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

DRAFT STATUTORY INSTRUMENTS

2005 No.

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations 2005

Made - - - - 2005

Coming into force in accordance with regulation 1(2)

Whereas a draft of this instrument was laid before Parliament in accordance with section 52(2) of the Child Support Act 1991(**1**) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 10(1), 17(3) and (5), 28B(2)(c), 42(1), 51, 52(4) and 54 of, and paragraphs 4(1)(b), 5, 6(2), (4) and (6), 7(3), 9(d) and 10(1) of Schedule 1, and paragraphs 2 and 4(1) of Schedule 4B to, the Child Support Act 1991(**2**) and section 29 of the Child Support, Pensions and Social Security Act 2000(**3**), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations 2005.

(2) These Regulations shall come into force as follows—

(**1**) 1991 c. 48. Section 52(2) was amended by section 30(5) of, and paragraph 15 of Schedule 3 to, the Child Support Act 1995 (c. 34) and is substituted by section 25 of the Child Support, Pensions and Social Security Act 2000 (c. 19) ("the 2000 Act").

(**2**) Section 10(1) was amended by section 1(2)(a) of the 2000 Act. Section 17(3) and (5) was substituted by section 41 of the Social Security Act 1998 (c.14). Section 28B was inserted by section 2 of the Child Support Act 1995, is substituted by section 5(2) of the 2000 Act and is modified by regulations made under section 28G(2)(b), as substituted by section 7 of the 2000 Act. Section 51 was amended by section 86(1) of, and paragraph 46 of Schedule 7 to, the Social Security Act 1998 and is amended by section 1(2) of, and paragraph 11(19) of Schedule 3 to, the 2000 Act. Paragraph 4(1)(b) of Schedule 1 is substituted by section 1(3) of, and Schedule 1 to, the 2000 Act. Paragraph 5 of Schedule 1 was amended by section 41(4) of, and paragraph 20(7) of Schedule 2 to, the Jobseekers Act 1995 (c.18) and is substituted by section 1(3) of, and Schedule 1 to, the 2000 Act. Paragraph 10(1) of Schedule 1 is substituted by section 1(3) of, and Schedule 1 to, the 2000 Act. Schedule 4B was inserted by section 6(2) of, and Schedule 2 to, the Child Support Act 1995 and is substituted by section 6(2) of, and Part II of Schedule 2 to, the 2000 Act. Section 54 is cited for the meaning ascribed to the word "prescribed". *See also*S.I. 2003/192 (C. 11).

(**3**) 2000 c. 19.

(a) subject to sub-paragraphs (b) and (c), on the day after the day that they are made;

(b) regulation 2 shall come into force—

(i) except for the purposes of any type of case referred to in head (ii), on the day after the day that they are made; and

(ii) for the purposes of any type of case which is not one in relation to which 3rd March 2003 is the day appointed for the coming into force of section 1(2)(a) of the Child Support, Pensions and Social Security Act 2000(**4**), on the day on which that provision comes into force in relation to that type of case;

(c) regulation 8(2), (4), (5) and (6), on 6th April 2005.

Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992

2. After regulation 8 of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992(**5**) (maintenance assessments and maintenance orders made in error), insert—

"**Maintenance calculations and maintenance orders – payments**

8A. Where—

(a) a maintenance calculation has been made with respect to a qualifying child in response to an application made under section 4 or 7 of the Act(**6**);

(b) at the time that maintenance calculation was made a maintenance order was in force with respect to that child;

(c) the maintenance order has ceased to have effect by virtue of the provisions of regulation 3(**7**); and

(d) the non-resident parent has made payments of maintenance due under that order after the date on which the maintenance calculation took effect in accordance with regulation 26 of the Maintenance Calculation Procedure Regulations(**8**),

the payments made under the maintenance order shall be treated as payments of child support maintenance.".

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

3.—(1) The Child Support (Maintenance Assessment Procedure) Regulations 1992(**9**) shall be amended in accordance with the following paragraphs.

(2) In regulation 1(2) (commencement, citation and interpretation), insert in the appropriate place —

""family" has the same meaning as in the Maintenance Assessments and Special Cases Regulations(**10**);"; and

""partner" has the same meaning as in the Maintenance Assessments and Special Cases Regulations;".

(**4**) S.I. 2003/192 (C. 11).
(**5**) S.I. 1992/2645.
(**6**) Sections 4 and 7 were amended by section 18 of the Child Support Act 1995, respectively by paragraphs 19 and 21 of Schedule 7 to the Social Security Act 1998 and by section 1(2) of, and paragraph 11 of Schedule 3 to, the 2000 Act. Section 4 was amended by section 2(2) and (3) of the 2000 Act.
(**7**) Regulation 3 was amended by S.I. 1995/1045, S.I. 1999/1510 (C.43) and S.I. 2001/161.
(**8**) Regulation 26 was amended by S.I. 2002/1204.
(**9**) S.I. 1992/1813. The relevant amending instruments are S.I. 1995/3261, S.I. 1999/1047, S.I. 2000/1596 and S.I 2003/1050.
(**10**) The definition of "family" in the Maintenance Assessments and Special Cases Regulations was substituted by S.I. 1996/1945.

(3) In regulation 8(**11**) (categories of interim maintenance assessment), omit paragraph (3)(e).

(4) In regulation 20(3)(**12**) (supersession of decisions), after "where paragraph (8) applies," insert "but subject to regulation 23(22)".

(5) In regulation 23(**13**) (date from which a decision is superseded), after paragraph (20) add—

"(21) Where a superseding decision is made in a case to which regulation 20(2)(a) or (3) applies, and the relevant circumstance is that a person has ceased to be a person with care in relation to a qualifying child in respect of whom the maintenance assessment was made, the decision shall take effect from the first day of the maintenance period in which that person ceased to be that person with care in relation to that qualifying child.

(22) Regulation 21 shall not apply where a superseding decision is made under regulation 20(3) in the circumstances set out in paragraph (19) or (21).".

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

4.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations 1992(**14**) shall be amended in accordance with the following paragraphs.

(2) In Schedule 1 (calculation of N and M)—

(a) in paragraph 2A(3)(a)(**15**), for "equivalent to any personal allowance" substitute "calculated as if it were equivalent to any personal allowance which would be";

(b) in paragraph 3(5)(a)(**16**), for "equivalent to any personal allowance" substitute "calculated as if it were equivalent to any personal allowance which would be".

(3) In Schedule 2 (amounts to be disregarded when calculating or estimating N and M)—

(a) after paragraph 18, insert—

"**18A.** Subject to paragraph 20(**17**), and to the extent that it does not exceed £10.00, a payment made in respect of a parent under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(**18**) (compensation schemes for armed and reserve forces).";

(b) in paragraph 20 for the words "18 and 19(1)" wherever they appear, substitute "18 to 19(1)";

(c) in paragraph 25(**19**) after the words "(permitted allowances)", insert "or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002(**20**)";

(d) after paragraph 25, insert—

"**25A.** Any payment made to a person in accordance with regulations made pursuant to section 14F of the Children Act 1989(**21**) (special guardianship support services) in respect of a child who is a member of his family.".

(4) In paragraph (b) of Schedule 4 (cases where child support maintenance is not to be payable)—

(**11**) Regulation 8 was substituted by S.I. 1995/3261 and amended by S.I. 1999/1047.
(**12**) Regulation 20 was substituted by S.I. 1999/1047. Paragraph (3) was amended by S.I. 2000/1596.
(**13**) Regulation 23 was substituted by S.I. 1999/1047 and amended by S.I. 2000/1596 and S.I. 2003/1050.
(**14**) S.I. 1992/1815. The relevant amending instruments are S.I. 1993/913, S.I. 1995/1045, S.I. 1996/481, S.I. 1996/3196, S.I. 1998/58, S.I. 1999/997 and S.I. 2003/2779.
(**15**) Paragraph 2A was inserted by S.I. 1999/997.
(**16**) Paragraph 3(5) was substituted by S.I. 1996/3196 and amended by S.I. 1998/58.
(**17**) Paragraph 20 was amended by S.I. 1996/481.
(**18**) 2004 c. 32.
(**19**) Paragraph 25 was amended by S.I. 1993/913, S.I. 1998/58 and S.I. 1999/997.
(**20**) 2002 c. 38.
(**21**) 1989 c. 41. Section 14F was inserted by section 115 of the Adoption and Children Act 2002 (c. 38).

(a) at the end of sub-paragraph (ix), omit "and";

(b) after sub-paragraph (ix), add—

"(x) the Armed Forces (Pensions and Compensation) Act 2004; and".

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations 2000

5.—(1) Regulation 10 of the Child Support (Maintenance Calculation Procedure) Regulations 2000(**22**) (circumstances in which a reduced benefit decision shall not be given) shall be renumbered as paragraph (1) of that regulation.

(2) After that paragraph add—

"(2) In paragraph (1)(c), "family" has the same meaning as in the Maintenance Calculations and Special Cases Regulations.".

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000

6.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations 2000(**23**) shall be amended in accordance with the following paragraphs.

(2) In regulation 4(1) (flat rate)—

(a) after sub-paragraphs (d) and (e), omit "and";

(b) after sub-paragraph (f), add—

"; and

(g) a payment under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(**24**) (compensation schemes for armed and reserve forces).".

(3) In regulation 5 (nil rate)—

(a) after paragraph (gg), insert "or";

(b) after paragraph (h), omit "; or".

(4) In regulation 11 (non-resident parent liable to pay maintenance under a maintenance order), in paragraph (1), for the words after "pay maintenance" substitute—

"for that child—

(i) under a maintenance order;

(ii) in accordance with the terms of an order made by a court outside Great Britain; or

(iii) under the legislation of a jurisdiction outside the United Kingdom,

that case shall be treated as a special case for the purpose of the Act.";

(5) In paragraph 7(4)(a) of the Schedule (net weekly income) for "equivalent to any personal allowance" substitute "calculated as if it were equivalent to any personal allowance which would be".

Amendment of the Child Support (Transitional Provisions) Regulations 2000

7.—(1) The Child Support (Transitional Provisions) Regulations 2000(**25**) shall be amended in accordance with the following paragraphs.

(**22**) S.I. 2001/157. The relevant amending instrument is S.I. 2003/328.
(**23**) S.I. 2001/155. The relevant amending instruments are S.I. 2002/2497, S.I. 2002/3019, S.I. 2003/1195, S.I. 2003/2779 and S.I. 2004/2415.
(**24**) 2004 c. 32.
(**25**) S.I. 2000/3186. The relevant amending instruments are S.I. 2002/1204, S.I. 2003/328, S.I. 2003/2779 and S.I. 2004/2415.