

2005 No. 785

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendments)
Regulations 2005**

Made - - - - 15th March 2005

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 10(1), 17(3) and (5), 28B(2)(c), 42(1), 51, 52(4) and 54 of, and paragraphs 4(1)(b), 5, 6(2), (4) and (6), 7(3), 9(d) and 10(1) of Schedule 1, and paragraphs 2 and 4(1) 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 2005.

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

- (a) subject to sub-paragraphs (b) and (c), on the day after the day that they are made;
- (b) regulation 2 shall come into force—

(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 10(1) was amended by section 1(2)(a) of the 2000 Act. Section 17(3) and (5) was substituted by section 41 of the Social Security Act 1998 (c. 14). Section 28B was inserted by section 2 of the Child Support Act 1995, is substituted by section 5(2) of the 2000 Act and is modified by regulations made under section 28G(2)(b), as substituted by section 7 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 4(1)(b) of Schedule 1 is substituted by section 1(3) of, and Schedule 1 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. 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.

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- (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 section 1(2)(a) of the Child Support, Pensions and Social Security Act 2000(a), on the day on which that provision comes into force in relation to that type of case;
- (c) regulation 8(2), (4), (5) and (6), on 6th April 2005.

[Regulation 2 inserts regulation 8A into S.I. 1992/2645.]

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

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

[Regulation 5 amends regulation 10 of 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 various amendments to S.I. 2001/156.]

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

15th March 2005

Patricia 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 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 and 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”).

Regulation 2 amends the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992, which are old and new scheme regulations, to insert a new regulation 8A (which only applies to the new scheme), which provides for payments due and made under a maintenance order to be treated as child support maintenance where those payments have been made under that order after the date on which a maintenance calculation took effect and the maintenance order has ceased to have effect under regulation 3 of those Regulations.

(a) S.I. 2003/192 (C. 11).

Regulation 3 amends the Child Support (Maintenance Assessment Procedure) Regulations 1992, which are old scheme regulations. Paragraph (2) inserts definitions of “family” and “partner” into regulation 1(2) of those Regulations. Paragraph (3) makes a consequential amendment to regulation 8(3) of those Regulations. Paragraph (4) makes a consequential amendment to regulation 20(3) of those Regulations. Paragraph (5) inserts new paragraphs (21) and (22) into regulation 23 of those Regulations. That paragraph (21) makes provision for the effective date of a decision where a person with care has ceased to be the person with care in relation to a qualifying child in respect of whom the maintenance assessment was made, being the date that person so ceased to be the person with care in relation to that child and that paragraph (22) disapplies the provisions of regulation 21 of those Regulations where a superseding decision is made and the circumstances set out in regulation 23(19) and (21) of those Regulations apply.

Regulation 4 amends the Child Support (Maintenance Assessments and Special Cases) Regulations 1992, which are old scheme regulations. Paragraph (2) makes clarifying amendments. Paragraph (3)(a) inserts a new paragraph 18A of Schedule 2 to those Regulations providing for a new disregarded amount where a payment is made in respect of a parent under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004. Paragraph (3)(b) makes a consequential amendment. Paragraph (3)(c) extends the disregard in paragraph 25 of Schedule 2 to those Regulations to apply to payments made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 and sub-paragraph (d) inserts a new paragraph 25A for the disregard of payments made under section 14F of the Children Act 1989 where a special guardianship order has been made. Paragraph (4) adds the Armed Forces (Pensions and Compensation) Act 2004 to the list of enactments under which awards made in respect of disablement are cases where child support maintenance is not to be payable.

Regulation 5 amends the Child Support (Maintenance Calculation Procedure) Regulations 2000, which are new scheme regulations, to make a clarifying amendment.

Regulation 6 amends the Child Support (Maintenance Calculations and Special Cases) Regulations 2000, which are new scheme regulations. Other than paragraph (4) all the amendments made by this regulation either mirror those made to the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 or make clarifying or consequential amendments. Paragraph (4) amends regulation 11(1) of those Regulations extending that special case where the circumstances are that an application for child support maintenance has been made (or treated as made) and the non-resident parent in respect of whom the application was made is liable for payments of maintenance for a different child under the terms of an order of a court outside Great Britain, or under the legislation of a jurisdiction outside the United Kingdom.

Regulation 7 amends the Child Support (Transitional Provisions) Regulations 2000 which make provision for the conversion of cases from the old to the new scheme. Paragraph (2) makes a clarifying amendment and paragraph (3) amends regulation 27 of those Regulations making provision for the amount payable where there is a “subsequent decision” made during the transitional period and the consequence of that decision is that there is only one person with care in relation to the non-resident parent where previously there had been more than one.

Regulation 8 amends the Child Support (Variations) Regulations 2000 (“the Variations Regulations”), which are new scheme regulations. Paragraph (3) substitutes regulation 11(3) of those Regulations to make provision to take into account financial assistance paid in respect of the long-term illness or disability of a relevant other child or disability living allowance paid on behalf of that child, to a member of the non-resident parent’s household where there is an application for a variation for special expenses for that relevant other child. Paragraph (5) extends the ground in regulation 19 of those Regulations for a variation for income not taken into account to a case where the non-resident parent has the ability to control the amount of income he receives from a company or business and the Secretary of State is satisfied he is receiving income which would not otherwise fall to be taken into account under the Child Support (Maintenance Calculations and Special Cases) Regulations 2000.

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Paragraph (5)(b) makes provision for a threshold for a variation in relation to each specified case under regulation 19(1) and (1A) of those Variations Regulations, or an aggregated amount where both cases apply. Paragraph (5)(c) makes a consequential amendment to, and omits words from, regulation 19(4) of those Regulations. Paragraph (5)(d) sets out the amount of income to be taken into account where a variation is made under regulation 19(1A) of those Regulations. Paragraphs (2), (4) and (6) make consequential amendments.

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