
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Child Support (Miscellaneous
Amendments) Regulations 2018**

PART 4

**AMENDMENTS RELATING TO WRITE OFF OF
ARREARS OF CHILD SUPPORT MAINTENANCE**

Amendment of the Child Support (Management of Payments and Arrears) Regulations 2009

4.—(1) The Child Support (Management of Payments and Arrears) Regulations 2009(1) are amended as follows.

(2) In regulation 2(1)(interpretation)—

(a) after the definition of “a 1993 scheme case” insert—

““a 2003 scheme case” means a case in respect of which the provisions of the Child Support, Pensions and Social Security Act 2000 have been brought into force in accordance with article 3 of the Child Support, Pensions and Social Security Act 2000 (Commencement No.12) Order 2003(2);

“a 2012 scheme case” means a case in respect of which the provisions of the Child Maintenance and Other Payments Act 2008 have been brought into force in accordance with article 2 of the Child Maintenance and Other Payments Act 2008 (Commencement No.10 and Transitional Provisions) Order 2012(3), article 2 of the Child Maintenance and Other Payments Act 2008 (Commencement No.11 and Transitional Provisions) Order 2013(4) or article 2 of the Child Maintenance and Other Payments Act 2008 (Commencement No.12 and Savings Provisions) and the Welfare Reform Act 2012 (Commencement No.15) Order 2013(5);”;

(b) after the definition of “child in Scotland”, insert—

““Child Maintenance Service system” means the computer system used by the Child Maintenance Service which administers a 2012 scheme case or arrears from a 1993 or 2003 scheme case;

“Child Support Agency system” means the computer system used by the Child Support Agency which administers a 1993 or 2003 scheme case;”.

(3) In regulation 13G (Circumstances in which the Secretary of State may exercise the power in section 41E of the 1991 Act)—

(a) after paragraph (e) omit “or”;

(1) [S.I. 2009/3151](#). Relevant amending instrument is [S.I. 2012/3002](#).

(2) [S.I. 2003/192](#) (c. 11).

(3) [S.I. 2012/3042](#) (c. 122).

(4) [S.I. 2013/1860](#) (c. 79).

(5) [S.I. 2013/2947](#) (c. 121).

(b) after paragraph (f) insert—

- “(g) the arrears relate to liability for child support maintenance accrued under a 1993 or 2003 scheme case and the non-resident parent has failed to make any payments of child support maintenance within the 3 month period which precedes the date of the written notice sent by the Secretary of State under regulation 13H(1), or, where the arrears fall within regulations 13K(1)(a), (b) or (d), within the 3 month period which precedes the date of the decision of the Secretary of State under section 41E(1) of the 1991 Act;
- (h) the arrears relate to liability for child support maintenance accrued under a 1993 or 2003 scheme case which has transferred from the Child Support Agency system to the Child Maintenance Service system and the non-resident parent has failed to make any payments of child support maintenance within the 3 month period which precedes the date of the written notice sent by the Secretary of State under regulation 13H(1), or, where the arrears fall within regulations 13K(2)(a) or (b), within the 3 month period which precedes the date of the decision of the Secretary of State under section 41E(1) of the 1991 Act; or
- (i) the arrears relate to sequestrated debt in Scotland for a 1993, 2003 or 2012 scheme case once the trustee administering the sequestration has confirmed that the period of sequestration has ended.”.

(4) In regulation 13H (Secretary of State required to give notice)—

(a) after paragraph (1) insert—

“(1A) Where the arrears fall within regulation 13(K)(1)(c) or (e) or (2)(c) the requirement under paragraph (1) to send written notice to the non-resident parent only applies where the Secretary of State receives written representations within the period of 60 days beginning with the date the notice is received by the person with care or, where relevant, a child in Scotland.”

(b) in paragraph (2) after “died” insert “or the arrears fall within regulations 13G(i), 13K(1)(a), 13K(1)(b), 13K(1)(d), 13K(2)(a) or 13K(2)(b)”;

(c) in paragraph (3)(b)—

- (i) after “arrears” where it first appears insert “except where the arrears fall within regulation 13K(1)(c)”;
- (ii) after “relate” insert “except where the arrears fall within regulation 13K(1)(c) or (e) or (2)(c)”;

(d) at the beginning of paragraph 3(d) insert “subject to paragraph 3(da)” and at the end of paragraph (3)(d) omit “and”;

(e) after paragraph (3)(d) insert—

“(da) where the arrears fall within regulation 13K(1)(c) or (e) or (2)(c)—

- (i) advise the person with care or, where relevant, a child in Scotland that they may make written representations as to whether the liability in respect of the arrears should be extinguished, and that any such representations must be sent by post to the Secretary of State within the period of 60 days beginning with the date the notice is received;
- (ii) where a notice is sent to the non-resident parent in accordance with paragraph (1A), advise the non-resident parent that they may make written representations which must be sent by post to the Secretary of State within the period of 21 days beginning with the date the notice is received; and”;

(f) in paragraph (4), for “If” substitute “Subject to paragraph 4A, if”.

(g) after paragraph (4) insert—

“(4a) Where any of the conditions of write off mentioned in regulation 13K(1)(c) or (e) or (2)(c) apply, if no written representations are received by the Secretary of State within the period of 60 days beginning with the date the notice is received by the person with care or, where relevant, a child in Scotland, the Secretary of State may make the decision to extinguish the arrears.”.

(5) In regulation 13I (Secretary of State to take account of the parties’ views), after “13H(3)(d)” insert “or within the 60 day period referred to in regulation 13H(3)(da)(i) or within the 21 day period referred to in regulation 13H(3)(da)(ii)”.

(6) In regulation 13J(2) (Notification of decision to write off), after “died” insert “or where the arrears fall within regulation 13K(1)(a) or (2)(a) or where the arrears fall within regulation 13K(1)(c) or (e) or (2)(c) and the Secretary of State has not received written representations by post from the person with care or, where relevant, a child in Scotland, within the 60 day period referred to in regulation 13H(3)(da),”.

(7) After regulation 13J (notification of decision to write off) insert—

“Conditions of write off

13K.—(1) The arrears mentioned above are—

- (a) the arrears are less than £65;
- (b) the effective date of the maintenance assessment or maintenance calculation was on or before 1st November 2008 and the arrears are £1,000 or less;
- (c) the effective date of the maintenance assessment or maintenance calculation was on or before 1st November 2008 and the arrears are over £1,000;
- (d) the effective date of the maintenance calculation was after 1st November 2008 and the arrears are £500 or less; or
- (e) the effective date of the maintenance calculation was after 1st November 2008 and the arrears are over £500.

(2) The arrears mentioned above are—

- (a) the arrears are less than £65; or
- (b) the arrears are £500 or less; or
- (c) the arrears are over £500.”