

**2004 No. 2415**

**FAMILY LAW**

**CHILD SUPPORT**

**The Child Support (Miscellaneous Amendments)  
Regulations 2004**

*Made - - - - 15th September 2004*

*Coming into force in accordance with regulation 1(2)*

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 14(3), 16(1)(a), 17(3), 28B(2)(c), 51, 52(4) and 54 of, and paragraphs 5, 6(2), (4) and (6), 9(d), 10(1) and 11 of Schedule 1, paragraphs 1 and 2(a) of Schedule 4A and paragraphs 5(1) and 6 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.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations 2004.

(2) These Regulations shall come into force as follows—

(a) subject to sub-paragraph (b), these Regulations shall come into force on the day after the day that they are made;

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(a) 1991 c. 48. Section 52(2) was amended by section 30(5) of, and paragraph 15 of Schedule 3 to, the Child Support Act 1995 (c. 34) and is substituted by section 25 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”).

(b) Section 14(3) was amended by section 86(1) of, and paragraph 27(b) of Schedule 7 to, the Social Security Act 1998 (c. 14). Section 16(1) was substituted by section 40 of the Social Security Act 1998 and is amended by section 8(2) of the 2000 Act. Section 17(3) was substituted by section 41 of the Social Security Act 1998. Section 28B was inserted by section 2 of the Child Support Act 1995 and is substituted by section 5(2) of the 2000 Act. Section 51 was amended by section 86(1) of, and paragraph 46 of Schedule 7 to, the Social Security Act 1998 and is amended by section 1(2) of, and paragraph 11(19) of Schedule 3 to, the 2000 Act. Paragraph 5 of Schedule 1 was amended by section 41(4) of, and paragraph 20(7) of Schedule 2 to, the Jobseekers Act 1995 (c. 18) and is substituted by section 1(3) of, and Schedule 1 to, the 2000 Act. Paragraph 10(1) of Schedule 1 is substituted by section 1(3) of, and Schedule 1 to, the 2000 Act. Paragraph 11 of Schedule 1 was amended by section 1(2) of the 2000 Act. Schedule 4A was inserted by section 1(2) of, and Schedule 1 to, the Child Support Act 1995 (c. 34), amended by section 86(1) of, and paragraph 53 of Schedule 7 to, the Social Security Act 1998 and is substituted by section 6(1) of, and Part I of Schedule 2 to, the 2000 Act. Schedule 4B was inserted by section 6(2) of, and Schedule 2 to, the Child Support Act 1995 and is substituted by section 6(2) of, and Part II of Schedule 2 to, the 2000 Act. Section 54 is cited for the meaning ascribed to the word “prescribed”. *See also* S.I. 2003/192 (c. 11).

(c) 2000 c. 19.

- (b) regulations 2 and 3 shall come into force—
- (i) except for the purposes of any type of case referred to in head (ii), on the day after the day that they are made; and
  - (ii) for the purposes of any type of case which is not one in relation to which 3rd March 2003 is the day appointed for the coming into force of sections 1(2), 8 and 9 of, and paragraph 11(2) and (7) of Schedule 3 to, the Child Support, Pensions and Social Security Act 2000(a), on the day on which those provisions come into force in relation to that type of case.

[Regulation 2 amends regulation 6B of S.I. 1999/991.]

[Regulation 3 amends regulation 8 of S.I. 1992/1812.]

[Regulation 4 amends regulation 17 of S.I. 1992/1813.]

[Regulation 5 amends Schedules 1, 2 and 3B of S.I. 1992/1815.]

[Regulation 6 amends regulation 29 of S.I. 2001/157.]

[Regulation 7 amends regulation 5 and the Schedule of S.I. 2001/155.]

[Regulation 8 makes various amendments to S.I. 2000/3186.]

[Regulation 9 makes various amendments to S.I. 2001/156.]

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

15 September 2004

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

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#### 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 that Act by the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”), which amendments are not 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”).

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(a) S.I. 2003/192 (c. 11), the relevant amending instrument is S.I. 2003/346 (c. 21).

Regulation 2 amends regulation 6B of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the Decisions and Appeals Regulations”). Regulation 2(2)(a) amends regulation 6B(3) of the Decisions and Appeals Regulations to provide that where the application for supersession is made on more than one ground, if one of the grounds which does not relate to the net income of the non-resident parent leads to a supersession, regulation 6B of those Regulations shall not apply to the ground which relates to the net income of the non-resident parent. Regulation 2(2)(b) adds a new paragraph (5) to regulation 6B of the Decisions and Appeals Regulations. This paragraph provides that where there has been an earlier application for a supersession to which paragraph (1) of that regulation 6B applied, and there is a later application for supersession on a ground other than that relating to the net income of the non-resident parent, the superseding decision may be made on the basis that the earlier application was made at the same time as the later application. This amendment applies to the new scheme.

Regulation 3 amends the Child Support (Information, Evidence and Disclosure) Regulations 1992 to clarify that the Secretary of State may disclose information to all the parties to an appeal for the purposes of an appeal to an appeal tribunal. This amendment applies to the old scheme and the new scheme.

Regulation 4 amends regulation 17 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 which relate to the old scheme. This regulation adds a new sub-paragraph (f) to regulation 17(1) of those Regulations to provide a new ground for revision in a case where an appeal is made within the time limits provided for in regulations 31 and 32 of those Regulations and that appeal has not been determined.

Regulation 5 amends the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 which relate to the old scheme. Regulation 5(2) inserts a new head (gg) into paragraph 1(1) of Schedule 1 to those Regulations to provide that any statutory paternity pay or any statutory adoption pay (under Parts 12ZA and 12ZB of the Social Security Contributions and Benefits Act 1992 (c. 4), respectively) are brought within the definition of “earnings” in the case of employment as an employed earner for the purposes of calculating “net income” of an absent parent and a parent with care. Regulation 5(3) inserts a new paragraph 36A into Schedule 2 to those Regulations to provide for sums payable to a child in respect of financial assistance given, or given under arrangements made, by the Secretary of State or the National Assembly for Wales under section 14 of the Education Act 2002 (c. 32), to be disregarded when calculating the net income of the absent parent or the parent with care. Regulation 5(4)(a) and (b) makes amendments to paragraphs 1, 7, 14 and 20 of Schedule 3B to those Regulations to provide for the calculation of costs in respect of travelling between home and work to be made in metric equivalents. Regulation 5(4)(c) makes minor technical amendments.

Regulation 6 amends the Child Support (Maintenance Calculation Procedure) Regulations 2000 which relate to the new scheme. Regulation 6(2) adds a new sub-paragraph (d) to regulation 29(1) of those Regulations to provide effective dates for a maintenance calculation which is made in response to an application where there is at the time of that application a maintenance calculation in force in relation to the same non-resident parent and a different person with care and that maintenance calculation ceases to have effect. Regulation 6(3) makes an amendment consequent upon the amendment made by regulation 6(2), to regulation 31(1)(c) of those Regulations.

Regulation 7 amends the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 which relate to the new scheme. Regulation 7(2) omits paragraph (i) from regulation 5 of those Regulations consequent upon the amendment made by regulation 7(5). Regulation 7(3) inserts a head (dd) into paragraph 4(1) of the Schedule to those Regulations to provide that any statutory paternity pay or any statutory adoption pay are brought within the definition of “earnings” in the case of employment as an employed earner for the purposes of calculating the “net weekly income” of a non-resident parent. Regulation 7(4) adds a new Part VI to the Schedule to those Regulations to include benefits, pensions and allowances prescribed under paragraph 4(1)(b) and (c) of Schedule 1 to the 1991 Act, paid to a non-resident parent or his partner, in the list of payments which are aggregated to calculate the net weekly income of the non-resident parent, for the

purposes of establishing whether that non-resident parent is a person to whom paragraph 5(b) of Schedule 1 to the 1991 Act applies.

Regulation 8 amends the Child Support (Transitional Provisions) Regulations 2000 (“the Transitional Regulations”). Regulation 8(2) amends the interpretation provision of those Regulations. Regulation 8(3) amends regulation 3(2) of those Regulations to provide that where the Secretary of State supersedes under regulation 3(1)(a) or (b) in a case to which regulation 5(b) applies he will (where he is unable to make the decision on the basis of the information held at the calculation date) use the information used or considered to make the maintenance assessment to be superseded. Regulation 8(4) inserts a new regulation 4A into those Regulations to provide that where an adjustment has been made to a maintenance assessment it may be revised or superseded under the Decisions and Appeals Regulations. Regulation 8(5) inserts a new regulation 5A into the Transitional Regulations to provide that regulation 5 applies in the same way to a decision of the Secretary of State acting on his own initiative to revise or supersede a maintenance assessment, an interim maintenance assessment or a departure direction. Regulation 8(8)(a) makes an amendment to regulation 16(1)(b) of those Regulations consequent upon that made by regulation 8(2). Regulation 8(6) makes an amendment consequent upon that made by regulation 8(7). Regulation 8(7) inserts new regulations 9A and 9B into those Regulations. Regulation 9A provides that where there has been an adjustment made to a maintenance assessment, it may be applied to the new amount or transitional amount payable under a conversion decision, where the overpayment remains on the case conversion date and the Secretary of State considers it appropriate in all the circumstances. In a case where there is more than one parent with care the adjustment to the conversion decision shall only apply to the parent with care in respect of whom the maintenance assessment was made. Regulation 9B provides that where there are arrears of child support maintenance payable under a maintenance assessment and the Secretary of State has attributed a payment of that maintenance, it may be applied to the new amount or transitional amount payable under a conversion decision where the arrears are outstanding on the case conversion date. Regulation 8(8)(b) makes a minor technical amendment to regulation 16. Regulation 8(9) amends regulation 27 to make provision for specific cases where a subsequent decision is made.

Regulation 9 makes amendments to the Child Support (Variations) Regulations 2000. Regulation 9(2) inserts a new definition of “partner” into regulation 1(2) of those Regulations. Regulation 9(3) makes an amendment consequent upon that made by regulation 9(2). Regulation 9(4) makes a minor technical amendment.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.