Draft Regulations laid before Parliament under section 8(2A)(b) of the Vaccine Damage Payments Act 1979, section 52(2)(a) of the Child Support Act 1991, section 30(2A) of the Social Security (Recovery of Benefits) Act 1997, section 80(1) of the Social Security Act 1998 and section 53(3) of the Child Maintenance and Other Payments Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT
PUBLIC HEALTH

The Social Security, Child Support, Vaccine Damage and Other Payments (Decisions and Appeals) (Amendment) Regulations 2013

Made - - - -	*2013*
Coming into force - -	*28th October 2013*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

sections 3A(3), 4(1B) and (2) and 8(1), (2)(b) and (5) of the Vaccine Damage Payments Act 1979(**1**),

sections 20(3A) and (5) (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000)(**2**) and 52(4) of the Child Support Act 1991(**3**),

sections 20(2A) and (4) (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000) and 52(4) of the Child Support Act 1991(**4**),

(**1**) 1979 c. 17 ("the 1979 Act"). Section 3A was inserted by section 45 of the Social Security Act 1998 (c. 14) ("the 1998 Act"). It was amended by S.I. 2008/2833, by section 67 of, and Schedule 8 to, the Welfare Reform Act 2007 (c. 5) ("the 2007 Act") from a date to be appointed and by paragraph 108 of the Schedule to S.I. 2012/2007. Section 4 was substituted by section 46 of the 1998 Act and was amended by sections 57 and 63 of, and Schedule 7 to, the 2007 Act (date in force to be appointed), by S.I. 2008/2833 and by section 102(6) of, and Schedule 11 to, the Welfare Reform Act 2012 (c. 5) ("the 2012 Act"). Section 8 was substituted by Schedule 7 of the 1998 Act for the purpose of making regulations and for the purposes specified in article 1and Schedule 1 of S.I. 1999/2866.

(**2**) 2000 c. 19 ("the 2000 Act").

(**3**) 1991 c. 48. Section 20(3A) was inserted by section 102 of, and Schedule 11 to, the 2012 Act. Section 52 was repealed by Schedule 4 to the Constitutional Reform Act 2005 (c. 4) ("the 2005 Act") and by Schedule 8 of the Child Maintenance and Other Payments Act 2008 (c. 6) ("the 2008 Act"). It was substituted by Part 1 section 25 of the 2000 Act in relation to cases specified in article 3 of S.I. 2003/192 and by Schedule 7 of the 2008 Act.

(**4**) Section 20(2A) of the 2000 Act was inserted by section 102 of, and Schedule 11 to, the 2012 Act.

sections 1A(3)(e), 11(2A), (5) and 30(4) of the Social Security (Recovery of Benefits) Act 1997(**5**), and

sections 9(1), 12(3A) and (7), 79(4), (6) and (7) and 84 of the Social Security Act 1998(**6**),

sections 49(2), 50(1A) and (4) and 53(1), (2) and (2A) of the Child Maintenance and Other Payments Act 2008(**7**).

In so far as these Regulations are made under the Social Security (Recovery of Benefits) Act 1997 and the Social Security Act 1998, the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(**8**).

[A draft of this instrument was laid before Parliament in accordance with section 8(2A)(b) of the Vaccine Damage Payments Act 1979(**9**), section 52(2)(a) of the Child Support Act 1991(**10**), section 30(2A) of the Social Security (Recovery of Benefits) Act 1997(**11**), section 80(1) of the Social Security Act 1998(**12**) and section 53(3) of the Child Maintenance and Other Payments Act 2008(**13**) and approved by resolution of each House of Parliament.]

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security, Child Support, Vaccine Damage and Other Payments (Decisions and Appeals) (Amendment) Regulations 2013.

(2) These Regulations come into force on 28th October 2013.

Amendment of the Vaccine Damage Payments Regulations 1979

2.—(1) The Vaccine Damage Payments Regulations 1979(**14**) are amended as follows.

(2) In regulation 11(2)(b) (decisions reversing earlier decisions made by the Secretary of State or appeals tribunals)(**15**), for "within six years of the date on which notification of that decision was given" substitute "at any time after notification of that decision was given but before a decision of an appeal tribunal has been made".

(3) After regulation 11 (decisions reversing earlier decisions), insert—

"**Consideration of reversal before appeal**

11A.—(1) This regulation applies in a case where—

(a) the claimant's address is not in Northern Ireland;

(b) the Secretary of State gives a person written notice of a decision; and

(**5**) 1997 c. 27. ("the 1997 Act"). Section 1A was inserted by section 54 of the 2008 Act. Section 11 was amended by section 86 of, and Schedule 7 to, the 1998 Act, section 59 of, and Schedule 11 to, the Constitutional Reform Act 2005 (c. 4) and by S.I. 2008/2833. Section 11(2A) was inserted, and 30 was amended, by section 102 of, and Schedule 11 to, the 2012 Act. Section 11(2A) was also amended by paragraph 108 of the Schedule to S.I. 2012/2007.

(**6**) 1998 c. 14. Section 9 was amended by section 147 of, and Schedule 14 to the 2012 Act. Section 12(3A) was inserted, and section 12(7) was amended by, section 102 of the 2012 Act. Section 84 is cited for the meaning of "prescribe".

(**7**) 2008 c. 6. Sections 49(2) was amended by, and sections 50(1A) and 53(2A) were inserted by section 102 of, and Schedule 11 to, the 2012 Act.

(**8**) See section 173(1) of the Social Security Administration Act 1992 (c. 5).

(**9**) Section 8(2A) of the 1979 Act was inserted by section 102 of, and Schedule 11 to, the 2012 Act.

(**10**) Section 52(2) of the 1991 Act was substituted by section 25 of the 2000 Act and was amended by section 102 of, and Schedule 11 to, the 2012 Act.

(**11**) Section 30(2A) of the 1997 Act was inserted by section 102 of, and Schedule 11 to, the 2012 Act.

(**12**) Section 80(1) of the 1998 Act was amended by S.I. 2008/2833 any by section 102 of, and Schedule 11 to, the 2012 Act.

(**13**) Section 53(3) of the 2008 Act was amended by section 102 of, and Schedule 11 to, the 2012 Act.

(**14**) S.I. 1979/432.

(**15**) Regulation 11 was substituted by S.I. 1999/2677.

(c) that notice includes a statement to the effect that there is a right of appeal to the First-tier Tribunal in relation to the decision only if the Secretary of State has considered an application for a reversal of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 4 of the Act in relation to the decision only if the Secretary of State has considered whether to reverse the decision under section 3A of the Act.

(3) The notice referred to in paragraph (1) must inform the person that, where the notice does not include a statement of the reasons for the decision, he may, within one month of the date of the notice, request that the Secretary of State provide him with written reasons.

(4) Where written reasons are requested under paragraph (3), the Secretary of State must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a reversal of the decision under section 3A of the Act.".

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations 1992

3.—(1) The Child Support (Maintenance Assessment Procedure) Regulations 1992(**16**) are amended as follows.

(2) At the end of regulation 10 (notification of a new or a fresh maintenance assessment)(**17**), insert—

"(5) Paragraphs (2) to (4) of this regulation apply in the case of a decision in respect of which there is no right of appeal as the result of regulation 17A (consideration of revision before appeal) as they apply in the case of a decision which may be appealed under section 20 of the Act (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000).".

(3) After regulation 17 (revision of decision)(**18**), insert—

"**Consideration of revision before appeal**

17A.—(1) This regulation applies in a case where—

(a) the Secretary of State gives a person written notice of a decision; and

(b) that notice includes a statement to the effect that there is a right of appeal to the First-tier Tribunal against the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 20 of the Act against the decision only if the Secretary of State has considered on an application whether to revise the decision under section 16 of the Act.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 17(1) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 16 of the Act.

(5) In this regulation, "decision" means a decision mentioned in section 20 of the Act (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000).".

(**16**) S.I. 1992/1813.
(**17**) Regulation 10 was revoked (with savings) by S.I. 2001/157, S.I. 2003/328 and by S.I. 2012/2785.
(**18**) Regulation 17 was substituted by S.I. 1999/1047. It was revoked (with savings) by S.I. 2001/157 and 2003/328 and was amended by S.I. 2000/1596, 2004/2415 and by S.I. 2008/2543.

(4) Subject to regulation 8(1) (transitional and savings provisions) of these Regulations, in regulation 17(1)(f)(**19**), for "in regulation 31 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, or in a case to which regulation 32 of those Regulations applies within the time prescribed in that regulation" substitute "by the Tribunal Procedure Rules".

(5) In regulation 18 (late application for a revision)(**20**)—

(a) at the end of paragraph (4)(b), insert "except in a case to which regulation 17A applies";

(b) in paragraph (6), after "extension of time", insert "except in a case to which regulation 17A applies,".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

4.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(**21**) are amended as follows.

(2) In regulation 3(1)(b) (revision of decisions)(**22**) before "paragraph (1)(b)" in both places it occurs, insert "paragraph (3)(b) of regulation 3ZA or".

(3) After regulation 3 (revision), insert—

"**Consideration of revision before appeal**

3ZA.—(1) This regulation applies in a case where—

(a) the Secretary of State gives a person written notice of a decision under section 8 or 10 of the Act (whether as originally made or as revised under section 9 of that Act); and

(b) that notice includes a statement to the effect that there is a right of appeal in relation to the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 12(2) of the Act in relation to the decision only if the Secretary of State has considered on an application whether to revise the decision under section 9 of the Act.

(3) The notice referred to in paragraph (1) must inform the person—

(a) of the time limit specified in regulation 3(1) or (3) for making an application for a revision; and

(b) that, where the notice does not include a statement of the reasons for the decision ("written reasons"), he may, within one month of the date of notification of the decision, request that the Secretary of State provide him with written reasons.

(4) Where written reasons are requested under paragraph (3)(b), the Secretary of State must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 9 of the Act. ".

(4) After regulation 3A (revision of child support decisions)(**23**), insert—

(**19**) Sub-paragraph (f) of regulation 17(1) was inserted by S.I. 2004/2415.
(**20**) Regulation 18 was substituted by S.I. 1999/1407, was revoked (with savings) by S.I. 2001/157 and was amended by S.I. 2008/2683.
(**21**) S.I. 1999/991.
(**22**) Relevant instruments are S.I. 1999/2570 and S.I. 2002/1379. Regulation 3 was revoked, in so far as it relates to child benefit and guardian's allowance, by S.I. 2003/916.
(**23**) Regulation 3A was inserted by S.I. 2000/3185 and was revoked, in so far as it relates to child benefit and guardian's allowance, by S.I. 2003/916.

"**Consideration of revision before appeal in relation to certain child support decisions**

3B.—(1) This regulation applies in a case where—

(a) the Secretary of State gives a person written notice of a decision; and

(b) that notice includes a statement to the effect that there is a right of appeal against the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 20 of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000) against the decision only if the Secretary of State has considered on an application whether to revise the decision under section 16 of that Act.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 3A(1)(a) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 16 of that Act.

(5) In this regulation "decision" means a decision mentioned in section 20(1)(a) or (b) of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000).".

(5) In regulation 4 (late application for a revision)(**24**)—

(a) in paragraph (3)(b), after "in accordance with" insert "regulation 3ZA(3)(b) or";

(b) at the end of paragraph (4)(b) insert ", except in a case to which regulation 3ZA or 3B applies.";

(c) in paragraph (6), after "extension of time" insert ", except in a case to which regulation 3ZA or 3B applies,".

(6) After regulation 9ZA (review of certificates)(**25**), insert—

"**Consideration of review before appeal**

9ZB.—(1) This regulation applies in a case where—

(a) the Secretary of State has issued a certificate of recoverable benefits or certificate of recoverable lump sum payments; and

(b) that certificate is accompanied by a notice to the effect that there is a right of appeal in relation to the certificate only if the Secretary of State has considered an application for review of the certificate.

(2) In a case to which this regulation applies, a person has a right of appeal under section 11 of the 1997 Act against the certificate only if the Secretary of State has considered an application for review of the certificate under section 10 of that Act.".

(7) In regulation 25 (other persons with a right of appeal)(**26**), after "section 12(2)" insert ", but subject to regulation 3ZA,".

(8) In regulation 26 (decisions against which an appeal lies)(**27**), at the beginning insert "Subject to regulation 3ZA,".

(**24**) Regulation 4(3) was amended by S.I. 2005/337. Regulation 4(4) was amended by S.I. 1999/2570. Regulation 4(6) was amended by S.I. 2008/2683.
(**25**) Regulation 9ZA was inserted by S.I. 2008/1596 and was amended by S.I. 2008/2365 and S.I. 2008/2683.
(**26**) Regulation 25 was amended by S.I. 1999/2570, 2002/1379, 2004/3368 and by S.I. 2008/2683 and was revoked, in so far as it relates to child benefit and guardian's allowance, by S.I. 2003/916.
(**27**) Regulation 26 was amended by S.I. 1999/2570, 2000/1596, 2001/518, 2008/2683 and by S.I 2009/2715. Regulation 26 was revoked, in so far as it relates to child benefit and guardian's allowance, by S.I. 2003/916.