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STATUTORY INSTRUMENTS

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**1996 No. 3196**

**FAMILY LAW**

**CHILD SUPPORT**

**The Child Support (Miscellaneous  
Amendments) (No. 2) Regulations 1996**

*Made - - - - 18th December 1996*

*Coming into force - - 13th January 1997*

Whereas a draft of this instrument was laid before Parliament in accordance with section 52(2) of the Child Support Act 1991<sup>M1</sup>, 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 12(2) and (3), 17(6) and (7), 21(2), 46(11), 47,51,52, and 54 of, and paragraphs 5(1), (2), and (4), 6(4), 8, and 11 of Schedule 1 to the Child Support Act 1991<sup>M2</sup>, and all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992<sup>M3</sup>, hereby makes the following Regulations:

**Marginal Citations**

**M1** 1991 c.48.

**M2** Section 54 is cited because of the meaning ascribed to the word "prescribed".

**M3** 1992 c.53.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 and shall come into force on 13th January 1997

(2) In these Regulations—

“the Act” means the Child Support Act 1991;

“the Appeal Regulations” means the Child Support Appeal Tribunals (Procedure) Regulations 1992<sup>M4</sup>;

“the Fees Regulations” means the Child Support Fees Regulations 1992<sup>M5</sup>;

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992<sup>M6</sup>;

“the Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 <sup>M7</sup>.

#### **Marginal Citations**

**M4** S.I. 1992/2641; amended by S.I. 1995/1045, 1996/182, 1945 and 2450.

**M5** S.I. 1992/3094; amended by S.I. 1994/227 and 1995/1045.

**M6** S.I. 1992/1813; amended by S.I. 1993/913, 1994/227, 1995/1045 and 3261 and 1996/1345, 1945, 2344 and 2538.

**M7** 1992/1815; amended by S.I. 1993/913, 1994/227, 1995/1045 and 3261, and 1996/481, 1345, and 1945.

### **Substitution of regulation 2 of the Appeal Regulations**

2.—(1) For regulation 2 of the Appeal Regulations (service of notices or documents) there shall be substituted the following regulation—

“2.—(1) Where by any provision of the Act or of these Regulations any notice or other document is required to be given or sent—

- (a) for the purpose only of lodging an appeal or application, to the Secretary of State; or
- (b) to the clerk to the tribunal,

that notice or document shall be treated as having been so given or sent on the day that it is received by the Secretary of State or by the clerk to the tribunal, as the case may be.

(2) Where by any provision of the Act or of these Regulations any notice or other document is required to be given or sent to any person other than—

- (a) for the purpose only of lodging an appeal or application, the Secretary of State; or
- (b) the clerk to the tribunal,

that notice or document shall, if sent by post to that person’s last known address, be treated as having been given or sent on the day that it was posted.

(3) The provisions of paragraph (2) shall apply to a summons or a citation issued under regulation 10.”.

### **Amendment of regulation 3 of the Appeal Regulations**

3.—(1) Regulation 3 of the Appeal Regulations (making an appeal or application and time limits) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2), for the words “clerk to the tribunal at the Central Office” there shall be substituted the words “Secretary of State”.

(3) After paragraph (2), there shall be inserted the following paragraph—

“(2A) The sending or delivering referred to in paragraph (2) shall be effected by sending or delivering the notice to the Child Support Agency Appeals Unit at R Block, Government Buildings, Moorland Road, Lytham St Anne’s FY8 322.”.

### **Amendment of regulation 3 of the Fees Regulations**

4. In paragraph (3A) of regulation 3 of the Fees Regulations (liability to pay fees) <sup>M8</sup> for “1997” there shall be substituted “1999”.

**Marginal Citations**

**M8** Paragraph (3A) was inserted into regulation 3 by [S.I. 1995/1045](#).

**Amendment of regulation 1 of the Maintenance Assessment Procedure Regulations**

5. In paragraph (6)(b) of regulation 1 of the Maintenance Assessment Procedure Regulations (citation, commencement and interpretation), after the words “to any” there shall be inserted the word “other”.

**Amendment of regulation 8D of the Maintenance Assessment Procedure Regulations**

6. For paragraph (8) of regulation 8D of the Maintenance Assessment Procedure Regulations (miscellaneous provisions in relation to interim maintenance assessments) <sup>M9</sup> there shall be substituted the following paragraph—

“(8) Where the information or evidence referred to in paragraph (6)(a) or (b) is that there has been an award of income support or an income-based jobseeker’s allowance, the Secretary of State shall be treated as having received that information or evidence on the first day in respect of which income support or an income-based jobseeker’s allowance was payable under that award.”.

**Marginal Citations**

**M9** [Regulation 8D](#) was inserted by [S.I. 1995/3261](#).

**Amendment of regulation 20 of the Maintenance Assessment Procedure Regulations**

7.—(1) Regulation 20 of the Maintenance Assessment Procedure Regulations (fresh assessments following a review on a change of circumstances) <sup>M10</sup> shall be amended in accordance with the following provisions of this regulation

(2) In paragraph (1), for “(4)” there shall be substituted “(5)”.

(3) After paragraph (4) there shall be added the following paragraph—

“(5) Where a child support officer, on completing a review under section 17 of the Act of a case falling within sub-paragraph (4) of paragraph 5 of Schedule 1 to the Act, determines that the case no longer falls within that sub-paragraph, he shall make a fresh assessment.”.

**Marginal Citations**

**M10** [Regulation 20](#) of the Maintenance Assessment Procedure Regulations has been amended by [S.I. 1993/913](#), [19941227](#) and [1995/3261](#).

**Amendment of regulation 30A of the Maintenance Assessment Procedure Regulations**

8.—(1) Regulation 30A of the Maintenance Assessment Procedure Regulations (effective dates of new maintenance assessments in particular cases) <sup>M11</sup> shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (2) there shall be substituted the following paragraph—

“(2) Where a child support officer receives the information or evidence to enable him to make a maintenance assessment, calculated in accordance with the provisions of Part I of Schedule 1 to the Act, for the period from the date set by regulation 3(7) of the Maintenance Arrangements and Jurisdiction Regulations or regulation 30(2)(a) or (b), as the case may be, to the effective date of the maintenance assessment referred to in paragraph (1), the maintenance assessment first referred to in this paragraph shall, subject to regulation 33(7), have effect for that period.”

(3) After paragraph (2) there shall be added the following paragraphs—

“(3) The effective date of a new maintenance assessment made in respect of a person with care and an absent parent shall, where the circumstances set out in paragraph (4) apply, be the first day of the first maintenance period after the child support officer has received the information or evidence referred to in paragraph (4)(c) or 13th January 1997, whichever is the later.

(4) The circumstances referred to in paragraph (3) are where—

- (a) paragraphs (1) and (2) do not apply to that person with care and that absent parent;
- (b) no maintenance assessment made in accordance with the provisions of Part I of Schedule 1 to the Act is in force in relation to that person with care and that absent parent; and
- (c) on or after 13th January 1997, a child support officer has sufficient information or evidence to enable him to make a new maintenance assessment, calculated in accordance with the provisions of Part I of Schedule 1 to the Act, in relation to that person with care and that absent parent but in respect only of a period beginning after the effective date applicable in their case by virtue of regulation 30(2).

(5) Where the information or evidence referred to in paragraph (3) is that there has been an award of income support or an income-based jobseeker’s allowance, the Secretary of State shall be treated as having received the information or evidence which enables a child support officer to make the assessment referred to in that paragraph on the first day in respect of which income support or an income-based jobseeker’s allowance was payable under that award.

(6) Where, in a case falling within paragraph (3), a child support officer receives the information or evidence to enable him to make a maintenance assessment calculated in accordance with the provisions of Part I of Schedule 1 to the Act, for the period from the effective date applicable to that case under regulation 30(2)(a) or (b), as the case may be, to the effective date of the assessment referred to in paragraph (3), the maintenance assessment first referred to in this paragraph shall have effect for that period.

(7) Paragraphs (3) to (6) shall not apply where a case falls within regulation 33(7), or regulation 3 of the Maintenance Arrangements and Jurisdiction Regulations (relationship between maintenance assessments and certain court orders).”

#### **Marginal Citations**

**M11** [Regulation 30A](#) was inserted by [S.I. 1995/3261](#).

### **Revocation of regulations 40A and 49A of the Maintenance Assessment Procedure Regulations**

9. Regulations 40A (suspension of a reduced benefit direction where certain deductions are being made from income support) and 49A (notice of termination of suspension of a reduced benefit direction)<sup>M12</sup> of the Maintenance Assessment Procedure Regulations are hereby revoked.

**Marginal Citations**

**M12** [Regulations 40A](#) and 49A were inserted by [S.I. 1995/3261](#).

**Amendment of regulation 1 of the Maintenance Assessments and Special Cases Regulations**

**10.**—(1) Regulation 1 of the Maintenance Assessments and Special Cases Regulations (citation, commencement and interpretation)<sup>M13</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2)—

- (a) after the definition of “family” there shall be inserted the following definition—  
““family credit” has the same meaning as in section 128 of the Contributions and Benefits Act;”;
- (b) after the definition of “Contributions and Benefits Act” there shall be inserted the following definition—  
““Contributions and Benefits (Northern Ireland) Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>M14</sup>;”;
- (c) in the definition of “personal pension scheme”, for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 1 of the Pensions Schemes Act 1993<sup>M15</sup>”;
- (d) after the definition of “prisoner” there shall be inserted the following definition—  
““profit-related pay” means any payment by an employer calculated by reference to actual or anticipated profits;”.

(3) In paragraph (2A)—

- (a) after the words “Benefits Act” in each place in which they occur there shall be inserted the words “or, as the case may be, the Contributions and Benefits (Northern Ireland) Act”;
- (b) in head (ii) of sub-paragraph (e) the words “or under the Social Security Contributions and Benefits (Northern Ireland) Act 1992” shall be omitted.

**Marginal Citations**

**M13** [Regulation 1](#) of the Maintenance Assessments and Special Cases Regulations has been amended by [S.I. 1993/913](#), [1995/1045](#) and [3261](#), and [1996/1345](#) and [1945](#).

**M14** [1992 c.7](#).

**M15** [1993 c.48](#).

**Insertion of regulation 10A into the Maintenance Assessments and Special Cases Regulations**

**11.** After regulation 10 of the Maintenance Assessments and Special Cases Regulations, there shall be inserted the following regulation—

**“ Assessable income: family credit or disability working allowance paid to or in respect of a parent with care or an absent parent**

**10A.**—(1) Subject to paragraph (2), where family credit or disability working allowance is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Act, be taken to have no assessable income.

- (2) Paragraph (1) shall apply to an absent parent only if—
- (a) he is also a parent with care; and
  - (b) either—
    - (i) a maintenance assessment in respect of a child in relation to whom he is a parent with care is in force; or
    - (ii) the child support officer is considering an application for such an assessment to be made.”.

### **Amendment of regulation 12 of the Maintenance Assessments and Special Cases Regulations**

**12.**—(1) Paragraph (1) of regulation 12 of the Maintenance Assessments and Special Cases Regulations (disposable income)<sup>M16</sup>, shall be amended in accordance with the following provisions of this regulation.

- (2) In sub-paragraph (a), the word “and” at the end shall be omitted.
- (3) In sub-paragraph (b)—
  - (a) at the beginning there shall be inserted the words “subject to sub-paragraph (c),”; and
  - (b) for the full stop there shall be substituted the word “; and”
- (4) After sub-paragraph (b) there shall be added the following sub-paragraph—
 

“(c) in a case to which regulation 11(6) applies and the absent parent is paying maintenance under an order of a kind mentioned in regulation 11(2)(a)(ii) or (v), his net income as calculated in accordance with regulation 7 less the amount of maintenance he is paying under that order.”.

#### **Marginal Citations**

**M16** >Regulation 12 has been amended by [S.I. 1995/1045](#) and 1996/1945. Paragraph (1) was substituted by regulation 47 of [S.I. 1995/1045](#).

### **Amendment of Schedule 1 to the Maintenance Regulations Assessments and Special Cases**

**13.**—(1) Schedule 1 to the Maintenance Assessments and Special Cases Regulations (calculation of N and M)<sup>M17</sup> shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph 1—
  - (a) in sub-paragraph (1), after head (a) there shall be inserted the following head—
 

“(aa) any profit-related pay, whether paid in anticipation of, or following, the calculation of profits;”;
  - (b) in sub-paragraph (2), after head (g) there shall be added the following head—
 

“(h) any tax-exempt allowance made by an employer to an employee.”.
- (3) In paragraph 2—
  - (a) in sub-paragraph (1) for “(2)” there shall be substituted “(1A)”;
  - (b) after sub-paragraph (1), there shall be inserted the following sub-paragraph—
 

“(1A) Subject to sub-paragraph (4), where a person has claimed, or has been paid, family credit or disability working allowance on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the child support officer may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to

calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).”;

- (c) for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) Where a person’s earnings during the period of 52 weeks ending with the relevant week include—

- (a) a bonus, commission, or payment of profit-related pay made in anticipation of the calculation of profits which is paid separately from or in relation to a longer period than, the other earnings with which it is paid; or
- (b) a payment in respect of profit-related pay made following the calculation of the employer’s profits,

the amount of that bonus, commission or profit-related payment shall be determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.”;

- (d) after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(3A) Where a case is one to which regulation 30A(1) or (3) of the Maintenance Assessment Procedure Regulations applies (effective dates of new maintenance assessments in particular cases), the term “relevant week” shall, for the purpose of this paragraph, mean the period of 7 days immediately preceding the date on which the information or evidence is received which enables a child support officer to make a new maintenance assessment calculated in accordance with the provisions of Part I of Schedule 1 to the Act in respect of that case for a period beginning after the effective date applicable to that case.”.

- (4) In paragraph 3 for sub-paragraph (5) there shall be substituted the following sub-paragraph—

“(5) For the purposes of sub-paragraph (3)(c), the amount in respect of income tax shall be determined in accordance with the following provisions—

- (a) subject to head (c), an amount of chargeable earnings equivalent to any personal allowance applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 (personal reliefs) shall be disregarded;
- (b) an amount equivalent to income tax shall be calculated with respect to taxable earnings at the rates applicable at the effective date;
- (c) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;
- (d) in this sub-paragraph, “taxable earnings” means the chargeable earnings of the earner following the disregard of any applicable personal allowances.”.

- (5) In paragraph 5, after sub-paragraph (4) there shall be added the following sub-paragraph—

“(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, family credit or disability working allowance on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the child support officer may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have

been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).”.

**Marginal Citations**

**M17** [Schedule 1](#) has been amended by XI. 1993/913, 19950045 and 1996/1945.

**Amendment of Schedule 2 to the Maintenance Assessments and Special Cases Regulations**

**14.** In Schedule 2 to the Maintenance Assessments and Special Cases Regulations (amounts to be disregarded when calculating or estimating N and M)<sup>M18</sup> after paragraph 48B there shall be inserted the following paragraph—

“**48C.** Any payment to a person under section 1 of the Community Care (Direct Payments) Act 1996<sup>M19</sup> or section 12B of the Social Work (Scotland) Act 1968<sup>M20</sup> in respect of his securing community care services, as defined in section 46 of the National Health Services and Community Care Act 1990<sup>M21</sup>”.

**Marginal Citations**

**M18** [Schedule 2](#) has been amended by [S.I. 1993/913](#), 1995/1045 and 3261 and 1996/481 and 1345.

**M19** [1996 c.30](#).

**M20** [1968 c.49](#); [section 12B](#) was inserted by section 4 of the Community Care (Direct Payments) Act 1996.

**M21** [1990 c.46](#).

**Amendment of Schedule 3 to the Maintenance Assessments and Special Cases Regulations**

**15.—(1)** Schedule 3 of the Maintenance Assessments and Special Cases Regulations (eligible housing costs)<sup>M22</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (t) of paragraph 1, for the words “for that purpose” there shall be substituted the words “in respect of payments eligible to be taken into account as housing costs by virtue of the other provisions of this Schedule”.

(3) In paragraph 3—

(a) after sub-paragraph (4) there shall be inserted the following sub-paragraph—

“(4A) Where—

(a) an absent parent or parent with care has obtained a loan which constitutes an eligible housing cost falling within sub-paragraph (d) or (t) of paragraph 1; and

(b) a policy of insurance has been obtained and retained, the purpose of which is solely to secure the payment of monies due under that loan in the event of the unemployment, sickness or disability of the insured person,

the amount of the premiums payable under that policy shall be eligible to be taken into account as a housing cost.”;

(b) in sub-paragraph (5B), after the words “a personal pension plan” there shall be inserted the words “derived from a personal pension scheme”.

(4) In paragraph 4—

(a) for head (a) of sub-paragraph (1) there shall be substituted the following head—



- “(a) they are necessarily incurred for the purpose of purchasing, renting or otherwise securing possession of the home for the parent and his family, or for the purpose of carrying out repairs and improvements to that home;”;
- (b) after sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) For the purposes of sub-paragraph (1)(a) “repairs and improvements” shall have the meaning given in paragraph 2 of this Schedule.”;
- (c) after sub-paragraph (2) there shall be added the following sub-paragraphs—
- “(3) Subject to sub-paragraph (4), payments on a loan shall constitute an eligible housing cost only if that loan has been obtained for the purposes specified in sub-paragraph (1)(a).
- (4) Where a loan has been obtained only partly for the purposes specified in sub-paragraph (1)(a), the eligible housing cost shall be limited to that part of the payment attributable to those purposes.”.

#### Marginal Citations

**M22** Schedule 3 has been amended by S.I. 1993/913, 1994/227, 1995/1045 and 3261.

#### Transitional provision

**16.**—<sup>F1</sup>(1) A decision with respect to a maintenance assessment in force on 13th January 1997 shall not be superseded by a decision under section 17 of the Act solely to give effect to these Regulations. ]

(2) Where the amount of child support maintenance fixed by any fresh assessment <sup>F2</sup>... is affected by the provisions of these Regulations, the effective date of that assessment shall not be earlier than the first day of the first maintenance period which commences on or after 13th January 1997.

(3) The provisions of regulations 40A and 49A of the Maintenance Assessment Procedure Regulations in force prior to 13th January 1997 shall continue to apply to a reduced benefit direction which at that date is suspended under the provisions of regulation 40A.

#### Textual Amendments

**F1** Reg. 16(1) substituted (1.6.99) by S.I. 1999/1510, art. 3, 44

**F2** Words in reg. 16(2) omitted (1.6.99) by S.I. 1999/1510, art. 3, 44

Signed by authority of the Secretary of State for Social Security

18th December 1996

*A. J. B. Mitchell*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various regulations made under the Child Support Act 1991 ("the Act"). Regulations 2 and 3 amend the Child Support Appeal Tribunals (Procedure) Regulations 1992 to make provision for notice of appeal to be lodged with the Secretary of State at the Child Support Agency Appeals Unit.

Regulation 4 amends the Child Support Fees Regulations 1992, deferring the reintroduction of fees until April 1999.

Regulations 5 to 9 amend the Child Support (Maintenance Assessment Procedure) Regulations 1992 in the following respects:

- a) regulation 5 makes a drafting amendment to paragraph (6) of regulation 1;
- b) regulation 6 clarifies the provisions of paragraph (8) of regulation 8D;
- c) regulation 7 creates an exception to the de minimis provisions of regulation 20 where, following a review under section 17, the child support officer determines that the case no longer falls within paragraph 5(4) of Schedule 1 to the Act;
- d) regulation 8 clarifies existing effective date provisions and makes provision for the effective date of a new maintenance assessment which relates to part only of the period after the maintenance enquiry form was sent and also for the effective date of an assessment made, subsequently, when all relevant information is available for the whole of the relevant period;
- e) regulation 9 revokes the provision made for suspension, in certain circumstances, of a reduced benefit direction.

Regulations 10 to 15 amend the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 in the following respects:

- a) regulation 10 inserts three new definitions and amends the definition of "personal pension scheme", to reflect the definition now utilised by the Income Support (General) Regulations 1987;
- b) regulation 11 inserts a new regulation 10A, which prescribes family credit and disability working allowance, with certain exceptions, for the purposes of paragraph 5(4) of Schedule 1 to the Act;
- c) regulation 12 provides for the disposable income figure prescribed in regulation 12(1)(b) to be reduced by the amount of any maintenance payable under certain maintenance orders;
- d) regulation 13 makes various amendments to Schedule 1;
- e) regulation 14 amends Schedule 2, providing for payments made in lieu of community care services to be disregarded in calculating or estimating net income;
- f) regulation 15 makes various amendments to Schedule 3.

Regulation 16 makes certain transitional provisions.

These Regulations impose no costs on business.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996.