

2003 No. 2779

**FAMILY LAW
CHILD SUPPORT**

**The Child Support (Miscellaneous Amendments)
(No. 2) Regulations 2003**

Made - - - - 4th November 2003

Coming into force in accordance with regulation 1

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 resolution of each House of Parliament:

Now, therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 12(2), 16(1), 17(3), 28E(5), 42, 46, 51, 52 and 54 of, and paragraphs 4, 5, 6, 10(1) and 11 of Schedule 1 and paragraphs 2, 3(1)(b), 4(1)(b) and 5 of Schedule 4B to, the Child Support Act 1991(b) and section 29 of the Child Support, Pensions and Social Security Act 2000(c) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003 and shall come into force on the day after the day that they are made.

[Regulation 2 makes various amendments to S.I. 1996/2907.]

[Regulation 3 makes various amendments to S.I. 1992/1813.]

[Regulation 4 makes various amendments to S.I. 1992/1815.]

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- (a) 1991 48. S. 52(2) was amended by paragraph 15 of Schedule 3 to the Child Support Act 1995 (c. 34) and is substituted by s. 25 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”).
- (b) Section 12 was amended by section 11 of the Child Support Act 1995 and paragraph 25 of Schedule 7 to the Social Security Act 1998 (c. 14). Section 16 was substituted by section 40 of the Social Security Act 1998 and is amended by section 8 of the 2000 Act. Section 17 was substituted by section 41 of the Social Security Act 1998 and is amended by section 9 of the 2000 Act. Section 28E(5) was inserted by section 5 of the Child Support Act 1995. Section 42 is amended by paragraph 11(2) of Schedule 3 to the 2000 Act. Section 46 was amended by paragraph 12 of Schedule 3 to the Child Support Act 1995, paragraph 20(4) of Schedule 2 to the Jobseekers Act 1995 (c. 18) and paragraph 43 of Schedule 7 to the Social Security Act 1998 and is substituted by section 19 of the 2000 Act. Section 51 was amended by paragraph 46 of Schedule 7 to the Social Security Act 1998 and is amended by paragraph 11(19) of Schedule 3 to the 2000 Act. Paragraphs 4 and 10(1) of Schedule 1 are substituted by Schedule 1 to the 2000 Act. Paragraph 5 of Schedule 1 was amended by paragraph 20(7) of Schedule 2 to the Jobseekers Act 1995 and is substituted by Schedule 1 to the 2000 Act. Schedule 4B was inserted by Schedule 2 to the Child Support Act 1995 and substituted by Part II of Schedule 2 to the 2000 Act. Section 54 is cited because of the meaning ascribed to “prescribed”. See also S.I. 2003/192 (C.11).
- (c) 2000 c. 19.

[Regulation 5 makes various amendments to S.I. 2001/157.]

[Regulation 6 makes various amendments to S.I. 2001/155.]

[Regulation 7 makes various amendments to S.I. 2000/3186.]

[Regulation 8 makes amendments to S.I. 2001/156.]

Savings

9. Regulations 1(3), 40 and 40ZA of the Child Support (Maintenance Assessment Procedure) Regulations 1992 and regulations 8(2)(b), 14 and 15 of the Child Support (Maintenance Calculation Procedure) Regulations 2000 shall continue to have effect in relation to a person to whom any of those provisions applied before the date these Regulations come into force as if regulations 3(2), (4) and (5) and 5 of these Regulations had not come into force.

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

4th November 2003

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the amendment of regulations relating to child support.

The powers exercised to make these Regulations are those contained in the Child Support Act 1991 (“the 1991 Act”). Some of those powers are conferred by provisions of the 1991 Act prior to the amendments made to the 1991 Act by the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”), which amendments are not yet fully in force, and relate to the child support scheme which was in force prior to 3rd March 2003 and which remains in force for the purposes of certain cases (“the old scheme”). Other powers are conferred by provisions of the 1991 Act as amended by the 2000 Act, which relate to the child support scheme provided for by those amendments, which came into force for the purposes of specified categories of cases on 3rd March 2003 (see the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003) (“the new scheme”).

Regulations 2, 3(3), 4(2)(e), (4) and (7)(a) amend, respectively, the Child Support Departure Direction and Consequential Amendments Regulations 1996, the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the Assessment Procedure Regulations”) and the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (“the Assessments and Special Cases Regulations”), all of which relate to the old scheme, in consequence of the introduction of state pension credit.

Regulations 3(2), (4) and (5) and 5 respectively amend the Assessment Procedure Regulations, which relate to the old scheme, and the Child Support (Maintenance Calculation Procedure) Regulations 2000, which relate to the new scheme. The amendments are made in consequence of the abolition of the residential allowance in

income support and income-based jobseeker's allowance and other changes resulting from the coming into force of the Care Standards Act 2000 and the Regulation of Care (Scotland) Act 2001. Regulation 9 makes savings provisions in respect of the amendments made by regulations 3(2), (4) and (5) and 5.

Regulations 4(2)(a) to (d), (3) and (5) and 6(2)(a) to (d) and (4) respectively amend the Assessments and Special Cases Regulations and the Calculations and Special Cases Regulations to reflect changes in terminology introduced in the Care Standards Act 2000 and the Regulation of Care (Scotland) Act 2001 and make provision for how persons who are in a care home or an independent hospital or who are being provided with a care home service or an independent health care service should be treated for child support purposes.

Regulations 4(6) and (7)(b) and (d) and 6(2)(g) and (3) respectively amend the Assessments and Special Cases Regulations, which relate to the old scheme, and the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 ("the Calculations and Special Cases Regulations"), which relate to the new scheme. The amendments provide for a war widower's pension to be treated for child support purposes in the same way as a war widow's pension is to be treated under provisions already in force and for the treatment for child support purposes of specific payments for war widows and widowers.

Regulation 4(7)(c) amends the provision in the Assessments and Special Cases Regulations which provides that specified payments from local authorities or the National Assembly for Wales shall not be counted as income for child support purposes.

In the Calculations and Special Cases Regulations, regulation 6(2)(e) amends the definition of "occupational pension scheme", regulation 6(2)(f) substitutes the definition of "training allowance" and regulation 6(5) amends the provision for cases where a non-resident parent is liable to pay child support maintenance as well as child maintenance under a court order in respect of a different child.

Regulation 7 amends the Child Support (Transitional Provisions) Regulations 2000 ("the Transitional Regulations"), which make provision for the conversion of cases from the old scheme to the new scheme. Regulation 7(2) and (6) amends provisions in respect of the "maximum transitional amount", which is the most a non-resident parent can be required to pay in child support maintenance, to make provision for cases where regulation 22 of the Transitional Regulations or regulation 26 of the Child Support (Variations) Regulations 2000 ("the Variations Regulations") applies. Regulation 7(3) amends regulation 7(g)(ii) of the Transitional Regulations to link the ground set out in that provision to the making of an application for a variation in relation to the same transfer of capital or property as has been taken into account as a "relevant property transfer" in the conversion decision. Regulation 7(4) amends the Transitional Regulations to ensure that a relevant property transfer and a variation cannot be in force at the same time in relation to the same property or capital transfer. Regulation 7(5) and (7) amends regulations 24 and 27 of the Transitional Regulations respectively to make provision for specific cases where a subsequent decision is made.

Regulation 8 makes an amendment to the Variations Regulations, which relate to the new scheme, in consequence of the amendment made by regulation 7(4).

These Regulations do not impose any costs on business.

