

2012 No. 3002

FAMILY LAW

CHILD SUPPORT

**The Child Support Management of Payments and
Arrears (Amendment) Regulations 2012**

Made - - - - 28th November 2012

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 14(3), 41D(2) and (3), 41E, 51(1) and 52(4) of the Child Support Act 1991(a).

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 52(2)(a) and (2A)(b)(b) of that Act.

Commencement and citation

1. These Regulations may be cited as the Child Support Management of Payments and Arrears (Amendment) Regulations 2012 and come into force on the day on which sections 32 (power to accept part payment of arrears in full and final satisfaction) and 33 (power to write off arrears) of the Child Maintenance and Other Payments Act 2008(c) come into force.

[Regulation 2 inserts defn. to reg. 2 and Parts 4A and B to S.I. 2009/3151.]

[Regulation 3 inserts para. 13(1)(h) & (i) to S.I. 2008/2551.]

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

28th November 2012

Steve Webb
Minister of State
Department for Work and Pensions

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- (a) 1991 c. 48 (“the 1991 Act”). Sections 41D and 41E of the 1991 Act were inserted by sections 32 and 33 respectively, of the Child Maintenance and Other Payments Act 2008 (c. 6) (“the 2008 Act”) and amended by the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007) (“the 2012 Order”). Section 51 of the 1991 Act was amended by section 1(2) of the Child Support, Pensions and Social Security Act (c. 19).
- (b) Section 52(2)(a) of the 1991 Act was amended by section 57 of, and paragraph 22 of Schedule 7 to, the 2008 Act. Section 52(2A) of the 1991 Act was substituted by section 57 of, and paragraph 23 of Schedule 7 to, the 2008 Act.
- (c) 2008 c. 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Support (Management of Payments and Arrears) Regulations 2009 (“the 2009 Regulations”) and come into force on the day on which sections 32 and 33 of the Child Maintenance and Other Payments Act 2008 (c. 6) come into force.

Regulation 2(3) of these Regulations inserts Parts 4A and 4B into the 2009 Regulations. Part 4A makes provision in relation to the power to accept part payment of arrears in satisfaction of any arrears of child support maintenance under section 41D of the Child Support Act 1991 (“the 1991 Act”). Part 4B makes provision in relation to the power to extinguish liability in respect of arrears of child support maintenance under section 41E(1) of the 1991 Act.

In the inserted Part 4A of the 2009 Regulations, regulation 13B provides that where arrears of child support maintenance for which a person is liable comprise different amounts owed to different persons they are to be treated as separate amounts of arrears for the purpose of exercising the power under section 41D(1) of the 1991 Act.

Regulation 13C provides that the Secretary of State may not exercise the power contained in section 41D(1) of the 1991 Act without the appropriate consent unless certain conditions apply. The meaning of appropriate consent is set out in subsections (5) and (6) of section 41D of the 1991 Act.

Regulation 13D provides that where it is proposed to accept an offer of a part payment of arrears, the Secretary of State must set out the terms of the agreement in writing and send it to the non-resident parent, and where applicable, the appropriate person (as defined in regulation 13A). This regulation also provides that the non-resident parent must have agreed to the terms in writing, and where applicable, the appropriate person, must have given written consent to the Secretary of State.

Regulation 13E provides that while a non-resident parent is complying with the agreement, the Secretary of State must not take steps to recover the outstanding arrears to which the agreement relates. Once full payment has been made in accordance with the terms of the agreement then all remaining liability in respect of the arrears of child support maintenance to which the agreement relates is extinguished.

Where the agreement has not been adhered to, the Secretary of State may recover all outstanding arrears. However the Secretary of State may enter into a new agreement with the non-resident parent in respect of any arrears to which the previous agreement relates provided the new agreement complies with the requirements set out in regulations 13C and 13D.

In the inserted Part 4B of the 2009 Regulations, regulation 13F provides that where arrears of child support maintenance for which a person is liable comprise different amounts owed to different persons they are to be treated as separate amounts of arrears for the purpose of exercising the power under section 41E(1) of the 1991 Act.

Regulation 13G specifies the circumstances in which the Secretary of State may exercise the power in section 41E(1) of the 1991 Act.

Regulation 13H sets out the requirement to notify the parties before making a decision. It also provides that if no representations are received from the parties within 30 days of the notice being received by the relevant parties, the Secretary of State may make the decision to extinguish the arrears.

Regulation 13I provides that where the Secretary of State receives representations in response to a notice given under regulation 13H, the Secretary of State must take account of those representations in making a decision under section 41E of the 1991 Act.

Regulation 13J provides that on making a decision to write off arrears under section 41E(1) of the 1991 Act, the Secretary of State must send written notice to the non-resident parent and the person with care or, where relevant, a child in Scotland, of that decision.

Regulation 3 of these Regulations makes amendments to the Child Support Information Regulations 2008. These amendments provide for the disclosure by the Secretary of State of information held for the purposes of the 1991 Act relating to one party to a maintenance calculation to another party to that calculation. Any disclosure is permitted where, in the opinion of the Secretary of State, such information is essential to inform the party to whom it would be given as to why it was decided not to exercise power under either section 41D(1) (power to accept part payments in full and final satisfaction) or section 41E(1) (power to write off arrears) of the 1991 Act.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

