Draft Regulations laid before Parliament under section 52(2)(c) of the Child Support Act 1991, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 000

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous and Consequential Amendments) Regulations 2009

Made - - - -	***
Coming into force - -	*6th April 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 52(4) and 54 of, and paragraphs 5(1) and (2), 6(4) and 9(d) of Schedule 1 and paragraphs 4(1) and 5(1) of Schedule 4B to, the Child Support Act 1991(**1**).

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 52(2)(c) of that Act.

Commencement, citation and interpretation

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous and Consequential Amendments) Regulations 2009 and shall come into force on 6th April 2009.

(2) In these Regulations—

"the Departure Direction Regulations" means the Child Support Departure Direction and Consequential Amendments Regulations 1996(**2**);

"the Maintenance Assessments and Special Cases Regulations" means the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(**3**); and

"the Variations Regulations" means the Child Support (Variations) Regulations 2000(**4**).

(**1**) 1991 c. 48; section 54 is cited for the meaning ascribed to the word "prescribed". Schedule 4B was inserted by section 6(2) of, and Schedule 2 to, the Child Support Act 1995 (c. 34) and substituted by section 6(2) of, and Part 2 of Schedule 2 to, the Child Support, Pensions and Social Security Act 2000 (c. 19). These Regulations exercise (in regulation 2) powers conferred by paragraph 5(1) of that Schedule prior to its substitution by section 6(2) of, and Part 2 of Schedule 2 to, the Child Support, Pensions and Social Security Act 2000, and (in regulation 4) powers conferred by paragraph 4(1) of that Schedule as so substituted.

(**2**) S.I. 1996/2907, which is revoked, with savings, by S.I. 2001/156.

(**3**) S.I. 1992/1815, to which there are amendments not relevant to these Regulations.

(**4**) S.I. 2001/156, relevant amending instrument is S.I. 2005/785.

Amendments to the Departure Direction Regulations

2.—(1) The Departure Direction Regulations are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), after the definition of "Arrears Regulations" insert—

""the Commission" means the Child Maintenance and Enforcement Commission;".

(3) For regulation 24 of the Departure Direction Regulations (diversion of income), substitute—

"**24.**—(1) A case shall constitute a case for the purposes of paragraph 5(1) of Schedule 4B to the Act where—

(a) the non-applicant ("A") has the ability to control the amount of income that—

(i) A receives, or

(ii) is taken into account as A's assessable income,

including earnings from employment or self-employment and dividends from shares, whether or not the whole of that income is derived from the company or business from which those earnings are derived; and

(b) the Commission is satisfied that A has unreasonably reduced the amount of A's income which would otherwise fall to be taken into account under regulation 7 or 8 of the Maintenance Assessments and Special Cases Regulations by diverting it to other persons or for purposes other than the provision of such income for A.

(2) In this regulation "assessable income" means the amount calculated in accordance with paragraph 5(1) to (3) of Schedule 1 to the Act and regulations made for the purposes of that paragraph.".

Amendment of the Maintenance Assessments and Special Cases Regulations

3.—(1) The Maintenance Assessments and Special Cases Regulations are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of "patient" insert—

""pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(**5**);";

(b) after the definition of "profit-related pay" insert—

""qualifying age for state pension credit" means—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;".

(3) In regulation 9(1)(d) (exempt income: calculation or estimation of E), for "aged less than 60" substitute "who had not attained the qualifying age for state pension credit".

(4) In regulation 18(2)(a)(iii) (excessive housing costs), for "were aged less than 60" substitute "had not attained the qualifying age for state pension credit".

(5) In Schedule 2, after paragraph 15 insert—

(**5**) 1995 c. 26; paragraph 1 of Schedule 4 was amended by: paragraph 39 of Schedule 2 to the State Pension Credit Act 2002 (c. 16); paragraph 13 of Schedule 3 to the Welfare Reform Act 2007 (c. 5); paragraph 4 of Schedule 3 to the Pensions Act 2007 (c. 22).