

2008 No. 2544

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2008

Made - - - - 26th September 2008
Laid before Parliament 1st October 2008
Coming into force - 27th October 2008

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 29(2), (4), (6) and (7), 32(2)(bb), 51(1) and (2)(b), 52(4) and 54 of, and paragraphs 10(1) and (2) and 11 of Schedule 1 to the Child Support Act 1991(a) and section 29 of the Child Support, Pensions and Social Security Act 2000(b) makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) (No. 2) Regulations 2008 and shall come into force on 27th October 2008.

(2) In these Regulations—

“the Act” means the Child Support Act 1991;

“the Collection and Enforcement Regulations” means the Child Support (Collection and Enforcement) Regulations 1992(c);

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

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999(e);

“the Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations 2000(f);

“the Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(g); and

“the Transitional Provisions Regulations” means the Child Support (Transitional Provisions) Regulations 2000(h).

(a) 1991 c. 48. Subsections (4) to (7) of section 29 are inserted into that section by section 20 of the Child Maintenance and Other Payments Act 2008 (c. 6). Section 32(2)(bb) is inserted into section 32 by paragraph 11(16) of Schedule 3 to the Child Support, Pensions and Social Security Act 2000 (c. 19). Section 54 is cited for the meaning given to the word “prescribed”.

(b) 2000 c. 19.

(c) S.I. 1992/1989.

(d) S.I. 1992/1813.

(e) S.I. 1999/991.

(f) S.I. 2001/157.

(g) S.I. 2001/155.

(h) S.I. 2000/3186.

[Regulation 2 amends S.I. 1992/1989.]

[Regulation 3 amends S.I. 1999/991.]

[Regulation 4 amends S.I. 1992/1813.]

[Regulation 5 amends S.I. 2001/157.]

[Regulation 6 amends S.I. 2001/155.]

[Regulation 7 amends S.I. 2000/3186.]

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

26th September 2008

Stephen C. Timms
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

The powers exercised to make these Regulations are those contained in the Child Support Act 1991 (c. 48) (“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 (c. 19) (“the 2000 Act”), some of 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 current scheme”). These Regulations also exercise powers inserted into the 1991 Act by the Child Maintenance and Other Payments Act 2008 (c. 6).

Regulation 2 amends the Child Support (Collection and Enforcement) Regulations 1992 (“the Collection and Enforcement Regulations”).

Regulation 2(2) amends regulation 3 of the Collection and Enforcement Regulations to make provision omitting a voluntary deduction from earnings arrangement from the methods of payment which may be specified by the Secretary of State, for the Secretary of State to specify a deduction from earnings order (“an order”) as a method of payment and paragraph (2)(b) makes a consequential amendment. Paragraph (2)(c) inserts new paragraphs (3) to (9) in regulation 3 of those Regulations providing for that method not to be used where there is good reason not to use it, the matters which are, and are not, to be taken into account and the circumstances which are to be regarded as existing, when determining whether there is good reason not to use that method of payment, the period during which that method may not be specified and makes provision which allows the Secretary of State to make an order where it considers it is appropriate in the circumstances of the case, unless it has specified an order as a method of payment. These amendments apply to the old scheme and the current scheme.

Regulation 2(3) amends regulation 11 of the Collection and Enforcement Regulations to insert new paragraphs (5) to (8). These paragraphs set out how the protected earnings rate is to be calculated where a liable person has more than one employer and the Secretary of State makes a deduction from earnings order against that person in respect of more than one employer. These amendments apply to the old scheme.

Regulation 2(4) amends regulation 22 of the Collection and Enforcement Regulations inserting new paragraphs (2A), (3A) and (5). Inserted paragraph (2A) provides that such an appeal is to be made within 28 days of the date on which that decision is given or sent to the liable person, inserted paragraph (3A) provides that a liable person may appeal against the decision of the Secretary of State that the exclusion required by regulation 3(3) (that a deduction from earnings order is not to be used as a method of payment where there is good reason not to use it) does not apply and inserted paragraph (5) provides that on an appeal where the magistrates' court or the sheriff is satisfied that the appeal should be allowed it is to refer the case to the Secretary of State to specify the method of payment. These amendments apply to the old scheme and the current scheme.

Regulation 3 amends regulation 3A of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 to add new paragraphs (8) and (9). Inserted paragraph (8) extends the categories of case to which section 16 of the 1991 Act applies to a decision of the Secretary of State not to make a maintenance calculation. This amendment applies to the current scheme.

Regulation 4 amends regulation 30A of the Child Support (Maintenance Assessment Procedure) Regulations 1992 to insert new paragraphs (8) and (9). The effect of this is to enable the effective date of a maintenance calculation to be aligned with the first day of the maintenance period of a maintenance calculation or assessment that has previously been, but has ceased to be, in force in relation to the non-resident parent. This amendment applies to the old scheme.

Regulation 5 amends the Child Support (Maintenance Calculation Procedure) Regulations 2000 to insert regulation 29B. This has the same effect as regulation 4 but in relation to the current scheme.

Regulation 6 amends paragraph 6(3) of the Schedule to the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 to omit the words "made in anticipation of the calculation of profits" from that paragraph so that, where a person receives a commission or bonus as part of their earnings, that commission or bonus does not have to be made in anticipation of the calculation of profits to be taken into account under that paragraph for the purposes of calculating net income. This amendment applies to the current scheme.

Regulation 7 amends the Child Support (Transitional Provisions) Regulations 2000 ("the Transitional Provisions Regulations") by removing sub-paragraph (b)(ii) of regulation 15(3A). This means that child support cases will no longer be converted in accordance with regulation 15(2) of the Transitional Provisions Regulations if a maintenance calculation is made with respect to a person with care who is living with someone who is a person with care in relation to a maintenance assessment. This amendment is consequential upon the repeal of section 10 of the Child Support Act 1995, abolishing the Child Maintenance Bonus.

A full impact assessment has not been produced for this instrument as it has only a negligible impact on the private and voluntary sectors.

