Draft Statutory Instrument 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

2003 No.

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments)(No. 2) Regulations 2003

Made - - - - 2003

Coming into force in accordance with regulation 1

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 12(2), 16(1), 17(3), 28E(5), 42, 46, 51, 52 and 54 of, and paragraphs 4, 5, 6, 10(1) and 11 of Schedule 1 and paragraphs 2, 3(1)(b), 4(1)(b) and 5 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. These Regulations may be cited as the Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 and shall come into force on the day after the day that they are made.

(**1**) 1991 c. 48. Section 52(2) was amended by 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 12 was amended by section 11 of the Child Support Act 1995 and paragraph 25 of Schedule 7 to the Social Security Act 1998 (c. 14). Section 16 was substituted by section 40 of the Social Security Act 1998 and is amended by section 8 of the 2000 Act. Section 17 was substituted by section 41 of the Social Security Act 1998 and is amended by section 9 of the 2000 Act. Section 28E(5) was inserted by section 5 of the Child Support Act 1995. Section 42 is amended by paragraph 11(2) of Schedule 3 to the 2000 Act. Section 46 was amended by paragraph 12 of Schedule 3 to the Child Support Act 1995, paragraph 20(4) of Schedule 2 to the Jobseekers Act 1995 (c. 18) and paragraph 43 of Schedule 7 to the Social Security Act 1998 and is substituted by section 19 of the 2000 Act. Section 51 was amended by paragraph 46 of Schedule 7 to the Social Security Act 1998 and is amended by paragraph 11(19) of Schedule 3 to the 2000 Act. Paragraphs 4 and 10(1) of Schedule 1 are substituted by Schedule 1 to the 2000 Act. Paragraph 5 of Schedule 1 was amended by paragraph 20(7) of Schedule 2 to the Jobseekers Act 1995 and is substituted by Schedule 1 to the 2000 Act. Schedule 4B was inserted by Schedule 2 to the Child Support Act 1995 and substituted by Part II of Schedule 2 to the 2000 Act. Section 54 is cited because of the meaning ascribed to "prescribed". *See also*S.I.2003/192 (C.11).

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

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations 1996

2. In the Child Support Departure Direction and Consequential Amendments Regulations 1996(**4**)—

(a) in the heading to, and in paragraphs (1)(a), (b) and (c), (2)(a) and (b) and (3)(a), (b) and (c) of, regulation 9 (departure directions and persons in receipt of income support, income-based jobseeker's allowance or working tax credit)(**5**); and

(b) in regulation 12 (meaning of "benefit" for the purposes of section 28E of the Child Support Act 1991)(**6**);

after "income support" insert ", state pension credit".

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

3.—(1) The Child Support (Maintenance Assessment Procedure) Regulations 1992(**7**) shall be amended in accordance with the following paragraphs.

(2) In regulation 1(3) (citation, commencement and interpretation)(**8**)—

(a) in sub-paragraph (a), for the words after "payable, or" substitute "the circumstances in regulation 40(3) or regulation 40ZA(4), as the case may be, apply;"; and

(b) in sub-paragraph (b) for the words after "given," substitute ", the circumstances in regulation 40(3) or regulation 40ZA(4), as the case may be, apply; or".

(3) In regulation 8D(8) (miscellaneous provisions in relation to interim maintenance assessments)(**9**) and in regulation 30A(5) (effective dates of new maintenance assessments in particular cases)(**10**), after "income support" in each place where those words occur insert ", state pension credit".

(4) In regulation 40 (suspension of a reduced benefit direction in specified circumstances)(**11**)—

(a) in the heading, for the words after "direction" substitute "(income support)";

(b) in paragraph (1)—

(i) for the words after "concerned" to "paragraph (3)", substitute "but the circumstances in paragraph (3) apply to her"; and

(ii) for the words after "so long as" to "that paragraph", substitute "those circumstances apply";

(c) omit paragraph (1A);

(d) in paragraph (2) omit "or (1A)"; and

(e) for paragraph (3) substitute—

"(3) The circumstances referred to in paragraph (1) are that—

(a) she is resident in a care home or an independent hospital;

(b) she is being provided with a care home service or an independent health care service; or

(**4**) S.I. 1996/2907, which is revoked, with savings, by S.I. 2001/156.
(**5**) Relevant amending instruments are S.I. 1998/58 and 2003/328.
(**6**) Relevant amending instrument is S.I. 2003/328.
(**7**) S.I. 1992/1813, which is revoked, with savings, by S.I. 2001/157.
(**8**) Relevant amending instruments are S.I. 1995/3261 and 1996/1345.
(**9**) Regulation 8D was inserted by S.I. 1995/3261. Relevant amending instruments are S.I. 1996/3196, 1998/58 and 1999/1047.
(**10**) Regulation 30A was inserted by S.I. 1995/3261. Relevant amending instruments are S.I. 1996/3196, 1998/58 and 1999/1047.
(**11**) Relevant amending instruments are S.I. 1993/913 and 1995/1045.

(c) her applicable amount falls to be calculated under regulation 21 of and any of paragraphs 1 to 3 of Schedule 7 to the Income Support Regulations (patients)(**12**).

(4) In paragraph (3)—

"care home" has the meaning assigned to it by section 3 of the Care Standards Act 2000(**13**);

"care home service" has the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001(**14**);

"independent health care service" has the meaning assigned to it by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001; and

"independent hospital" has the meaning assigned to it by section 2 of the Care Standards Act 2000.".

(5) In regulation 40ZA (suspension of a reduced benefit direction in specified circumstances)(**15**)—

(a) in the heading, for the words after "direction" substitute "(income-based jobseeker's allowance)";

(b) in paragraph (1)—

(i) for the words after "concerned" to "paragraph (4)", substitute "but the circumstances in paragraph (4) apply to her"; and

(ii) for the words after "so long as" to "those provisions", substitute "those circumstances apply";

(c) omit paragraph (2);

(d) in paragraph (3), omit "or (2)"; and

(e) for paragraph (4), substitute—

"(4) The circumstances referred to in paragraph (1) are that—

(a) she is resident in a care home or an independent hospital;

(b) she is being provided with a care home service or an independent health care service; or

(c) her applicable amount falls to be calculated under regulation 85 of and paragraph 1 or 2 of Schedule 5 to the Jobseeker's Allowance Regulations (patients)(**16**).

(5) In paragraph (4)—

"care home" has the meaning assigned to it by section 3 of the Care Standards Act 2000;

"care home service" has the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;

"independent health care service" has the meaning assigned to it by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001; and

"independent hospital" has the meaning assigned to it by section 2 of the Care Standards Act 2000.".

(**12**) S.I. 1987/1967. Relevant amending instruments are S.I. 1990/547, 1996/1803, 1998/563 and 2003/526 and 1195.
(**13**) 2000 c. 14.
(**14**) 2001 asp 8.
(**15**) Regulation 40ZA was inserted by S.I. 1996/1345.
(**16**) S.I. 1996/207. Relevant amending instruments are S.I. 1996/1516 and 2003/526 and 1195.

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

4.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations 1992(**17**) shall be amended in accordance with the following paragraphs.

(2) In regulation 1(2) (citation, commencement and interpretation)(**18**)—

(a) in the definition of "home", for "a residential care home or a nursing home" substitute "a care home or an independent hospital or to the provision of a care home service or an independent health care service";

(b) omit the definitions of "nursing home" and "residential care home";

(c) after the definition of "the Act" insert—

> ""care home" has the meaning assigned to it by section 3 of the Care Standards Act 2000;
>
> "care home service" has the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;";

(d) after the definition of "Income Support Regulations" insert—

> ""independent health care service" has the meaning assigned to it by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;
>
> "independent hospital" has the meaning assigned to it by section 2 of the Care Standards Act 2000;"; and

(e) after the definition of "self-employed earner" insert—

> ""state pension credit" means the social security benefit of that name payable under the State Pension Credit Act 2002;"(**19**).

(3) In regulation 9(1) (exempt income: calculation or estimation of E)(**20**), for paragraph (h) substitute—

"(h) where the absent parent or his partner is resident in a care home or an independent hospital or is being provided with a care home service or an independent health care service, the amount of fees paid in respect of that home, hospital or service, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home, hospital or service, as the case may be, the net amount of such fees after deduction of housing benefit;".

(4) After regulation 10A (assessable income: working tax credit paid to or in respect of a parent with care or an absent parent)(**21**) insert—

"**Assessable income: state pension credit paid to or in respect of a parent with care or an absent parent**

10B. Where state pension credit is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Act, be taken to have no assessable income.".

(5) In regulation 11(1) (protected income)(**22**), for paragraph (i) substitute—

(**17**) S.I. 1992/1815, which is revoked, with savings, by S.I. 2001/155.
(**18**) Relevant amending instrument is S.I. 1999/1510 (C.43).
(**19**) 2002 c. 16.
(**20**) Relevant amending instruments are S.I. 1995/1045 and 3261, 1996/1803 and 1945, 1998/58, 2002/1204 and 2003/328.
(**21**) Regulation 10A was inserted by S.I. 1996/3196. Relevant amending instruments are S.I. 1999/1510 (C.43) and 2003/328.
(**22**) Relevant amending instruments are S.I. 1994/227, 1995/1045 and 3261, 1996/1803 and 1945, 1998/58 and 2003/328.

"(i) where the absent parent or his partner is resident in a care home or an independent hospital or is being provided with a care home service or an independent health care service, the amount of fees paid in respect of that home, hospital or service, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home, hospital or service, as the case may be, the net amount of such fees after deduction of housing benefit;".

(6) In Schedule 1 (calculation of N and M)(**23**)—

(a) in paragraph 9A(2) after "war widow's pension" insert "and a war widower's pension"; and

(b) in paragraph 22(1B)(2) after "war widow's pension" insert "and a war widower's pension".

(7) In Schedule 2 (amounts to be disregarded when calculating or estimating N and M)(**24**)—

(a) in paragraph 15 after "income support" insert ", state pension credit";

(b) in paragraph 18(a) and (b)(ii) after "war widow's pension" insert "or war widower's pension";

(c) for paragraph 48E substitute—

"(48E) Any payment made by a local authority, or by the National Assembly for Wales, to a person relating to a service which is provided to develop or sustain the capacity of that person to live independently in his accommodation."; and

(d) after paragraph 48E add—

"(48F) Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows and widowers)(**25**) or under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows and widowers)(**26**).".

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

5.—(1) The Child Support (Maintenance Calculation Procedure) Regulations 2000(**27**) shall be amended in accordance with the following paragraphs.

(2) In regulation 8(2)(b) (interpretation of Part IV)—

(a) in head (i) for the words after "payable, or" substitute "the circumstances in regulation 14(4) or 15(4), as the case may be, apply;"; and

(b) in head (ii) for the words after "given," substitute "the circumstances in regulation 14(4) or 15(4), as the case may be, apply,".

(3) In regulation 14 (suspension of a reduced benefit decision in specified circumstances (income support))—

(a) in the heading, omit "when a modified applicable amount is payable";

(b) in paragraph (1)—

(i) for the words after "concerned" to "paragraph (4)", substitute "but the circumstances in paragraph (4) apply to her"; and

(ii) for the words after "so long as" to "that paragraph", substitute "those circumstances apply";

(**23**) Relevant amending instruments are S.I. 1993/913, 1995/1045, 1996/1345, 1803, 1945 and 3196, 1998/58, 1999/977 and 1510 (C.43) and 2003/328.
(**24**) Relevant amending instruments are S.I. 1993/913, 1995/1045 and 3261, 1996/481, 1345 and 3196, 1998/58, 1999/977 and 2003/328.
(**25**) S.I. 1983/883. Article 29(1A) was inserted by S.I. 1994/1906. Relevant amending instruments are S.I. 2002/792 and 2003/434.
(**26**) S.I. 1983/686. Article 27(3) was added by S.I. 1994/2021. Relevant amending instrument is S.I. 2002/672.
(**27**) S.I. 2001/157.