Draft Order laid before Parliament under section 52(2)(a) 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 Collection and Enforcement (Deduction Orders) Amendment Regulations 2009

Made - - - -	*2009*
Coming into force - -	*3rd August 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 32A(4)(a), 32C(1) to (4), 32D(1)(b), 32E(2)(a) and (8)(a), 32F(1)(b), 32H(6), 32I(1) to (4), 32J(1) to (5), 32K(1)(b), 51(1) and (2)(h) and (i), 52(4) and 54 of 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)(a) of that Act.

Commencement, citation and interpretation

1.—(1) These Regulations may be cited as the Child Support Collection and Enforcement (Deduction Orders) Amendment Regulations 2009 and shall come into force on 3rd August 2009.

(2) In these Regulations "the Collection and Enforcement Regulations" means the Child Support (Collection and Enforcement) Regulations 1992(**2**).

Amendment of the Collection and Enforcement Regulations

2. After Part 3 of the Collection and Enforcement Regulations insert—

(**1**) 1991 c. 48. Sections 32A to 32K were inserted into the Child Support Act 1991 by sections 22 and 23 of the Child Maintenance and Other Payments Act 2008 (c. 6); the power in section 32H(6) is contained in paragraph (c) of the definition of "relevant time". Section 54 is cited for the meaning given to the word "prescribed".

(**2**) S.I. 1992/1989.

"PART 3A

Deduction Orders

CHAPTER 1

Interpretation

Interpretation of this Part

25A.—(1) In this Part—

"assessable income" means the amount calculated in accordance with paragraph 5 of Schedule 1 to the Act as it applies to a 1993 scheme case and regulations made for the purposes of that paragraph;

"deduction period" means the period of a week, a month or other period at which deductions are to be made from the amount (if any) standing to the credit of the account specified in a regular deduction order;

"garnishee order" means an order made in accordance with the provisions of order 30 of the County Court Rules 1981(**3**) or order 49 of the Rules of the Supreme Court 1965(**4**);

"net weekly income" has the meaning given in the Schedule to the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(**5**);

"lump sum deduction order" means an order under section 32E(1) or, as the case may be, 32F(1) of the Act;

"regular deduction order" means an order under section 32A(1) of the Act;

"third party debt order" means an order made in accordance with the provisions of Part 72 of the Civil Procedure Rules 1998(**6**);

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(**7**) in the part of the United Kingdom where a copy of a regular deduction order or a lump sum deduction order is served or a notification sent by the Commission is received.

(2) Any person against whom an order under section 32A(1) of the Act may be made by the Commission is referred to in this Chapter and Chapters 2 and 4 as "the liable person".

(3) Where a copy of a regular deduction order or a lump sum deduction order is served by the Commission in accordance with section 32A(7), 32E(6) or 32F(6) of the Act—

(a) on a deposit-taker—

(i) where that copy of the order is sent by electronic communication or fax to the deposit-taker's last notified address for electronic communication or, as the case may be, fax number, it is to be treated as having been served at the end of the first working day after the day it was sent by the Commission, or

(**3**) S.I. 1981/1687, these Rules are replaced by the Civil Procedure Rules 1998, except to the extent that Rule 2.1(2) of the Civil Procedure Rules also provides that those Rules do not apply to family proceedings and specifies enactments under which rules may be made for the purposes of such proceedings.
(**4**) S.I. 1965/1976, these Rules are replaced by the Civil Procedure Rules 1998, except to the extent that Rule 2.1(2) of the Civil Procedure Rules also provides that those Rules do not apply to family proceedings and specifies enactments under which rules may be made for the purposes of such proceedings.
(**5**) S.I. 2001/155, relevant amending instruments are S.I. 2002/1204, 2003/328, 2004/2415 and 3168, 2005/785, 2060 and 2929, 2007/1979 and 2008/2544.
(**6**) S.I. 1998/3132, relevant amending instruments are S.I. 2001/2792 and 2005/2292.
(**7**) 1971 c. 80.

(ii) where that copy of the order is sent by post to the deposit-taker's last notified address, it is to be treated as having been served at the end of the second working day after the day it was posted by the Commission; or

(b) on a liable person, where that copy of the order is sent by post to that person's last known or notified address, it is to be treated as having been served at the end of the day on which the copy of the order is posted.

(4) Any notification sent by the Commission in accordance with this Part to a deposit-taker or a liable person is to be treated as having been received at the same time as an order is treated as having been served in accordance with the provisions of paragraph (3).

(5) Where a copy of a regular deduction order or a lump sum deduction order or any notification has been sent by electronic communication in accordance with paragraph (3)(a)(i) the record held on an official computer system is conclusive (or in Scotland, sufficient) evidence—

(a) that a copy of that order has been sent; and

(b) of the content of that order.

(6) This Part applies to a 1993 scheme case in the same way as it applies to a 2003 scheme case and—

(a) any references to expressions in the Act (including "maintenance calculation") or to regulations made under the Act are to be read, in relation to a 1993 scheme case, with the necessary modifications; and

(b) any reference in this Part to "net weekly income" is to be read as if it were a reference to "assessable income" where these Regulations apply to a 1993 scheme case.

(7) In this regulation—

(a) "electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000(**8**);

(b) "an official computer system" means a computer system maintained by or on behalf of the Commission for sending an order or any notification;

(c) "1993 scheme case" means a case in respect of which the provisions of the Child Support, Pensions and Social Security Act 2000(**9**) have not been brought into force in accordance with article 3 of the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003(**10**); and

(d) "2003 scheme case" means a case in respect of which those provisions have been brought into force.

CHAPTER 2

Regular Deduction Orders

Regular deduction orders

25B.—(1) A regular deduction order must specify—

(a) the amount of the regular deduction; and

(b) the dates on which regular deductions (referred to in this Chapter as "deduction dates") are due to be made.

(**8**) 2000 c. 7.
(**9**) 2000 c. 19.
(**10**) S.I. 2003/192 (C. 11).

(2) Where the date on which the regular deduction is due to be made is not a working day, the deduction must be made on the first working day after the date specified in the order.

Maximum deduction rate

25C.—(1) The deduction rate under a regular deduction order in respect of any deduction period—

(a) is not to exceed 40% of the liable person's net weekly income in respect of that period as calculated—

(i) at the date of the current maintenance calculation, or

(ii) where a maintenance calculation has been in force and there are arrears of child support maintenance, at the date of the most recent previous maintenance calculation; or

(b) where a default maintenance decision has been made, is not to exceed £80 per week.

(2) In this Chapter "previous maintenance calculation" means a maintenance calculation which is no longer in force.

Minimum amount

25D.—(1) A deduction must not be made where the amount standing to the credit of the account specified in the regular deduction order is below the minimum amount on the date a deduction is due to be made.

(2) The minimum amount (for the purposes of this Chapter) is, where the deduction period is—

(a) monthly, £40;

(b) weekly, £10; or

(c) for any other period, £10 for each whole week in that period plus £1 for each additional day in that period,

plus the amount of administrative costs authorised by regulation 25Z(a) (administrative costs).

Notification by the deposit-taker to the Commission

25E.—(1) A deposit-taker at which a regular deduction order is directed must notify the Commission in writing, within 7 days—

(a) of a copy of the order or the order as varied being served; or

(b) of notification being received by the deposit-taker that an order has been revived,

of the matters set out in paragraph (2).

(2) The matters are—

(a) if the account specified in the order does not exist; and

(b) where the name of the liable person specified in the order is different to the name in which the account specified in the order is held—

(i) whether the account was previously held in the name of the liable person specified in the order, and

(ii) if so, the new name in which the account is held,

only where the liable person named in the order is the same person as the person in whose name the account specified in the order is held.

(3) A deposit-taker at which a regular deduction order is directed must notify the Commission within 7 days of notification being received that an order has lapsed or has been discharged—

(a) if the account specified in the order does not exist; and

(b) where the name of the liable person specified in the order is different to the name in which the account specified in the order is held—

(i) whether the account was previously held in the name of the liable person specified in the order, and

(ii) if so, the new name in which the account is held,

only where the liable person named in the order is the same person as the person in whose name the account specified in the order is held.

(4) The deposit-taker at which a regular deduction order is directed must notify the Commission within 7 days starting on the date on which a deduction is due to be made—

(a) if the account specified in the order has been closed;

(b) if the amount standing to the credit of the account specified in the order is less than the minimum amount; and

(c) where the name of the liable person specified in the order is different to the name in which the account specified in the order is held—

(i) whether the account was previously held in the name of the liable person specified in the order, and

(ii) if so, the new name in which the account is held,

only where the liable person named in the order is the same person as the person in whose name the account specified in the order is held.

(5) The deposit-taker at which a regular deduction order is directed must notify the Commission within 7 days of receipt of a request made by the Commission of the details of any other account held by the liable person with that deposit-taker and the details of that account, including—

(a) the number and sort code of that account; and

(b) the type of account.

(6) The requirements of this regulation apply only in so far as the deposit-taker has the information or can reasonably be expected to acquire it.

Notification by the Commission to the deposit-taker

25F. The Commission must notify the deposit-taker within 7 days of making a decision that a regular deduction order has—

(a) been varied by virtue of regulation 25I (variation of a regular deduction order);

(b) lapsed under regulation 25J (lapse of a regular deduction order);

(c) been revived under regulation 25K (revival of a regular deduction order); or

(d) ceased to have effect by virtue of regulation 25L (discharge of a regular deduction order).