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 (Maintenance Calculation Procedure) Regulations 2000

Made - - - - 2000

Coming into force in accordance with regulation 1(5)

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 3(3), 5(3), 12(4) and (5)(b), 46(2), (5), (8) and (10), 51, 52(4), 54 and 55 of, and paragraphs 11 and 14 of Schedule 1 to, the Child Support Act 1991(**2**) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Calculation Procedure) Regulations 2000.

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

"the Act" means the Child Support Act 1991;

"date of notification to the non-resident parent" means the date on which the non-resident parent is first given notice of a maintenance application;

"effective application" means as provided for in regulation 3;

(**1**) 1991 c. 48.

(**2**) Sections 5(3), 51 and 54 were amended by and sections 12 and 46 were substituted by the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 54 is cited because of the meaning assigned to the word " prescribed".

"date of receipt" means the date on which the information or document is actually received;

"effective date" means the date on which a maintenance calculation takes effect for the purposes of the Act;

"notice of a maintenance application" means notice by the Secretary of State under regulation 5(1) that an application for a maintenance calculation has been made, or treated as made, in relation to which the non-resident parent is named as a parent of the child to whom the application relates;

"Maintenance Calculations and Special Cases Regulations" means the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(**3**);

"maintenance period" has the same meaning as in section 17(4A) of the Act(**4**);

"relevant person" means—

(a) a person with care;

(b) a non-resident parent;

(c) a parent who is treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations;

(d) where the application for a maintenance calculation is made by a child under section 7 of the Act, that child,

in respect of whom a maintenance calculation has been applied for, or has been treated as applied for under section 6(3) of the Act, or is or has been in force.

(3) The provisions in Schedule 1 shall have effect to supplement the meaning of "child" in section 55 of the Act.

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

(a) to a numbered Part is to the Part of these Regulations bearing that number;

(b) to a numbered Schedule is to the Schedule to these Regulations bearing that number;

(c) to a numbered regulation is to the regulation in these Regulations bearing that number;

(d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number; and

(e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(5) These Regulations shall come into force in relation to a particular case on the day on which the amendments to sections 5, 6, 12, 46, 51, 54 and 55 of the Act made by the Child Support, Pensions and Social Security Act 2000 come into force in relation to that type of case.

Documents

2. Except where otherwise stated, where—

(a) any document is given or sent to the Secretary of State, that document shall be treated as having been so given or sent on the day that it is received by the Secretary of State; and

(b) any document is given or sent to any other person, that document shall, if sent by post to that person's last known or notified address, be treated as having been given or sent on the day that it is posted.

(**3**) S.I. 2000/ .
(**4**) Section 17(4A) was inserted by section 9 of the Child Support, Pensions and Social Security Act 2000.

PART II

APPLICATIONS FOR A MAINTENANCE CALCULATION

Applications under section 4 or 7 of the Act

3.—(1) A person who applies for a maintenance calculation under section 4 or 7 of the Act need not normally do so in writing, but if the Secretary of State directs that the application be made in writing, the application shall be made either by completing and returning, in accordance with the Secretary of State's instructions, a form provided for that purpose, or in such other written form as the Secretary of State may accept as sufficient in the circumstances of any particular case.

(2) An application for a maintenance calculation is effective if it complies with paragraph (1) and, subject to paragraph (4), is made on the date it is received.

(3) Where an application for a maintenance calculation is not effective the Secretary of State may request the person making the application to provide such additional information or evidence as the Secretary of State may specify and, where the application was made on a form, the Secretary of State may request that the information or evidence be provided on a fresh form.

(4) Where the additional information or evidence requested is received by the Secretary of State within 14 days of the date of his request, or at a later date in circumstances where the Secretary of State is satisfied that the delay was unavoidable, he shall treat the application as made on the date on which the earlier or earliest application would have been treated as made had it been effective.

(5) Where the Secretary of State receives the additional information or evidence requested by him more than 14 days from the date of the request and in circumstances where he is not satisfied that the delay was unavoidable, the Secretary of State shall treat the application as made on the date of receipt of the information or evidence.

(6) Subject to paragraph (7), a person who has made an effective application may amend or withdraw the application at any time before a maintenance calculation is made and such amendment or withdrawal need not be in writing unless, in any particular case, the Secretary of State requires it to be.

(7) No amendment made under paragraph (6) shall relate to any change of circumstances arising after the effective date of a maintenance calculation resulting from an effective application.

Multiple applications

4.—(1) The provisions of Schedule 2 shall apply in cases where there is more than one application for a maintenance calculation.

(2) The provisions of paragraphs 1, 2 and 3 of Schedule 2 relating to the treatment of two or more applications as a single application shall apply where no request is received for the Secretary of State to cease acting in relation to all but one of the applications.

(3) Where, under the provisions of paragraph 1, 2 or 3 of Schedule 2, two or more applications are to be treated as a single application, that application shall be treated as an application for a maintenance calculation to be made with respect to all of the qualifying children mentioned in the applications, and the effective date of that maintenance calculation shall be determined by reference to the earlier or earliest application.

Notice of an application for a maintenance calculation

5.—(1) Where an effective application has been made under section 4 or 7 of the Act, or is treated as made under section 6(3) of the Act, as the case may be, the Secretary of State shall as soon as is reasonably practicable notify, orally or in writing, the non-resident parent and any other relevant persons (other than the person who has made, or is treated as having made, the application) of that

application and request such information as he may require to make the maintenance calculation in such form and manner as he may specify in the particular case.

(2) Where the person to whom notice is being given under paragraph (1) is a non-resident parent, that notice shall specify the effective date of the maintenance calculation if one is to be made, and the ability to make a default maintenance decision.

(3) Subject to paragraph (4), a person who has provided information under paragraph (1) may amend the information he has provided at any time before a maintenance calculation is made and such information need not be in writing unless, in any particular case, the Secretary of State requires it to be.

(4) No amendment under paragraph (3) shall relate to any change of circumstances arising after the effective date of any maintenance calculation made in response to the application in relation to which the information was requested.

Death of a qualifying child

6.—(1) Where the Secretary of State is informed of the death of a qualifying child with respect to whom an application for a maintenance calculation has been made or has been treated as made, he shall—

(a) proceed with the application as if it had not been made with respect to that child if he has not yet made a maintenance calculation;

(b) treat any maintenance calculation already made by him as not having been made if the relevant persons have not been notified of it and proceed with the application as if it had not been made with respect to that child.

(2) Where all of the qualifying children with respect to whom an application for a maintenance calculation has been made have died, and either the calculation has not been made or the relevant persons have not been notified of it, the Secretary of State shall treat the application as not having been made.

PART III

DEFAULT MAINTENANCE DECISIONS

Default rate

7.—(1) Where the Secretary of State makes a default maintenance decision under section 12(1) of the Act (insufficient information to make a maintenance calculation or to make a decision under section 16 or 17 of the Act) the default rate is as set out in paragraph (2).

(2) The default rate for the purposes of section 12(5)(b) of the Act shall be—

£30 where there is one qualifying child of the non-resident parent;

£40 where there are two qualifying children of the non-resident parent;

£50 where there are three or more qualifying children of the non-resident parent,

apportioned, where the non-resident parent has more than one qualifying child and in relation to them there is more than one person with care, as provided in paragraph 6(2) of Part I of Schedule 1 to the Act.

(3) Subject to paragraph (4), where any apportionment made under this regulation results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded.

(4) If, in making the apportionment required by this regulation, the effect of the application of paragraph (3) would be such that the aggregate amount of child support maintenance payable by a non-resident parent would be different from the aggregate amount payable before any apportionment, the Secretary of State shall adjust that apportionment so as to eliminate that difference; and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which she would have received if no adjustment had been made under this paragraph.

PART IV

REDUCED BENEFIT DECISIONS

Interpretation of Part IV

8.—(1) For the purposes of this Part—

"applicable amount" is to be construed in accordance with Part IV of the Income Support Regulations and regulations 83 to 86 of the Jobseeker's Allowance Regulations;

"benefit week", in relation to income support has the same meaning as in the Income Support Regulations, and in relation to jobseeker's allowance has the same meaning as in the Jobseeker's Allowance Regulations;

"Income Support Regulations" means the Income Support (General) Regulations 1987(**5**);

"Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations 1996(**6**);

"parent concerned" means the parent with respect to whom a reduced benefit decision is given;

"reduced benefit decision " has the same meaning as in section 46(10)(b) of the Act; and

"relevant benefit" has the same meaning as in section 46(10)(c) of the Act.

(2) In this Part references to a reduced benefit decision as being "in operation ", "suspended" or "in force" shall be construed as follows—

(a) a reduced benefit decision is "in operation" if, by virtue of that decision, relevant benefit is currently being reduced;

(b) a reduced benefit decision is "suspended" if—

(i) after that decision has been given, relevant benefit ceases to be payable, or becomes payable at one of the rates indicated in regulation 14(4) or, as the case may be, regulation 15(4);

(ii) at the time the reduced benefit decision is given, relevant benefit is payable at one of the rates indicated in regulation 15(4) or, as the case may be, regulation 16(4),

and these Regulations provide for relevant benefit payable from a later date to be reduced by virtue of the same reduced benefit decision; and

(c) a reduced benefit decision is "in force" if it is either in operation or suspended

and cognate terms shall be construed accordingly.

Period within which reasons are to be given

9. The period specified for the purposes of section 46(2) of the Act (for the parent to supply her reasons) is 4 weeks from the date on which the Secretary of State serves notice under that subsection.

(**5**) S.I. 1987/1967.
(**6**) S.I. 1996/207.