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

2000 No.

FAMILY LAW

CHILD SUPPORT

The Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations 2000

Made - - - - 2000
Coming into force as provided in regulation 1(2) and (3)

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 a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 28J(3), 29(2) and (3), 30(1), (4) and (5), 32(1) to (5) and (7) to (9), 34(1), 35(7) and (8), 39(1), (3) and (4), 40(11), 40B(11), 41(2), 41A(1) and (4), 47(1) to (3), 51, 52(4) and 54 of the Child Support Act 1991(**2**) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations 2000.

(2) Regulations 4 and 6(3), and, for the purposes of those provisions, this regulation, shall come into force on 2nd April 2001 and regulation 2(6)(c) and (9), and, for the purposes of those provisions, this regulation, shall come into force on the day on which section 16 of the 2000 Act comes into force.

(3) The remainder of these Regulations shall come into force in relation to a particular case on the day on which sections 1(2) and (3), 4, 18(1) and (2), and 20(1) of and Schedule 3 paragraph 11(2) and (16) to the 2000 Act come into force for the purposes of that type of case.

(4) In these Regulations, unless the context otherwise requires—

"the 2000 Act" means the Child Support, Pensions and Social Security Act 2000;

(**1**) 1991 c. 48. Section 52 is amended by section 25 of the Child Support, Pensions and Social Security Act 2000 (c. 19).
(**2**) Sections 32, 47 and 54 are amended by, sections 28J, 39A and 40B are inserted by, and section 41A is substituted by, respectively, paragraph 11(16), (18) and (20) of Schedule 3 to, and sections 20(1), 16(1) and (3) and 18(2) of, the Child Support, Pensions and Social Security Act 2000. Section 54 is cited because of the meaning ascribed to the word "prescribed".

"the Act" means the Child Support Act 1991;

"the Arrears, Interest and Adjustment Regulations" means the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(**3**);

"the Collection and Enforcement Regulations" means the Child Support (Collection and Enforcement) Regulations 1992(**4**);

"the Collection and Enforcement of Other Forms of Maintenance Regulations" means the Child Support (Collection and Enforcement of Other Forms of Maintenance) Regulations 1992(**5**); and

"the Fees Regulations" means the Child Support Fees Regulations 1992(**6**).

Amendment of the Collection and Enforcement Regulations

2.—(1) The Collection and Enforcement Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In Part I (general), in regulation 1—

(a) for paragraph (2) there shall be substituted—

"(2) In these Regulations—

"the Act" means the Child Support Act 1991;

"the 2000 Act" means the Child Support, Pensions and Social Security Act 2000;

"interest" means interest which has become payable under section 41 of the Act before its amendment by the 2000 Act; and

"voluntary payment" means a payment as defined in section 28J of the Act and Regulations made under that section.";

(b) after paragraph (2), there shall be inserted—

"(2A) Except in relation to regulation 8(3)(a) and Schedule 2, in these Regulations "fee" means an assessment fee or a collection fee, which for these purposes have the same meaning as in the Child Support Fees Regulations 1992(**7**) prior to their revocation by the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations 2000(**8**).''; and

(c) in paragraph (3)(b) for the words from "the second day" to the end of the paragraph there shall be substituted "the day that it is posted.".

(3) In Part II (collection of child support maintenance)—

(a) in paragraph (1) of regulation 2, in paragraph (2) of regulation 3 and in paragraph (2) of regulation 7, for the word "assessment" there shall be substituted "calculation";

(b) in paragraph (1) of regulation 3—

(i) after the words "child support maintenance" there shall be inserted ", penalty payments, interest and fees"; and

(ii) after sub-paragraph (e) there shall be added—

"(f) by debit card.";

(**3**) S.I.1992/1816. Relevant amending instruments are S.I. 1993/913, 1995/1045, 1995/3261, 1996/1345 and 1999/1510.
(**4**) S.I. 1992/1989. Relevant amending instruments are S.I. 1993/913, 1994/227, 1995/3261, 1996/1945, 1998/58, 1999/977 and 1999/1510.
(**5**) S.I. 1992/2643, as amended by S.I. 1993/913.
(**6**) S.I. 1992/3094. Relevant amending instruments are S.I. 1994/227, 1995/1045, 1996/1345, 1996/1945 and 1999/977.
(**7**) The definition of collection fee was amended by S.I. 1994/227.
(**8**) S.I. 2000/ .

(c) after paragraph (1) of regulation 3 there shall be inserted—

"(1A) In paragraph (1), "debit card" means a card, operating as a substitute for a cheque, that can be used to obtain cash or to make a payment at a point of sale whereby the card holder's bank or building society account is debited without deferment of payment.";

(d) after regulation 5 there shall be inserted—

"**Voluntary Payments**

5A.—(1) Regulation 5(1) shall apply in relation to voluntary payments as if—

(a) for the words "Payment of child support maintenance" there were substituted the words "Voluntary payments"; and

(b) the words "or other specified person" were omitted.

(2) In determining when the Secretary of State shall transmit a voluntary payment to the person entitled to it, the Secretary of State shall have regard to the factor in regulation 4(2)(c).''; and

(e) in regulation 7—

(i) in paragraph (1)—

(aa) at the beginning there shall be inserted "In the case of child support maintenance,"; and

(bb) after sub-paragraph (d) there shall be added—

"(e) the amount of any payment of child support maintenance which is overdue and which remains outstanding.";

(ii) after paragraph (1) there shall be inserted—

"(1A) In the case of penalty payments, interest or fees, the Secretary of State shall send the liable person a notice stating—

(a) the amount of child support maintenance payable;

(b) the amount of arrears;

(c) the amount of the penalty payment, interest or fees to be paid, as the case may be;

(d) the method of payment;

(e) the day by which payment is to be made; and

(f) information as to the provisions of sections 16 and 20 of the Act."; and

(iii) after paragraph (2) there shall be added—

"(3) A notice under paragraph (1A) shall be sent to the liable person as soon as reasonably practicable after the decision to require a payment of the penalty payment, interest or fees has been made.".

(4) After Part II there shall be inserted—

"PART IIA

COLLECTION OF PENALTY PAYMENTS

Payment of a financial penalty

7A.—(1) This regulation applies where a maintenance calculation is, or has been, in force, the liable person is in arrears with payments of child support maintenance, and the Secretary of State requires the liable person to pay penalty payments to him.

(2) For the purposes of regulation 7(1)(e) a payment will be overdue if it is not received by the time that the next payment of child support maintenance is due.

(3) The Secretary of State may require a penalty payment to be made if the outstanding amount is not received within 7 days of the notification in regulation 7(1)(e) or if the liable person fails to pay all outstanding amounts due on dates and of amounts as agreed between the liable person and the Secretary of State.

(4) Payments of a penalty payment shall be made within 14 days of the notification referred to in regulation 7(1A).

(5) In this Part a "liable person" means a person liable to make a penalty payment and in Part II and in this Part "penalty payment" is to be construed in accordance with section 41A of the Act.".

(5) Part III (deduction from earnings orders) shall be amended as follows—

(a) in regulation 8—

(i) in paragraph (1), the following definitions shall be omitted: "disposable income", "exempt income", "interim maintenance assessment", "prescribed minimum amount", "protected earnings rate" and "protected income level"; and

(ii) after the definition of "pay-day" there shall be inserted—

""protected earnings proportion" means the proportion referred to in regulation 11(2).";

(b) in paragraph (e) of regulation 9, for the words "protected earnings rate" there shall be substituted "protected earnings proportion";

(c) paragraphs (2) and (3) of regulation 10 shall be omitted;

(d) in regulation 11—

(i) in the heading, for the words "Protected earnings rate" there shall be substituted "Protected earnings proportion";

(ii) in paragraphs (1) and (2), for the words "protected earnings rate" where they appear there shall be substituted "protected earnings proportion";

(iii) in paragraph (2)—

(aa) the words ", except where paragraph (3) or paragraph (4) applies," shall be omitted;

(bb) for the words "the liable person's exempt income" there shall be substituted "60% of the liable person's net earnings"; and

(cc) for the word "assessment" there shall be substituted "maintenance calculation"; and

(iv) paragraphs (3) and (4) shall be omitted;

(e) in regulation 12—

(i) in paragraphs (2), (3) and (6), for the words "protected earnings rate" where they appear there shall be substituted "protected earnings proportion"; and

(ii) paragraph (5) shall be omitted;

(f) in regulation 17—

(i) in paragraph (1)(a), for the word "assessment" there shall be substituted "calculation"; and

(ii) in paragraph (1)(b), for the words "and interest on arrears" there shall be substituted ", penalty payment, interest or fees";

(g) in paragraph (1)(f) of regulation 20—

(i) for the words "an interim maintenance assessment" there shall be substituted "a default or interim maintenance decision"; and

(ii) for the words "maintenance assessment" there shall be substituted "maintenance calculation";

(h) in paragraph (6) of regulation 21, the words "or (5)" shall be omitted; and

(i) in regulation 24—

(i) paragraph (1) shall be omitted;

(ii) in paragraph (2)(b), for the words ", deal with" to the end of the sub-paragraph, there shall be substituted the following—

"he shall—

(i) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;

(ii) deal with any later order as if the earnings to which it relates were the residue of the liable person's earnings after the making of any deduction to comply with any earlier order."; and

(iii) in paragraphs (2) and (4)—

(aa) for the words "one or more deduction from earnings orders", wherever they appear, there shall be substituted "a deduction from earnings order"; and

(bb) wherever they appear, the words "or orders" shall be omitted.

(6) In Part IV (liability orders)—

(a) in paragraph (2) of regulation 27, for the words "in respect of arrears payable under section 41(3) of the Act" there shall be substituted ", penalty payments or fees which have become payable and have not been paid";

(b) in regulation 33—

(i) in paragraphs (1) and (3), for "40" there shall be substituted "39A"; and

(ii) in paragraph (2), for "section 40", there shall be substituted "sections 39A and 40"; and

(c) after regulation 34 there shall be added—

"**Disqualification from driving order**

35.—(1) For the purposes of enabling an enquiry to be made under section 39A of the Act as to the liable person's livelihood, means and conduct, a justice of the peace having jurisdiction for the area in which the liable person resides may issue a summons to him to appear before a magistrates' court and to produce any