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

1999 No.

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1999

Made - - - -	*1999*
Coming into force	
—except for regulation 26(a)	*1st June 1999*
—regulation 26(a)	*29th November 1999*

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 set out in the Schedule to this Instrument 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 (Miscellaneous Amendments) (No. 2) Regulations 1999 and shall, subject to paragraph (2), come into force on 1st June 1999.

(2) Regulation 26(a) shall come into force on 29th November 1999.

(3) In these Regulations–

"the Departure Direction Regulations" means the Child Support Departure Direction and Consequential Amendments Regulations 1996(**2**); and

(**1**) 1991 c. 48. Section 28A to 28I of and Schedules 4A and 4B to the Child Support Act 1991 ("the 1991 Act") were inserted by sections 1 and 9 of the Child Support Act 1995 (c. 34); sections 16, 17 and 20 were substituted for sections 16 to 20 of the 1991 Act and Schedule 4C to the 1991 Act was inserted by the Social Security Act 1998 (c. 14).

(**2**) S.I. 1996/2907; the relevant amending instruments are S.I. 1998/58 and S.I. 1998/2799.

"the Maintenance Assessment Procedure Regulations" means the Child Support (Maintenance Assessment Procedure) Regulations 1992(**3**).

(4) In these Regulations–

(a) in Part I, any reference to a regulation or a Schedule is a reference to a regulation of, or a Schedule to, the Maintenance Assessment Procedure Regulations; and

(b) In Part II, any reference to a regulation or a Schedule is a reference to a regulation of, or a Schedule to, the Departure Direction Regulations.

(5) In the Schedule to this Instrument, "the Act" means the Social Security Act 1998(**4**).

PART I

Amendment of the Maintenance Assessment Procedure Regulations

Amendment of regulation 1

2. In regulation 1 (citation, commencement and interpretation)–

(a) in paragraph (2), after the definition of "obligation imposed by section 6 of the Act" there shall be inserted the following definition–

> ""official error" means an error made by an officer of the Department of Social Security acting as such which no person outside that Department caused or to which no person outside that Department materially contributed;";

(b) in paragraph (7) for the words "8(6), 24(2), 29(3) or 31(6)(a)" there shall be substituted the words "9(1) or 18(4)".

Amendment of regulation 3

3. In regulation 3(2)(a) (applications on the termination of a maintenance assessment), for the words "a child support officer" there shall be substituted the words "the Secretary of State".

Amendment of regulation 7

4. In regulation 7 (death of a qualifying child)–

(a) in paragraph (1), for the words "the child support officer concerned" there shall be substituted the words "the Secretary of State";

(b) in paragraph (2), for the words "the child support officer" there shall be substituted the words "the Secretary of State".

Amendment of regulation 8

5. In regulation 8(**5**) (categories of interim maintenance assessment)–

(a) in paragraph (1), for the words "a child support officer" there shall be substituted the words "the Secretary of State";

(b) in paragraph (3)–

(**3**) S.I. 1992/1813; the relevant amending instruments are S.I. 1993/913, S.I. 1994/227, S.I. 1995/123, S.I. 1995/1045, S.I. 1995/3261, S.I. 1995/3265, S.I. 1996/1345, S.I. 1996/1945, S.I. 1996/2907, S.I. 1996/3196, S.I. 1998/58, S.I. 1998/2799 and S.I. 1999/XXXX.

(**4**) 1998 c. 14.

(**5**) Regulation 8 was added by way of substitution by S.I. 1995/3261.

(i) for the words "a child support officer" in each place in which they occur there shall be substituted the words "the Secretary of State";

(ii) the words "or the child support officer" shall be omitted.

Amendment of regulation 8A

6. In regulation 8A(**6**) (amount of an interim maintenance assessment) for the words–

(a) "a child support officer"; and

(b) "the child support officer",

in each place in which they occur there shall be substituted the words "the Secretary of State".

Revocation of regulation 8B

7. Regulation 8B(**7**) (review of an interim maintenance assessment) is hereby revoked.

Amendment of regulation 8C

8. In regulation 8C(**8**) (effective date of an interim maintenance assessment)–

(a) in paragraph (1), the words "9(9) or" shall be omitted;

(b) in paragraph (1)(a), the words "regulations 8B, 9(2) and (3) and" shall be omitted;

(c) in paragraph (1)(b), the words "and to regulations 31 to 31C" shall be omitted;

(d) in paragraph (1)(c), the words "and regulations 31 to 31C" shall be omitted;

(e) in paragraph (2)–

(i) for the words from the beginning to "regulations 31 to 31C", there shall be substituted the words "The effective date of an interim maintenance assessment made under section 12(1)(b) of the Act shall, subject to regulation 33(7)";

(ii) for the words "is being reviewed" there shall be substituted the words "the Secretary of State is proposing to supersede with a decision under section 17 of the Act";

(f) in paragraph (3), the words ", regulation 8B or 9(2), (3) or (9)," shall be omitted.

Amendment of regulation 8D

9. In regulation 8D(**9**) (miscellaneous provisions in relation to interim maintenance assessments)–

(a) paragraph (3) shall be omitted;

(b) in paragraph (4), for the words "29, 31 to 31C, 32, 33(5) and 55" there shall be substituted the words "32 and 33(5)";

(c) in paragraph (5)–

(i) the words "and regulation 9(15)" shall be omitted; and

(ii) for the words "a child support officer" there shall be substituted the word "him";

(d) in paragraph (6)–

(i) the words "Subject to regulation 9(15)" shall be omitted; and

(**6**) Regulation 8A was added by way of substitution by S.I. 1995/3261 and amended by S.I. 1998/58.
(**7**) Regulation 8B was added by way of substitution by S.I. 1995/3261 and amended by S.I. 1998/2799.
(**8**) Regulation 8C was added by way of substitution by S.I. 1995/3261.
(**9**) Regulation 8D was added by way of substitution by S.I. 1995/3261.

(ii) for the words "a child support officer" there shall be substituted the words "the Secretary of State";

(e) in paragraph (7), for the words "a child support officer" there shall be substituted the words "the Secretary of State".

Substitution of regulations 9 and 9A

10. For regulations 9 and 9A(**10**) there shall be substituted the following regulation–

"**Interim maintenance assessments which follow other interim maintenance assessments**

9.—(1) Where an interim maintenance assessment is being revised on the ground specified in regulation 17(1)(b) and the Secretary of State is satisfied–

(a) that another Category A, Category B or Category D maintenance assessment should be made, and

(b) that there has been unavoidable delay for part of the period during which the assessment which is being revised was in force,

the effective date of that other–

(i) Category A or Category D interim maintenance assessment shall be the first day of the maintenance period following the date upon which, in the opinion of the Secretary of State, the delay became avoidable;

(ii) Category B interim maintenance assessment shall be the date set out in regulation 8C(1)(b).

(2) Where an interim maintenance assessment is revised on either of the grounds set out in regulation 17(4) or (5), payments made under that interim maintenance assessment before the revision shall be treated as payments made under the Category B interim maintenance assessment which replaces it.

(3) Subject to paragraphs (5) and (6), where the Secretary of State makes a Category B interim maintenance assessment following the revision of an interim maintenance assessment in accordance with regulation 17(4), the effective date of that Category B interim maintenance assessment shall be the date determined in accordance with regulation 8C(1)(b).

(4) Where the Secretary of State makes a fresh interim maintenance assessment following the supersession of an interim maintenance assessment in accordance with regulation 20(7), the effective date of that fresh interim maintenance assessment shall be the date from which that supersession took effect.

(5) Where the Secretary of State cancels upon a revision an interim maintenance assessment in accordance with regulation 17(4) which caused a court order to cease to have effect in accordance with regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in regulation 17(4) shall be the date on which that revision took effect.

(6) Where the revision of an interim maintenance assessment in accordance with regulation 17(5) caused a court order to cease to have effect in accordance with regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations, the effective

(**10**) Regulations 9 and 9A were substituted for regulation 9 by S.I. 1995/3261; regulation 9 was amended by S.I. 1998/58 and S.I. 1998/2799; regulation 9A was amended by S.I. 1998/2799.

date of the Category B interim maintenance assessment referred to in regulation 17(4) shall be the date on which that revision took effect.".

Amendment of regulation 10

11. In regulation 10(**11**) (notification of a new or a fresh maintenance assessment)–

(a) for paragraph (1) there shall be substituted the following paragraph–

"(1) A person with a right of appeal to an appeal tribunal under–

(a) section 20 of the Act(**12**); and

(b) section 20 of the Act as extended by paragraph 3(1)(b) of Schedule 4C to the Act(**13**),

shall be given notice of that right and of the decision to which that right relates.";

(b) paragraphs (1A) to (1C) shall be omitted;

(c) in paragraph (2)–

(i) after the words "paragraph (1)" there shall be inserted the words "of a new or fresh maintenance assessment made under section 11, 16 or 17"; and

(ii) in sub-paragraph (i), the words "or (b)" shall be omitted;

(d) in paragraph (2A), for the words "a review under section 16 of the Act of a maintenance assessment the effective date of which is on or before 8th December 1996 or a review under section 19(1)" there shall be substituted the words "a revision of a maintenance assessment under section 16 of the Act or a supersession of a maintenance assessment under section 17 of the Act";

(e) in paragraph (3)(a), for the words "of the child support officer concerned" there shall be substituted the words "of the officer concerned who is exercising functions of the Secretary of State under the Act";

(f) for paragraphs (4) to (6) there shall be substituted the following paragraph–

"(4) Where a decision as to a maintenance assessment is made under section 11, 12, 16 or 17 of the Act, a notification under paragraph (1) shall include information as to the provisions of sections 16 and 17 of the Act.".

Amendment of regulation 10A

12. In regulation 10A(**14**) (notification of increase or reduction in the amount of a maintenance assessment)–

(a) in paragraph (1), for the words–

(i) "a child support officer" there shall be substituted the words "the Secretary of State";

(ii) "section 18" there shall be substituted the words "sections 16 and 17";

(b) in paragraph (2)(a) for the words "of the child support officer concerned" there shall be substituted the words "of the officer concerned who is exercising functions of the Secretary of State under the Act".

(**11**) Regulation 10 was amended by S.I. 1994/227, S.I. 1995/123, S.I. 1995/1045, S.I. 1995/3261, S.I. 1996/2907, S.I. 1998/2799 and S.I. 1999/XXXX.
(**12**) Section 20 was substituted by section 42 of the Social Security Act 1998 (c. 14).
(**13**) Schedule 4C was inserted by the Social Security Act 1998, Schedule 7, paragraph 54.
(**14**) Regulation 10A was inserted by S.I. 1998/58.