the application for child support maintenance.

(3) A—

(a) is in the opinion of the Secretary of State a victim of domestic violence or abuse(**9**);

(b) has reported the domestic violence or abuse to an appropriate person; and

(c) declares to the Secretary of State that A is a victim of domestic violence or abuse and states to the Secretary of State the appropriate person to whom A has reported domestic violence or abuse, either—

(i) at the time of making the application for child support maintenance, or

(ii) where the Secretary of State provides A with a written declaration to complete, in that written declaration (provided payment of the application fee has not been made prior to the date on which that declaration is returned to the Secretary of State).

(4) For the purposes of paragraph (3), "appropriate person" means a person specified in "Guidance on regulation 4(3) of the Child Support Fees Regulations 2014: List of persons to whom an applicant must have reported domestic violence or abuse" published by the Secretary of State in December 2013(**10**).

Repayment of the application fee

5. An application fee that has been paid must be repaid by the Secretary of State to the person who made the application for child support maintenance where a qualifying child (which has the meaning given in section 3(1) (meaning of certain terms) of the 1991 Act) dies—

(a) after the application for child support maintenance is made; and

(b) before a maintenance calculation under the 1991 Act is made,

and as a result a maintenance calculation shall not be made.

PART 3

Collection fee

Interpretation of this Part

6. For the purposes of this Part—

"child support maintenance" means child support maintenance calculated under Part 1 of Schedule 1 to the 1991 Act(**11**) as amended by Schedule 4 to the 2008 Act, which has accrued on or after the date on which this regulation comes into force;

"person in receipt of child support maintenance" means a person to whom child support maintenance is paid, being a person with care (which has the meaning given in section 3(3) of the 1991 Act) or a child who makes an application under section 7(1) (right of child in Scotland to apply for assessment) of the 1991 Act.

(**9**) Guidance on how the Secretary of State will determine if a person is a victim or domestic violence or abuse is available on the www.gov.uk website. A paper copy of the guidance may be obtained from the Department for Work and Pensions, Child Support, Level 7, Caxton House, Tothill Street, London, SW1H 9NA.

(**10**) This guidance is available on the www.gov.uk website. A paper copy of the guidance may be obtained from the Department for Work and Pensions, Child Support, Level 7, Caxton House, Tothill Street, London, SW1H 9NA

(**11**) Part 1 of Schedule 1 to the 1991 Act was substituted by section 1(3) of, and Schedule 1 to, the 2000 Act and amended by Schedule 4 to the 2008 Act.

The collection fee

7.—(1) A collection fee is payable to the Secretary of State by—

(a) the non-resident parent; and

(b) the person in receipt of child support maintenance,

in relation to a case where there are arrangements for collection.

(2) The amount of the collection fee payable by a non-resident parent in respect of each day is—

(a) subject to sub-paragraph (b), 20% of the daily amount;

(b) where there is more than one person in receipt of child support maintenance in relation to that non-resident parent, in respect of each person in receipt of child support maintenance, 20% of the alternative daily amount.

(3) The amount of the collection fee payable by a person in receipt of child support maintenance is 4% of any payment of child support maintenance in relation to which there are arrangements for collection, which the Secretary of State has collected and which would otherwise be paid to that person.

(4) In this regulation—

"alternative daily amount" means the alternative weekly amount divided by 7;

"alternative weekly amount" means the weekly amount of child support maintenance that the non-resident parent is liable to pay in respect of the person in receipt of child support maintenance in question and in relation to which there are arrangements for collection;

"daily amount" means the weekly amount divided by 7;

"weekly amount" means the weekly amount of child support maintenance that the non-resident parent is liable to pay and in relation to which there are arrangements for collection.

(5) Where a calculation carried out under this regulation results in a fraction of a penny, that is to be treated as a penny if it is either one half or exceeds one half, and otherwise it is to be disregarded.

(6) For the purposes of this regulation, there are arrangements for collection where the Secretary of State is making arrangements to collect child support maintenance under section 29(1) (collection of child support maintenance) of the 1991 Act(**12**) and the payments of child support maintenance are transmitted through the Secretary of State.

Recovery of the collection fee

8.—(1) Any amount of the collection fee payable by a non-resident parent under regulation 7 (the collection fee) may be recovered by the Secretary of State from any payment made by that non-resident parent to the Secretary of State.

(2) Any amount of the collection fee payable by a person in receipt of child support maintenance under regulation 7 may be recovered by the Secretary of State from any payment of child support maintenance which would otherwise be paid to that person by the Secretary of State.

(**12**) Section 29(1) of the 1991 Act was amended by s.1(2)(a) of the 2000 Act and Schedule 8 to the 2008 Act.

PART 4

Enforcement fee

Interpretation of this Part

9. For the purposes of this Part—

"armed forces" means the naval, military and air forces of the Crown;

"child support maintenance" means child support maintenance calculated under Part 1 of Schedule 1 to the 1991 Act as amended by Schedule 4 to the 2008 Act;

"committed to operations" means deployed on an operational tour of duty and includes pre-operational training and leave, rest and recuperation during an operational tour of duty and post-operational leave;

"deduction from earnings order" means an order made under section 31(2) of the 1991 Act(**13**) and, with the exception of where it appears in regulation 12(4)(b) (waiver of an enforcement fee), includes a deduction from earnings request;

"deduction from earnings request" means a request from the Secretary of State in respect of a non-resident parent, who is a member of the armed forces and who is liable to pay child support maintenance, for a sum to be deducted from that non-resident parent's pay and appropriated in or towards satisfaction of the non-resident parent's obligation to pay child support maintenance;

"liability order" means an order made under section 33(3) of the 1991 Act;

"lump sum deduction order" means an order made under section 32E(1) of the 1991 Act(**14**);

"regular deduction order" means an order made under section 32A(1) of the 1991 Act(**15**).

The enforcement fee

10. An enforcement fee of an amount set out in column (2) of the table below is payable to the Secretary of State by a non-resident parent when the Secretary of State takes a method of enforcement action specified in column (1) of the table below to secure payment of child support maintenance.

Column (1)	*Column (2)*
Enforcement Action	*Fee payable*
(i) Making a deduction from earnings order	£50
(ii) Making a regular deduction order	£50
(iii) Making a lump sum deduction order	£200
(iv) Making an application for a liability order	£300

Recovery of an enforcement fee

11. An enforcement fee payable by a non-resident parent under regulation 10 (the enforcement fee) may be recovered by the Secretary of State from any payment made by that non-resident parent to the Secretary of State.

(**13**) Section 31(2) of the 1991 Act was amended by section 1(2) of the 2000 Act.
(**14**) Section 32E(1) of the 1991 Act was inserted by section 23 of the 2008 Act.
(**15**) Section 32A(1) of the 1991 Act was inserted by section 22 of the 2008 Act.