

**1994 No. 227**

**FAMILY LAW  
CHILD SUPPORT**

**The Child Support (Miscellaneous Amendments and  
Transitional Provisions) Regulations 1994**

*Made* - - - - - *3rd February 1994*  
*Coming into force* *7th February 1994*

Whereas a draft of this instrument was laid before Parliament in accordance with section 52(2) of the Child Support Act 1991(a) 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 by sections 16, 17(6)(b), 32(2)(c), 35(2)(b), 47, 51 and 52(4) of, and paragraphs 1(3), 4(1), 6(6) and 8 of Schedule 1 to, the Child Support Act 1991, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I  
GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations 1994 and shall come into force on 7th February 1994.

**PART II  
AMENDMENT OF REGULATIONS**

[Regulation 2(1) introduces amendments to S.I. 1992/1813.]

[Regulation 2(2) amends regulation 10(4) of S.I. 1992/1813.]

[Regulation 2(3) amends regulation 20(2) of S.I. 1992/1813.]

[Regulation 2(4) amends regulation 21(2) of S.I. 1992/1813.]

[Regulation 2(5) amends regulation 31(1) of S.I. 1992/1813.]

[Regulation 3(1) amends regulation 9(e) of S.I. 1992/1989.]

[Regulation 3(2) amends Table to paragraph 1 of Schedule 2 to S.I. 1992/1989.]

[Regulation 4(1) introduces amendments to S.I. 1992/1815.]

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(a) 1991 c.48.

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[Regulation 4(2) amends regulation 3(1)(b) of S.I. 1992/1815.]

[Regulation 4(3) amends regulation 6(1) of S.I. 1992/1815.]

[Regulation 4(4) amends regulation 11(1)(k) of S.I. 1992/1815.]

[Regulation 4(5) amends regulation 11(1) (l) of S.I. 1992/1815.]

[Regulation 4(6) amends regulation 23(2) of, and inserts regulation 23(2A) into, S.I. 1992/1815.]

[Regulation 4(7) amends regulation 23(3) of S.I. 1992/1815.]

[Regulation 4(8) amends paragraph 3(5) of Schedule 3 to S.I. 1992/1815.]

[Regulation 5(1) introduces amendments to S.I. 1992/3094.]

[Regulation 5(2) amends regulation 1(2) of S.I. 1992/3094.]

[Regulation 5(3) amends regulation 3(3) of S.I. 1992/3094.]

[Regulation 5(4) amends regulation 4(2) of S.I. 1992/3094.]

## PART III

## TRANSITIONAL PROVISIONS

6.—(1) In this Part and Part IV of these Regulations—

“the Act” means the Child Support Act 1991(a);

“excess” means the amount by which the formula amount exceeds the old amount;

“existing case” means a case in which before the date when these Regulations come into force, a maintenance assessment has been made which has an effective date which also falls before that date;

“formula amount” means the amount of child support maintenance that would, but for the provisions of this Part of these Regulations, be payable under the maintenance assessment in force on the date these Regulations come into force or, if there is no such assessment, under the first assessment to come into force on or after that date;

“new case” means a case in which the effective date of the maintenance assessment falls on or after the date when these Regulations come into force;

“old amount” means, subject to paragraph (2) below, the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in regulation 7(1)(a) below;

“pending case” means a case in which an application for a maintenance assessment has been made before the date when these Regulations come into force but no maintenance assessment has been made before that date;

“Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(b);

“transitional amount” means an amount determined in accordance with regulation 8 below; and

“transitional period” means a period of, where the formula amount does not exceed £60, 52 weeks, and in any other case 78 weeks, beginning—

(a) in relation to an existing case, with the day that the maintenance assessment in that case ►was reviewed or, as the case may be, a decision is made superseding an earlier decision ◀ following an application under regulation 10(1) to (3) below;

(b) in relation to a new case, the effective date of the maintenance assessment in that case;

Words substituted in defn. of “transitional period” by art. 32(a) of S.I. 1999/1510 as from 1.6.99.

(a) 1991 c.48.

(b) S.I. 1992/1813. The relevant amending instrument is S.I. 1993/913.

- (c) in relation to a pending case, the effective date of the maintenance assessment in that case or the date when these Regulations come into force, whichever is the later.

(2) In determining the old amount the Secretary of State shall disregard any payments in kind and any payments made to a third party on behalf of or for the benefit of the qualifying child or qualifying children or the person with care.

Words substituted in reg. 6(2) by art. 32(b) of S.I. 1999/1510 as from 1.6.99.

### Scope of this Part

7.—(1) Subject to paragraph (2) below, this Part of these Regulations applies to cases where—

- (a) on 4th April 1993, and at all times thereafter until the date when a maintenance assessment was or is made under the Act, there was in force, in respect of one or more of the qualifying children in respect of whom an application for a maintenance assessment was or is made under the Act and the absent parent concerned, one or more —
- (i) maintenance orders;
- (ii) orders under section 151 of the Army Act 1955(a) (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act 1955 (b) (deduction from pay for maintenance of wife or child) or arrangements corresponding to such an order and made under Article 1(b) or 3 of the Naval and Marine Pay and Pensions (Deductions for Maintenance) Order 1959(c); or
- (iii) maintenance agreements (being agreements which are made or evidenced in writing); and
- (b) the absent parent was on the relevant date and continues to be a member of a family, as defined in regulation 1(2) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(d), which includes one or more children;
- (c) the formula amount exceeds the old amount.

(2) Nothing in this Part of these Regulations applies to—

- (a) a Category A or Category D interim maintenance assessment within the meaning of regulation 8(3) of the Procedure Regulations(e) and made under section 12 of the Act; or
- (b) a case falling within the provisions of Part II of the Schedule to the Child Support Act 1991 (Commencement No. 3 and Transitional Provisions) Order 1992(f)(modification of maintenance assessment in certain cases); or
- (c) a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act which is made following a Category A or Category D interim maintenance assessment within the meaning of regulation 8 of the Procedure Regulations where that Category A or Category D interim maintenance assessment is made after 22nd January 1996.

Words inserted into reg. 7(2)(a) by reg. 60 of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

Words substituted, and word “or” deleted in reg. 7(2)(a) by reg. 51(2) of S.I. 1995/3261 as from 22.1.96. Word “or” and sub-para. (c) added to reg. 7(2) by reg. 51(3) and (4) respectively of S.I. 1995/3261 as from 22.1.96.

(3) In sub-paragraph (1)(b) above “the relevant date” means—

- (a) in an existing case, the date these Regulations come into force;
- (b) in a new case, the effective date of the maintenance assessment in that case; and
- (c) in a pending case, the effective date of the maintenance assessment in that case or the date on which these Regulations come into force, whichever is the later.

(a) 1955 c.18.

(b) 1955 c.19.

(c) This Order in Council is not a statutory instrument but copies may be obtained from the Ministry of Defence, Naval Pay (Pensions and Conditions of Service) Branch, Old Admiralty Building, Spring Gardens, London, SW1A 2BE.

(d) S.I. 1992/1815. The relevant amending instrument is S.I. 1993/913.

(e) Regulation 8(1B) was inserted by regulation 3(2) of S.I. 1993/913.

(f) S.I. 1992/2644. The relevant amending instrument is S.I. 1993/966.

**Transitional amount of child support maintenance**

**8.**—(1) In a case to which this Part of these Regulations applies the amount of child support maintenance payable under a maintenance assessment during the transitional period shall, instead of being the formula amount, be the transitional amount.

(2) The transitional amount is—

- (a) where the formula amount is not more than £60, an amount which is £20 greater than the old amount;
- (b) where the formula amount is more than £60—
  - (i) during the first 26 weeks of the transitional period, the old amount plus either 25 per centum of the excess or £20.00, whichever is the greater;
  - (ii) during the next 26 weeks of the transitional period, the old amount plus either 50 per centum of the excess or £40.00, whichever is the greater; and
  - (iii) during the last 26 weeks of the transitional period, the old amount plus either 75 per centum of the excess or £60.00, whichever is the greater.

(3) If in any case the application of the provisions of this Part of these Regulations would result in an amount of child support maintenance becoming payable which is greater than the formula amount, then those provisions shall not apply or, as the case may be, shall cease to apply to that case and the amount of child support maintenance payable in that case shall be the formula amount.

**PART IV****PROCEDURE ETC.****Interpretation**

**9.** In this Part of these Regulations “the Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(a).

**Procedure**

**10.**—(1) The provisions of Part III of these Regulations shall not apply to a case in which there is a maintenance assessment in force on the date they come into force unless the absent parent in relation to whom that assessment was made makes an application for a review of that assessment under section 17 of the Act ►before 1st June 1999 or an application on or after that date for a decision under section 17 of that Act superseding an earlier decision.◄

(2) Such an application must be made not later than 3 months after the date when these Regulations come into force, but if an application is made after that period it may be accepted if the Secretary of State is satisfied that there is good reason for its being made late.

►(3) Regulation 10(2) of the Procedure Regulations shall not apply in respect of a decision made solely for the purpose of applying Part III of these Regulations but instead the Secretary of State shall notify the relevant persons (as defined in regulation 1(2) of the Procedure Regulations) of the detail of how the provisions of Part III of these Regulations have been applied in that case.◄

**►Revision and supersession**

**11.**—(1) The provisions of the following paragraphs shall apply where the Secretary of State proposes to make a decision under section 16 (revision of decisions) or 17 (decisions superseding earlier decisions) of the Act with respect to a maintenance assessment under which the amount payable was the transitional amount.

(a) S.I. 1992/1813. The relevant amending instrument is S.I. 1993/913.

Words substituted in reg. 10 by art. 33 of S.I. 1999/1510 as from 1.6.99.

Reg. 11 substituted by art. 34 of S.I. 1999/1510 as from 1.6.99.

(2) Where a fresh maintenance assessment would be made by virtue of a decision under section 16 or 17 of the Act and the amount payable under that assessment (disregarding the provisions of Part III of these Regulations) (in this regulation called “the new formula amount”) would be -

- (a) more than the formula amount, the amount of child support maintenance payable shall be the transitional amount plus the difference between the formula amount and the new formula amount;
- (b) less than the formula amount but more than the transitional amount, the amount of the child support maintenance payable shall be the transitional amount;
- (c) less than the transitional amount, the amount of child support maintenance payable shall be the new formula amount.

(3) Regulations 21 and 22 of the Procedure Regulations shall apply as if the new formula amount were the amount which would be fixed in accordance with a decision superseding an earlier decision.

(4) Where the effective date of a fresh maintenance assessment made by virtue of a revision under section 16 of the Act or of a decision under section 17 of the Act superseding an earlier decision would, apart from this regulation, be before 18th April 1995—

- (a) the fresh maintenance assessment; and
- (b) the decision under section 16 or, as the case may be, section 17,

shall have effect as from 18th April 1995. ◀

▶ **Decisions consequent on the amendments made by Part II**

**12.—(1)** A fresh maintenance assessment shall not be made by virtue of a decision under section 17 of the Act superseding an earlier decision in consequence only of the amendments made by Part II of these Regulations where the amount of child support maintenance fixed by the assessment currently in force and the amount that would be fixed if a fresh assessment were to be made under that section is less than £1.00 a week.

(2) Except in relation to the amendment made by regulation 4(8) above, where a fresh maintenance assessment is made by virtue of a decision under section 17 of the Act superseding an earlier decision in consequence only of the amendments made by Part II of these Regulations, the date as from which—

- (a) the fresh maintenance assessment; and
- (b) the decision under section 16 or, as the case may be, section 17,

shall have effect shall be 7th February 1994. ◀



Reg. 12 substituted by art. 35 of S.I. 1999/1510 as from 1.6.99.

Regs. 13 & 14 revoked by art. 36 of S.I. 1999/1510 as from 1.6.99.

Signed by authority of the Secretary of State for Social Security.

3rd February 1994

*Alistair Burt*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part II of these Regulations makes amendments to various regulations concerned with child support maintenance under the Child Support Act 1991. Part III makes transitional provisions and Part IV makes provision for the procedure to be followed in consequence of the other provisions of the Regulations.

In Part II amendments are made to the Child Support (Maintenance Assessment Procedure) Regulations 1992 to alter the amount by which a fresh assessment must differ from the original assessment before it has effect and to make drafting changes (regulation 2). The Child Support (Collection and Enforcement) Regulations 1992 are amended to exclude interim maintenance assessments from the scope of regulation 9(e) which requires a deduction from earnings order to state the level of protected earnings and to make fresh provision for the determination of the amounts which may be charged when levying distress (regulation 3). The Child Support (Maintenance Assessments and Special Cases) Regulations 1992 are amended so as to alter the amounts which are to be taken into account in assessing child support maintenance (regulation 4). The Child Support Fees Regulations 1992 are amended to provide that a collection fee is payable in relation to an assessment made under section 6 of the Child Support Act only where the Secretary of State is providing services for the collection or enforcement of payment of child support maintenance (regulation 5).

Part III of the Regulations makes further provision for those cases where on the coming into force of the Child Support Act there was already in force a maintenance order or agreement. For cases fulfilling specified conditions transitional relief is provided for a period of up to 78 weeks.

Part IV makes provision about reviews of maintenance assessments to give effect to the other provisions of the Regulations and for notification of such reviews.

The changes made by these Regulations will involve some cost to businesses in those cases where a deduction from earnings order is in force. It is not possible to quantify this but it is expected to be negligible.