

2003 No. 192 (C. 11)

FAMILY LAW

CHILD SUPPORT

The Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003

Made - - - -

3rd February 2003

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by section 86(2) of the Child Support, Pensions and Social Security Act 2000(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003.

(2) In this Order –

- (a) “the Act” means the Child Support, Pensions and Social Security Act 2000 and, except where otherwise stated, references to sections and Schedules are references to sections of, and Schedules to, the Act;
- (b) “the 1991 Act” means the Child Support Act 1991(b);
- (c) “absent parent” has the meaning given in the 1991 Act before its amendment by the Act;
- (d) “the Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992(c) as in force immediately before 3rd March 2003;
- (e) “the Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(d) as in force immediately before 3rd March 2003;
- (f) “effective date”, in relation to a maintenance assessment or a maintenance calculation, has the meaning given in article 8 of this Order;
- (g) “existing assessment” means a maintenance assessment which is in force with an effective date which is before 3rd March 2003;
- (h) “maintenance assessment” has the meaning given in the 1991 Act before its amendment by the Act;
- (i) “maintenance calculation” has the meaning given in the 1991 Act as amended by the Act;
- (j) “non-resident parent” has the meaning given in the 1991 Act as amended by the Act;
- (k) “partner” has the meaning given in paragraph 10C(4) of Part I of Schedule 1 to the 1991 Act as amended by the Act;

(a) 2000 c. 19.

(b) 1991 c. 48.

(c) S.I. 1992/2645. Amending instruments are S.I. 1993/913, 1995/123, 1045, 3261, 1999/1510 and 2001/161.

(d) S.I. 1992/1813. Amending instruments are S.I. 1993/913, 1994/227, 1995/123, 1045, 3261, 3265, 1996/1345, 1945, 2538, 2907, 3196, 1998/58, 1999/977, 1047, 2566, 2799, 2000/897 and 1596.

Art. 1-3

- (l) “person with care” has the meaning given in the 1991 Act;
- (m) “prescribed benefit” means a benefit prescribed for the purposes of paragraph 4(1)(c) of Part I of Schedule 1 to the 1991 Act as amended by the Act(a);
- (n) “qualifying child” has the meaning given in the 1991 Act; and
- (o) “relevant person” means, in relation to a maintenance assessment, the absent parent or person with care and, in relation to a maintenance calculation, the non-resident parent or person with care.

Appointed day for purpose of making regulations

2. 4th February 2003 is the day appointed for the coming into force of—
- (a) section 2(1) and (2) (applications under section 4 of the 1991 Act); and
 - (b) paragraph 11(4)(b)(i) and (ii) of Schedule 3 (right of a child in Scotland to apply for maintenance calculation), and section 26 so far as it relates to that provision,

for the purpose of the exercise of the power to make regulations.

Appointed day for the provisions specified in the Schedule to this Order

3.—(1) 3rd March 2003 is the day appointed for the coming into force of the provisions of the Act specified in the Schedule to this Order, in so far as those provisions are not already in force, for the purpose of—

- (a) cases where an application for child support maintenance is made to the Secretary of State (whether or not in writing) and the effective date would be on or after 3rd March 2003;
- (b) cases where there is an existing assessment and a related decision falls to be made; and
- (c) cases where there is an existing assessment and where—
 - (i) an application is made or treated as made which would but for that assessment result in a maintenance calculation being made,
 - (ii) the non-resident parent in relation to the application referred to in paragraph (i) is the absent parent in relation to the existing assessment, and
 - (iii) the person with care in relation to the application referred to in paragraph (i) is a different person to the person with care in relation to the existing assessment.

(2) For the purposes of paragraph (1)(b), “a related decision” is—

- (a) a maintenance calculation which falls to be made with respect to a person who is a relevant person in relation to the existing assessment, whether or not with respect to a different qualifying child;
- (b) a maintenance calculation which falls to be made with respect to the partner (“A”) of a person (“B”) who is a relevant person in relation to the existing assessment, where A or B is in receipt of a prescribed benefit and either—
 - (i) A is the non-resident parent in relation to the maintenance calculation and B is the absent parent in relation to the existing assessment, or
 - (ii) A is the person with care in relation to the maintenance calculation and B is the person with care in relation to the existing assessment;
- (c) a decision which falls to be made in a case where—
 - (i) the existing assessment is in force in relation to a person (“C”) and a maintenance calculation is in force in relation to another person (“D”),
 - (ii) C or D is in receipt of a prescribed benefit,
 - (iii) either—
 - (aa) C is the absent parent in relation to the existing assessment and D is the non-resident parent in relation to the maintenance calculation, or

(a) See S.I. 2001/155, reg. 4(2).

- (bb) C is the person with care in relation to the existing assessment and D is the person with care in relation to the maintenance calculation, and
- (iv) a decision relating to the prescribed benefit referred to in paragraph (ii) is superseded on the ground that C is the partner of D; or
- (d) a decision which falls to be made in a case where a person (“E”) and another person (“F”) become entitled to a prescribed benefit as partners, and where—
 - (i) E is the absent parent in relation to the existing assessment and F is the non-resident parent in relation to a maintenance calculation, or
 - (ii) E is the person with care in relation to the existing assessment and F is the person with care in relation to a maintenance calculation.

Appointed day for sections 3 and 19

4. 3rd March 2003 is the day appointed for the coming into force of sections 3 and 19, in so far as those provisions are not already in force, for the purpose of the following cases—

- (a) where, on or after 3rd March 2003, income support, an income-based jobseeker’s allowance or any other benefit prescribed for the purposes of section 6 of the 1991 Act as substituted by section 3 is claimed by or in respect of, or paid to or in respect of, the parent of a qualifying child who is also the person with care of the child, and when the claim is made—
 - (i) there is no maintenance assessment or maintenance calculation in force in respect of that parent, and
 - (ii) there has been no maintenance assessment in force during the previous 8 weeks in respect of that child;
- (b) where—
 - (i) before 3rd March 2003, section 6(1) of the 1991 Act, before its substitution by the Act, applied to the parent with care,
 - (ii) a maintenance assessment has been made with an effective date which is before 3rd March 2003, and
 - (iii) on or after 3rd March 2003 the parent with care withdraws her authorisation under that section 6(1) at a date when she continues to fall within that section 6(1);
- (c) where, immediately before 3rd March 2003, subsection (1) of section 6 of the 1991 Act, before its substitution by the Act, applied to the parent with care, and a maintenance assessment has not been made because—
 - (i) the Secretary of State was in the process of considering whether the parent with care should be required to give the authorisation referred to in that subsection;
 - (ii) subsection (2) of that section applied;
 - (iii) subsection (2) of that section did not apply and a reduced benefit direction was given under section 46(5) of the 1991 Act before its substitution by the Act; or
 - (iv) the parent with care failed to comply with a requirement imposed on her under subsection (1) of that section 6 and the Secretary of State was in the process of serving a notice or considering reasons given by the parent with care under section 46(2) or (3) of the 1991 Act before its substitution by the Act.

Appointed day for section 20

5. 3rd March 2003 is the day appointed for the coming into force of section 20, in so far as that section is not already in force, for the purposes of cases where an application for child support maintenance is made to the Secretary of State (whether or not in writing) and the effective date would be on or after 3rd March 2003.

Arts. 6-8

Art. 6 substituted by art. 2 of S.I. 2003/346 as from 22.2.03.

►Appointed day for section 23, and associated repeal

6.—(1) The day appointed for the coming into force of the provisions specified in paragraph (2) for the purposes of cases specified in paragraph (3) is—

- (a) as respects any case specified in paragraph (3)(a) where, before 3rd March 2003, relevant maintenance is paid or payable—
 - (i) where 3rd March 2003 is the day on which maintenance calculation in relation to that case takes effect, 3rd March 2003,
 - (ii) where the maintenance calculation in relation to that case takes effect on a day later than 3rd March 2003, that later day;
- (b) as respects any other case specified in paragraph (3)(a), 3rd March 2003;
- (c) as respect any case which is specified in paragraph (3)(b)—
 - (i) where 3rd March is the case conversion date in relation to that case, 3rd March 2003,
 - (ii) where a day later than 3rd March 2003 is the case conversion date in relation to that case, that later day;
- (d) as respect any case specified in paragraph (3)(c) which is referred to—
 - (i) in paragraph (a) of article 4, the day on which the claim for the benefit mentioned in that paragraph is made,
 - (ii) in paragraph (b) of that article, the day on which the Secretary of State is notified that the authorised mentioned in sub-paragraph (iii) of that paragraph is withdrawn,
 - (ii) in paragraph (c) of that article, 3rd March 2003;
- (e) as respect any case which is specified in sub-paragraph (d) of sub-paragraph (3), the day on which the maintenance referred to in that sub-paragraph is first paid.

(2) The provisions mentioned in paragraph (1) are—

- (a) section 23 (section 10 of the Child Support Act 1995(a) to cease to have effect); and
- (b) Part I of Schedule 9 in so far as it relates to the appeal of section 10 of the Child Support Act 1995.

(3) The cases mentioned in paragraph (1) are—

- (a) cases referred to in sub-paragraph (a) of article 3(1);
- (b) cases referred to in sub-paragraph (b) or (c) of article 3(1);
- (c) cases referred to in sub-paragraph (a), (b) or (c) of article 4;
- (d) cases to which sub-paragraphs (a) to (c) do not apply where, on or after 3rd March 2003, relevant maintenance is first paid.

(4) For the purposes of sub-paragraph (d) of paragraph (3), a case shall not be regarded as one to which that sub-paragraph does not apply by reason only of the fact that relevant maintenance was paid or payable before 3rd March 2003—

- (a) in respect of the care of a different child;
- (b) under an earlier agreement; or
- (c) by virtue of an earlier order of the court.

(5) In this article—

“case conversion date” means the date which is, by virtue of regulation 15 of the Child Support (Transitional Provisions) Regulations 2000(b), the case conversion date in relation to that case; and

“relevant maintenance” means maintenance, other than child support maintenance, which is paid or payable—

- (a) to a person who has the care of a child in the United Kingdom;
- (b) in respect of the care of the child; and
- (c) under an agreement (whether enforceable or not) between that person and the person by whom the maintenance is payable, or by virtue of an order of the court.◀

(a) 1995 c. 34.

(b) S.I. 2000/3186, amended by S.I. 2002/1204 and 2003/328 and 347.

Appointed day for coming into force of section 29, and Schedule 3, paragraph 11(15)

7. 3rd March 2003 is the day appointed for the coming into force of—
- (a) section 29 (interpretation, transitional provisions, savings, etc.) in so far as it is not already in force; and
 - (b) paragraph 11(15) of Schedule 3 (which substitutes subsection (2) in section 30 of the 1991 Act^(a)), and section 26 so far as it relates to that paragraph 11(15).

The effective date

8.—(1) For the purposes of this Order, “the effective date” means, in relation to any case, the date which would be the effective date of a maintenance assessment under regulation 30 or 33(7) of the Assessment Procedure Regulations (effective dates of new maintenance assessments, and maintenance periods) or regulation 3(5), (7) or (8) of the Arrangements and Jurisdiction Regulations (relationship between maintenance assessments and certain court orders), whichever would apply to the case in question, or would have applied had the effective date not fallen to be determined under regulation 8C or 30A of the Assessment Procedure Regulations^(b); and paragraphs (2) and (3) shall apply in relation to the application of those Regulations for this purpose.

(2) In the application of the Assessment Procedure Regulations for the purposes of paragraph (1), where, on or after 3rd March 2003, no maintenance enquiry form, as defined in those Regulations, is given or sent to the absent parent, those Regulations shall be applied as if references in regulation 30—

- (a) to the date when the maintenance enquiry form was given or sent to the absent parent were references to the date on which the absent parent is first notified by the Secretary of State (whether or not in writing) that an application for child support maintenance has been made in respect of which he is named as the absent parent; and
- (b) to the return by the absent parent of the maintenance enquiry form containing his name, address and written confirmation that he is the parent of the child or children in respect of whom the application was made were references to the provision of this information by the absent parent.

(3) In the application of the Arrangements and Jurisdiction Regulations for the purposes of paragraph (1), where, on or after 3rd March 2003, no maintenance enquiry form, as defined in the Assessment Procedure Regulations, is given or sent to the absent parent, regulation 3(8) shall be applied as if the reference to the date when the maintenance enquiry form was given or sent to the absent parent were to the date on which the absent parent is first notified by the Secretary of State (whether or not in writing) that an application for child support maintenance has been made in respect of which he is named as the absent parent.

Signed by authority of the Secretary of State for Work and Pensions.

3rd February 2003

P. Hollis
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) See S.I. 2001/155, reg. 4(2).

(b) S. 30(2) is not yet in force.

SCHEDULE

PROVISIONS BROUGHT INTO FORCE AS PROVIDED IN ARTICLE 3

Provision of the Act	Subject Matter
Section 1(1) and (2)	Maintenance calculations and terminology
Section 2	Applications under section 4 of the 1991 Act
Section 4	Default and interim maintenance decisions
Section 5	Departure from usual rules for calculating maintenance
Section 7	Variations: revision and supersession
Section 8	Revision of decisions
Section 9	Decisions superseding earlier decisions
Section 10	Appeals to appeal tribunals
Section 12	Information required by Secretary of State
Section 18	Financial penalties
Section 21	Recovery of child support maintenance by deduction from benefit
Section 22(4)	Jurisdiction
Section 25	Regulations
Schedule 1 and section 1(3)	Substituted Part I of Schedule 1 to the 1991 Act
Schedule 2 and section 6	Substituted Schedules 4A and 4B to the 1991 Act
Schedule 3, except for support paragraph 11(15), and section 26	Amendment of enactments relating to child
Part I of Schedule 9, except as respects the repeal of section 10 of the Child Support Act 1995, and section 85 so far as it relates to that Part I	Repeals and revocations (child support)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force further provisions of Part I of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”), and related repeals and revocations.

Section 2(1) and (2) of, and paragraph 11(4)(b)(i) and (ii) of Schedule 3 to, the 2000 Act are brought into force on 4th February 2003 for the purpose of authorising the making of regulations (article 2).

Provisions of the 2000 Act which amend the child support scheme as provided for by the Child Support Act 1991 (“the 1991 Act”) are commenced by article 3 for the purposes of cases –

- (a) where the liability for child support maintenance is determined, as provided in the Order (see the definition of “effective date” in article 1, and article 8), to begin on or after 3rd March 2003; or
- (b) where there is liability to pay child support maintenance under the scheme in force prior to 3rd March 2003 and a “related decision” (defined in article 3(2)) falls to be made in connection with a liability under the new scheme.

The main provisions commenced by article 3 for the purposes of the cases referred to above concern the maintenance calculation and applications under section 4 of the 1991 Act (sections 1 and 2 and Schedule 1), default and interim maintenance decisions and variations (sections 4 to 7 and Schedule 2), decision making and appeals (sections 8 to 10), information and financial penalties (sections 12 and 18), and recovery by deduction from benefits, and jurisdiction (sections 21 and 22(4)). In addition, article 3 commences, for the cases described above, section 25 (regulations), Schedule 3 (amendment of enactments) except for paragraph 11(15) of that Schedule, and associated repeals in Part I of Schedule 9.

Sections 3 and 19 of the 2000 Act (applications by those claiming or receiving benefit, and reduced benefit decisions), which substitute new sections 6 and 46 in the 1991 Act, are commenced by article 4 for the purposes of cases–

- (a) where there is no existing liability to pay child support maintenance and a parent with care claims income support or income-based jobseeker’s allowance, or other prescribed benefits, on or after 3rd March 2003; or
- (b) where section 6 of the 1991 Act, before its substitution, has applied.

Article 5 commences section 20 of the 2000 Act which inserts into the 1991 Act a new section 28J concerning voluntary payments. The commencement applies to cases where child support liability is determined, as described above, to begin on or after 3rd March 2003. Article 6 commences section 23 of the 2000 Act on 3rd March 2003, which provides that section 10 of the Child Support Act 1995 (relating to child maintenance bonus) is to cease to have effect. Section 29 (interpretation, transitional provision, savings, etc.) and paragraph 11(15) of Schedule 3 to the 2000 Act, which substitutes section 30(2) in the 1991 Act (concerning the collection of payments other than child support maintenance), are brought into force on 3rd March 2003 (article 7).

This Order does not impose any new costs on business.

[See Annex 2 to the Act as reproduced in Volume 1 of *The Law Relating to Social Security* on page 1.4102 for details as to earlier commencements.]

