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1992 No. 1813

FAMILY LAW

CHILD SUPPORT

The Child Support (Maintenance Assessment Procedure) Regulations 1992

Made - - - - - 20th July 1992

Coming into force - 5th April 1993

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SCHEDULES

- Schedule 1—Meaning of “child” for the purposes of the Act
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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 a resolution of each House of Parliament:

(a) 1991 c. 48.

Now, therefore, the Secretary of State for Social Security, in exercise of the powers, conferred by sections 3(3), 5(3), 6(1), 12, 16, 17, 18 42(3), 46(11), 51, 52(4), 54 and 55 of, and paragraphs 11, 14 and 16 of Schedule 1 to, the Child Support Act 1991 and of all other powers enabling him in that behalf hereby makes the following Regulations:

PART I GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Assessment procedure) Regulations 1992 and shall come into force on 5th April 1993.

(2) In these Regulations, unless the context otherwise requires—
“the Act” means the Child Support Act 1991;

¹Words inserted in reg. 1(2) by reg. 5(2)(a)(i)–(ii) respectively of S.I. 1996/1345 as from 7.10.96.

“applicable amount” ¹, except in regulation 40ZA, ⁴ is to be construed in accordance with Part IV of the Income Support Regulations:

“applicable amounts Schedule” means Schedule 2 to the Income Support Regulations(a);

“award period” means a period in respect of which an award of family credit or disability working allowance is made;

“balance of the reduction period” means, in relation to a direction that is or has been in force, the portion of the period specified in a direction in respect of which no reduction of relevant benefit has been made;

“benefit week”, in relation to income support, has the same meaning as in the Income Support Regulations, ¹ in relation to jobseeker’s allowance has the same meaning as in the Jobseeker’s Allowance Regulations, ² in relation to employment and support allowance has the same meaning as in the Employment and Support Allowance Regulations 2008, ⁴ and, in relation to family credit and disability working allowance, is to be construed in accordance with the Social Security (Claims and Payments) Regulations 1987(b);

²Words inserted in defn. of “benefit week” & defn. of “income-related employment & support allowance” added by reg. 57(2)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

³Defn. of “designated authority” substituted by reg. 3 of S.I. 2002/1703 as from 30.9.02.

³“designated authority” means—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) a local authority; or
- (d) a person providing services to, or authorised to exercise any functions of, any such authority; ⁴

⁴Defn. of “direction” omitted in reg. 1(2) by reg. 2(2)(a) of S.I. 2008/2543 as from 27.10.08.

⁵Defn. “disability working allowance” substituted by reg. 5(2) of S.I. 1999/2566 as from 5.10.99.

⁴

⁵“disability working allowance” means an award of disability working allowance under section 129 of the Social Security Contributions and Benefits Act 1992(c) which was awarded with effect from a date falling before 5th October 1999. ⁴

“day to day care” has the same meaning as in the Maintenance Assessments and Special Cases Regulations;

“effective application” means any application that complies with the provisions of regulation 2;

“effective date” means the date on which a maintenance assessment takes effect for the purposes of the Act;

⁶Defn. of “family” inserted by reg. 3(2) of S.I. 2005/785 as from 16.3.05

⁷Defn. “family credit” inserted by reg. 5(3) of S.I. 1999/2566 as from 5.10.99.

⁶“family” has the same meaning as in the maintenance Assessments and Special Cases Regulations (d); ⁴

⁷“family credit” means an award of family credit under section 128 of the Social Security Contributions and Benefits Act 1992 which was awarded with effect from a date falling before 5th October 1999. ⁴

²“income-related employment and support allowance” means an income-related allowance under Part I of the Welfare Reform Act 2007; ⁴

“Income Support Regulations” means Income Support (General) Regulations 1987(e);

(a) Part I of Schedule 2 was substituted by Schedule 3 to S.I. 1991/2910 from 6.4.92.

(b) S.I. 1987/196.

(c) 1992 c. 4.

(d) The definition of “family” in the Maintenance Assessments and Special Cases Regulations was substituted by S.I. 1996/1945.

(e) S.I. 1987/1967.

“Information, Evidence and Disclosure Regulations” means the Child Support (Information, Evidence and Disclosure) Regulations 1992(a);

▶¹“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(b);◀

▶²“Maintenance Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992(c);◀

“Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(d)

“maintenance period” has the meaning prescribed in regulation 33;

“obligation imposed by section 6 of the Act” is to be construed in accordance with section 46(1) of the Act;

▶³“official error” means an error made by-

(a) an officer of the Department of Social Security acting as such which no person outside that Department caused or to which no person outside that Department materially contributed;

▶⁴(b) a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of ▶⁵the Upper tribunal◀ or the court;◀

“parent with care” means a person who, in respect of the same child or children, is both a parent and a person with care;

“the parent concerned” means the parent with respect to whom a direction is given;

▶⁶“partner” has the same meaning as in the Maintenance Assessments and Special Cases Regulations;◀

“protected income level” has the same meaning as in paragraph 6(6) of Schedule 1 to the Act;

“relevant benefit” means income support, ▶⁷income-based jobseeker’s allowance,◀ ▶⁸income-related employment and support allowance◀ ▶⁹or an award of family credit or disability working allowance which was awarded with effect from a date falling before 5th October 1999;◀

“relevant person” means-

(a) a person with care;

(b) an absent parent;

(c) a parent who is treated as an absent parent under regulation 20 of the Maintenance Assessments and Special Cases Regulations;

(d) where the application for an assessment is made by a child under section 7 of the Act, that child,

in respect of whom a maintenance assessment has been applied for or is or has been in force▶¹⁰;

“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012◀

(3)(a)-(c) ▶¹¹◀

(4) The provisions of Schedule 1 shall have effect to supplement the meaning of “child” in section 55 of the Act.

(5) The provisions of these Regulations shall have general application to cases prescribed in regulations 19 to 26 of the Maintenance Assessments and Special Cases Regulations as cases to be treated as special cases for the purposes of the Act, and the terms “absent parent” and “person with care” shall be construed accordingly.

¹Defn. of “the Jobseeker’s Allowance Regulations” inserted by reg. 5(2)(a)(iii) of S.I. 1996/1345 as from 7.10.96.

²Defn. added by reg. 4 of S.I. 1995/123 as from 16.2.95.

³Defn. of “official error” substituted by reg. 8(b) of S.I. 2000/897 as from 3.4.00.

⁴Para. (b) of reg. 2 substituted by reg. 6 of S.I. 2000/1596 as from 19.6.00.

⁵Words substituted in defn. of “official error” by reg. 57 of S.I. 2008/2683 as from 3.11.08.

⁶Defn. of “partner” inserted by reg. 3(2) of S.I. 2005/785 as from 16.3.05.

⁷Words inserted in defn. of “relevant benefit” by reg. 5(2)(a)(iv) of S.I. 1992/1345 as from 7.10.96.

⁸Words inserted in defn. of “relevant benefit” by reg. 57(2)(c) of S.I. 2008/1554 as from 27.10.08.

⁹Words substituted in defn. of “relevant benefit” by reg. 5(4) of S.I. 1999/2566 as from 5.10.99.

¹⁰Defn. of “universal credit” inserted into reg. 1 by reg. 40(2) of S.I. 2013/630 as from 29.4.13.

¹¹Para. (3)(a), (b) and (c) omitted in reg. 1 by reg. 2(2)(b) of S.I. 2008/2543 as from 27.10.08.

(a) S.I. 1992/1812.

(b) S.I. 1996/207.

(c) S.I. 1992/2645.

(d) S.I. 1992/1815.

Reg. 1

(6) Except where express provision is made to the contrary, where, by any provision of the Act or of these Regulations—

- (a) any document is given or sent to the Secretary of State, that document shall, subject to paragraph (7), be treated as having been so given or sent on the day it is received by the Secretary of State; and
- (b) any document is given or sent to any ¹other person, that document shall, if sent by post to that person's last known or notified address, and subject to paragraph (8), be treated as having been given or sent on the second day after the day of posting, excluding any Sunday or any day which is a bank holiday in England, Wales, Scotland or Northern Ireland under the Banking and Financial Dealings Act 1971(a).

¹Words inserted in sub-para. (b) of reg. 1(6) by reg. 5 of S.I. 1996/3196 as from 13.1.97.

(7) Except where the provisions of regulation ²9(1) or 18(4) apply, the Secretary of State may treat a document given or sent to him as given or sent on such day, earlier than the day it was received by him, as he may determine, if he is satisfied that there was unavoidable delay in his receiving the document in question.

²Words substituted in reg. 1(7) by reg 2(b) of S.I. 1999/1047 as from 1.6.99.

(8) Where, by any provision of the Act or of these Regulations, and in relation to a particular application, notice or notification—

- (a) more than one document is required to be given or sent to a person, and more than one such document is sent by post to that person but not all the documents are posted on the same day; or
- (b) documents are required to be given or sent to more than one person, and not all such documents are posted on the same day,

all those documents shall be treated as having been posted on the later or, as the case may be, the latest day of posting.

(9) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered Part is to the Part of these Regulations bearing that number;
- (b) to a numbered Schedule is to the Schedule to these Regulations bearing that number;
- (c) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(a) 1971 c. 80.

PART II

APPLICATIONS FOR A MAINTENANCE ASSESSMENT

¹Words omitted in heading to reg. 2 & para. (2) by reg. 2(3)(a) & (b) of S.I. 2008/2543 as from 27.10.08.

Applications under section 4¹ or 7 of the Act

2.—(1) Any person who applies for a maintenance assessment under section 4 or 7 of the Act shall do so on a form (a “maintenance application form”) provided by the Secretary of State.

(2) Maintenance application forms provided by the Secretary of State¹ under paragraph (1) shall be supplied without charge by such persons as the Secretary of State appoints or authorises for that purpose.

(3) A completed maintenance application form shall be given or sent to the Secretary of State.

(4) Subject to paragraph (5), an application for a maintenance assessment under the Act shall be an effective application if it is made on a maintenance application form and that form has been completed in accordance with the Secretary of State’s instructions.

(5) Where an application is not effective under the provisions of paragraph (4), the Secretary of State may—

- (a) give or send the maintenance application form to the person who made the application, together, if he thinks appropriate, with a fresh maintenance application form, and request that the application be re-submitted so as to comply with the provisions of that paragraph; or
- (b) request the person who made the application to provide such additional information or evidence as the Secretary of State specifies,

and if a completed application form or, as the case may be, the additional information or evidence requested is received by the Secretary of State within 14 days of the date of his request, he shall treat the application as made on the date on which the earlier or earliest application would have been treated as made had it been effective under the provisions of paragraph (4).

(6) Subject to paragraph (7), a person who has made an effective application may amend his application by notice in writing to the Secretary of State at any time before a maintenance assessment is made.

(7) No amendment under paragraph (6) shall relate to any change of circum-

stances arising after the effective date of a maintenance assessment resulting from an effective application.

Applications on the termination of a maintenance assessment

3.—(1) Where a maintenance assessment has been in force with respect to a person with care and a qualifying child and that person is replaced by another person with care, an application for a maintenance assessment with respect to that person with care and that qualifying child may for the purposes of regulation 30(2)(b)(ii) and subject to paragraph (3) be treated as having been received on a date earlier than that on which it was received.

(2) Where a maintenance assessment has been made either in response to an application by a child under section 7 of the Act and either—

- (a) ►the Secretary of State◄ cancels that assessment following a request from that child; or
- (b) that child ceases to be a child for the purposes of the Act,

any application for a maintenance assessment with respect to any other children who were qualifying children with respect to the earlier maintenance assessment may for the purposes of regulation 30(2)(b)(ii) and subject to paragraph (3) be treated as having been received on a date earlier than that on which it was received.

(3) No application for a maintenance assessment shall be treated as having been received under paragraph (1) or (2) on a date—

- (a) more than 8 weeks earlier than the date on which the application was received; or
- (b) on or before the first day of the maintenance period in which the earlier maintenance assessment ceased to have effect.

Words substituted in reg. 3(2)(a) by reg. 3 of S.I. 1999/1047 as from 1.6.99.

Multiple applications

4.—(1) The provisions of Schedule 2 shall apply in cases where there is more than one application for a maintenance assessment.

(2) The provisions of paragraphs 1, 2 and 3 of Schedule 2 relating to the treatment of two or more applications as a single application shall apply where no request is received for the Secretary of State to cease acting in relation to all but one of the applications.

(3) Where, under the provisions of paragraph 1, 2 or 3 of Schedule 2, two or more applications are to be treated as a single application, that application shall be treated as an application for a maintenance assessment to be made with respect to all of the qualifying children mentioned in the applications, and the effective date of that assessment shall be determined by reference to the earlier or earliest application.

Notice to other persons of an application for a maintenance assessment

5.—(1) ►Subject to paragraph (2A), where◄ an effective application for a maintenance assessment has been made the Secretary of State shall as soon as is reasonably practicable give notice in writing of that application to the relevant persons other than the applicant.

Words substituted in reg. 5(1) by reg. 2(2) of S.I. 1993/913 as from 5.4.93.

(2) The Secretary of State shall ►, subject to paragraph (2A),◄ given or sent to any person to whom notice has been given under paragraph (1) a form (a “maintenance enquiry form”) and a written request that the form be completed and returned to him for the purpose of enabling the application for the maintenance assessment to be proceeded with.

Words in reg. 5(2) inserted by reg. 2(3) of S.I. 1993/913 as from 5.4.93.

►(2A)The provisions of paragraphs (1) and (2) shall not apply where the Secretary of State is satisfied that an application for a maintenance assessment can be dealt with in the absence of a completed and returned maintenance enquiry form.◄

Reg. 5(2A) inserted by reg. 3(4) of S.I. 1993/913 as from 5.4.93.

(3) Where the person to whom notice is being given under paragraph (1) is an absent parent, that notice shall specify the effective date of the maintenance assessment if one is to be made, and set out in general terms the provisions relating to interim maintenance assessments.

Response to notification of an application for a maintenance assessment

6.—(1) Any person who has received a maintenance enquiry form given or sent under regulation 5(2) shall complete that form in accordance with the Secretary of State's instructions and return it to the Secretary of State within 14 days of its having been given or sent.

(2) Subject to paragraph (3), a person who has returned a completed maintenance enquiry form may amend the information he has provided on that form at any time before a maintenance assessment is made by notifying the Secretary of State in writing of the amendments.

(3) No amendment under paragraph (2) shall relate to any change of circumstances arising after the effective date of any maintenance assessment made in response to the application in relation to which the maintenance enquiry form was given or sent.

Death of a qualifying child

Words substituted in reg. 8(1) & (2) by reg. 4 of S.I. 1999/1047 as from 1.6.99.

7.—(1) Where ►the Secretary of State◄ is informed of the death of a qualifying child with respect to whom an application for a maintenance assessment has been made, he shall—

- (a) proceed with the application as if it had not been made with respect to that child if he has not yet made an assessment;
- (b) treat any assessment already made by him as not having been made if the relevant persons have not been notified of it and proceed with the application as if it had not been made with respect to that child.

(2) Where all of the qualifying children with respect to whom an application for a maintenance assessment has been made have died, and either the assessment has not been made or the relevant persons have not been notified of it, ►the Secretary of State◄ shall treat the application as not having been made.

PART III

INTERIM MAINTENANCE ASSESSMENTS

Regs. 8 to 8D substituted for reg. 8 by reg. 16 of S.I. 1995/3261 as from 22.1.96. Words substituted in reg. 8(1) & (3) by reg. 5 of S.I. 1999/1047 as from 1.6.99.

►Categories of interim maintenance assessment

8.—(1) Where ►the Secretary of State◄ serves notice under section 12(4) of the Act of his intention to make an interim maintenance assessment, he shall not make that interim assessment before the end of a period of 14 days, commencing with the date that notice was given or sent.

(2) There shall be four categories of interim maintenance assessment, Category A, Category B, Category C, and Category D interim maintenance assessments.

(3) An interim maintenance assessment made by ►the Secretary of State◄ shall be—

- (a) a Category A interim maintenance assessment, where any information, other than information referred to in sub-paragraph (b), that is required by him to enable him to make an assessment in accordance with the provisions of Part I of Schedule 1 to the Act has not been provided by that absent parent, and that parent has that information in his possession or can reasonably be expected to acquire it.
- (b) a Category B interim maintenance assessment, where the information that is required by him as to the income of the partner or other member of the family of the absent parent or parent with care for the purposes of the calculation of the income of that partner or other member of the family under regulation 9(2), 10, 11(2) or 12(1) of the Maintenance Assessment and Special Cases Regulations—

- (i) has not been provided by that partner or other member of the family, and that partner or other member of the family has that information in his possession or can reasonably be expected to acquire it; or
- (ii) has been provided by that partner or other member of the family to the absent parent or parent with care, but the absent parent or parent with care has not provided it to the Secretary of State; ▶◀
- (c) a Category C interim maintenance assessment where—
 - (i) the absent partner is a self-employed earner as defined in regulation 1(2) of the Maintenance Assessments and Special Cases Regulations; and
 - (ii) the absent parent is currently unable to provide, but has indicated that he expects within a reasonable time to be able to provide, information to enable ▶the Secretary of State◀ to determine the earnings of that absent parent in accordance with paragraphs 3 to 5 of Schedule 1 to the Maintenance Assessments and Special Cases Regulations; and
 - (iii) no maintenance order as defined in section 8(11) of the Act or written maintenance agreement as defined in section 9(1) of the Act is in force with respect to children in respect of whom the Category C interim maintenance assessment would be made; or
- (d) a Category D interim maintenance assessment where it appears to ▶the Secretary of State◀, on the basis of information available to him as to the income of the absent parent, that the amount of any maintenance assessment made in accordance with Part I of Schedule 1 to the Act applicable to that absent parent may be higher than the amount of a Category A interim maintenance assessment in force in respect of him.

Words deleted from reg. 8(3)(b)(ii) by reg. 5(b) of S.I. 1999/1047 as from 1.6.99.

Words substituted in sub-
paras. (c) & (d) by reg. 5(b) of S.I. 1999/1047 as from 1.6.99.



Amount of an interim maintenance assessment

8A.—(1) The amount of child support maintenance fixed by a Category A interim maintenance assessment shall be 1.5 multiplied by the amount of the maintenance requirement in respect of the qualifying child or qualifying children concerned calculated in accordance with the provisions of paragraph 1 of Schedule 1 to the Act, and paragraphs 2 to 9 of that Schedule shall not apply to Category A interim maintenance assessments.

(2) Subject to paragraph (5), the amount of child support maintenance fixed by a Category B interim maintenance assessment shall be determined in accordance with paragraphs (3) and (4).

(3) Where ▶the Secretary of State◀ is unable to determine the exempt income—

- (a) of an absent parent under regulation 9 of the Maintenance Assessments and Special Cases Regulations because he is unable to determine whether regulation 9(2) of those Regulations applies;
- (b) of a parent with care under regulation 10 of those Regulations because he is unable to determine whether regulation 9(2) of those Regulations, as modified by and applied by regulation 10 of those Regulations applies,

the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act on the assumption that—

- (i) in a case falling within sub-paragraph (a), regulation 9(2) of those Regulations does apply;
- (ii) in a case falling within sub-paragraph (b), regulation 9(2) of those Regulations as modified by and applied by regulation 10 of those Regulations does apply.

Para. (3)(e) omitted from reg. 8 by reg. 3(3) of S.I. 2005/785 as from 16.3.05.

Words substituted in reg. 8A by reg. 6 of S.I. 1999/1047 as from 1.6.99.

Reg. 8A(4) substituted by reg. 35 of S.I. 1998/58 as from 19.1.98.

Words substituted in reg. 8A(4) by reg. 6 of S.I. 1999/1047 as from 1.6.99.

►(4) Where ►the Secretary of State◄ is unable to ascertain the income of other members of the family of an absent parent so that the disposable income of that absent parent can be calculated in accordance with regulation 12(1)(a) of the Maintenance Assessments and Special Cases Regulations, the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act on the assumption that the provisions of paragraph 6 of that Schedule do not apply to the absent parent.◄

(5) Where the application of the provisions of paragraph (3) or (4) would result in the amount of a Category B interim maintenance assessment being more than 30 per centum of the net income of the absent parent as calculated in accordance with regulation 7 of the Maintenance Assessments and Special Cases Regulations, those provisions shall not apply to that absent parent and instead, the amount of that Category B interim maintenance assessment shall be 30 per centum of this net income as so calculated and where that calculation results in a fraction of a penny, that fraction shall be disregarded.

(6) The amount of the child support maintenance fixed by a Category C interim maintenance assessment shall be £30.00 but ►the Secretary of State◄ may set a lower amount, including a nil amount, if he thinks it reasonable to do so in all the circumstances of the case.

(7) Paragraph 6 of Schedule 1 to the Act shall not apply to Category C interim maintenance assessments.

(8) ►The Secretary of State◄ shall notify the person with care where he is considering setting a lower amount for a Category C interim maintenance assessment in accordance with paragraph (6) and shall take into account any relevant representations made by that person with care in deciding the amount of that Category C interim maintenance assessment.

(9) The amount of child support maintenance fixed by a Category D interim maintenance assessment shall be calculated or estimated by applying to the absent partner's income, in so far as ►the Secretary of State◄ is able to determine it at the time of the making of that Category D interim maintenance assessment, the provisions of Part I of Schedule 1 to the Act and regulations made under it, subject to the modification that—

- (a) paragraphs 6 and 8 of that Schedule shall not apply;
- (b) only paragraphs (1)(a) and (5) of regulation 9 of the Maintenance Assessments and Special Cases Regulations shall apply; and
- (c) heads (b) and (c) of sub-paragraphs (3) of paragraph 1 of Schedule 1 to the Maintenance Assessments and Special Cases Regulations shall not apply.

(10) Where the absent parent referred to in paragraph (9) is an employed earner as defined in regulation 1 of the Maintenance Assessments and Special Cases Regulations and the child support officer is unable to calculate the net income of that absent parent, his net income shall be estimated under the provisions of paragraph (2A)(a) and (b) of that regulation.

Reg. 8B revoked by reg. 7 of S.I. 1999/1047 as from 1.6.99.

8B►◄

Effective date of an interim maintenance assessment

8C.—(1) Except where regulation 3(5) of the Maintenance Arrangements and Jurisdiction Regulations (effective date of maintenance assessment where court order in force), regulation ►◄ 33(7) or paragraph (2) applies, the effective date of an interim maintenance assessment shall be—

- (a) in respect of a Category A interim maintenance assessment, subject to ►◄ sub-paragraph (d), such date, being not earlier than the first and not later than the seventh day following the date upon which that interim maintenance assessment was made, as falls on the same day of the week as the date determined in accordance with regulation 30(2)(a)(ii) or (b)(ii) as the case may be;

Words deleted from reg. 8C by reg. 8 of S.I. 1999/1047 as from 1.6.99.

- (b) in respect of a Category B interim maintenance assessment made after 22nd January 1996, subject to sub-paragraph (d) ►¹◄, the date specified in regulation 30(2)(a)(ii) or (b)(ii) as the case may be;
- (c) in respect of a Category C interim maintenance assessment, subject to sub-paragraph (d) ►¹◄, the date set out in sub-paragraph (a);
- (d) in respect of a Category A, Category B or Category C interim maintenance assessment, where the application of the provisions of sub-paragraph (a), (b) or (c) would otherwise set an effective date for an interim maintenance assessment earlier than the end of a period of eight weeks from the date upon which—
 - (i) the maintenance enquiry form referred to in regulation 30(2)(a)(i) was given or sent to an absent parent; or
 - (ii) the application made by an absent parent referred to in regulation 30(2)(b)(i) was received by the Secretary of State,in circumstances where that absent parent has complied with the provisions of regulation 30(2)(a)(i) or (b)(i) or paragraph (2A) of that regulation applies, the date determined in accordance with regulation 30(2)(a)(i) or (b)(i).

¹Words deleted from reg. 8C by reg. 8 of S.I. 1999/1047 as from 1.6.99.

(2) ►²The effective date of an interim maintenance assessment made under 12(1)(b) of the Act shall, subject to regulation 33(7)◄, be such date, not earlier than the first and not later than the seventh day following the date upon which that interim maintenance assessment was made, as falls on the same day of the week as the effective date of the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act which ►²the Secretary of State is proposing to supersede with a decision under section 17 of the Act◄.

²Words substituted and deleted in sub-paras (2) and (3) by reg. 8(e) & (f) of S.I. 1999/1047 as from 1.6.99.

(3) In cases where the effective date of an interim maintenance assessment is determined under paragraph (1), ►²◄, where a maintenance assessment, except a maintenance assessment falling within regulation 8D(7), is made after an interim maintenance assessment has been in force, child support maintenance calculated in accordance with Part I of Schedule 1 to the Act shall be payable in respect of the period preceding that during which the interim maintenance assessment was in force.

(4) The child support maintenance payable under the provisions of paragraph (3) shall be payable in respect of the period between the effective date of the assessment (or, where separate assessments are made for different periods under paragraph 15 of Schedule 1 to the Act, the effective date of the assessment in respect of the earliest such period) and the effective date of the interim maintenance assessment.

Miscellaneous provisions in relation to interim maintenance assessments

8D.—(1) Subject to paragraph (2), where a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act is made following an interim maintenance assessment, the amount of child support maintenance payable in respect of the period after 18th April 1995, during which that interim maintenance assessment was in force shall be that fixed by the maintenance assessment.

►³(1A) The reference in paragraph (1) to a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act shall include a maintenance assessment falling within regulation 30A(2).◄

³Reg. 8D(1A) inserted by reg. 36 of S.I. 1998/58 as from 19.1.98.

(2) Paragraph (1) shall not apply where a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act falls within paragraph (7).

(3) ►⁴◄

⁴Words deleted and substituted in sub-paras (3), (4) and (5) by reg. 9 of S.I. 1999/1047 as from 1.6.99.

(4) The provisions of regulations ►⁴32 and 33(5)◄ shall not apply to a Category A or Category D interim maintenance assessment.

(5) Subject to paragraph (6) ►⁴◄, an interim maintenance assessment shall cease to have effect on the first day of the maintenance period during which the Secretary of State receives the information which enables ►⁴the Secretary of State◄ to make the maintenance assessment or assessments in relation to the same absent parent, person with care, and qualifying child or qualifying children, calculated in accordance with Part I of Schedule 1 to the Act.

(6) Subject to regulation 9(15), where a child support officer has insufficient information or evidence to enable him to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act for the whole of the period beginning with the effective date applicable to a particular case, an interim maintenance assessment made in that case shall cease to have effect—

- (a) on 18th April 1995 where by that date the Secretary of State has received the information or evidence set out in paragraph (7); or
- (b) on the first day of the maintenance period after 18th April 1995 in which the Secretary of State has received that information or evidence.

(7) The information or evidence referred to in paragraph (6) is information or evidence enabling ►¹the Secretary of State◄ to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act, for a period beginning after the effective date applicable to that case, in respect of the absent parent, parent with care and qualifying child or qualifying children in respect of whom the interim maintenance assessment referred to in paragraph (6) was made.

¹Words substituted in reg. 8D(7) by reg. 9 of S.I. 1999/1047 as from 1.6.99.

²Reg. 8D(8) substituted by reg. 6 of S.I. 1996/3196 as from 13.1.98.

³Words in reg. 8D(8) substituted by reg. 57(4) of S.I. 2008/1554 as from 27.10.08.

⁴Words inserted in reg. 8D(8) by reg. 3(3) of S.I. 2003/2779 as from 5.11.03.

⁵Regs. 9 & 9A substituted by reg. 10 of S.I. 1999/1047 as from 1.6.99.

►²(8) Where the information or evidence referred to in paragraph (6)(a) or (b) is that there has been an award of ►³, an income-related employment and support allowance◄ 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 ►³, an income-related employment and support allowance◄ ►⁴, state pension credit◄ or an income-based jobseeker's allowance was payable under that award.◄

►⁵**Interim maintenance assessments which follow other interim maintenance assessments**

9. —(1) Where an interim maintenance assessment is being revised on the ground specified in regulation 17(1)(b) and the Secretary of State is satisfied—

- (a) that another Category A, Category B or Category D maintenance assessment should be made, and
- (b) that there has been unavoidable delay for part of the period during which the assessment which is being revised was in force,

the effective date of that other—

- (i) Category A or Category D interim maintenance assessment shall be the first day of the maintenance period following the date upon which, in the opinion of the Secretary of State, the delay became avoidable;
- (ii) Category B interim maintenance assessment shall be the date set out in regulation 8C(1)(b).

(2) Where an interim maintenance assessment is revised on either of the grounds set out in regulation 17(4) or (5), payments made under that interim maintenance assessment before the revision shall be treated as payments made under the Category B interim maintenance assessment which replaces it.

(3) Subject to paragraphs (5) and (6), where the Secretary of State makes a Category B interim maintenance assessment following the revision of an interim maintenance assessment in accordance with regulation 17(4), the effective date of that Category B interim maintenance assessment shall be the date determined in accordance with regulation 8C(1)(b).

(4) Where the Secretary of State makes a fresh interim maintenance assessment following the supersession of an interim maintenance assessment in accordance with regulation 20(7), the effective date of that fresh interim maintenance assessment shall be the date from which that supersession took effect.

(5) Where the Secretary of State cancels upon a revision an interim maintenance assessment in accordance with regulation 17(4) which caused a court order to cease to have effect in accordance with regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in regulation 17(4) shall be the date on which that revision took effect.

(6) Where the revision of an interim maintenance assessment in accordance with regulation 17(5) caused a court order to cease to have effect in accordance with regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in regulation 17(4) shall be the date on which that revision took effect.◄

PART IV

NOTIFICATIONS FOLLOWING CERTAIN DECISIONS BY
CHILD SUPPORT OFFICERS

Notification of a new or a fresh maintenance assessment

¹Reg. 10(1) substituted by reg. 11(a) of S.I. 1999/1047 as from 1.6.99.

²Words substituted in reg. 10(1) by reg. 58 of S.I. 2008/2683 as from 3.11.08.

³Paras. (1A) to (1C) omitted by reg. 11(b) of S.I. 1999/1047 as from 1.6.99.

⁴Words in reg. 10(2) substituted by reg. 6(2) of S.I. 1995/123 as from 16.2.95.

⁵Words in reg. 10(2) substituted by reg. 30(3) of S.I. 1995/1045 as from 18.4.95..

⁶Words substituted in reg. 10(2) by reg. 11(c) of S.I. 1999/1047 as from 1.6.99.

⁷Reg. 10(2)(c) substituted, and reg. 10(2)(cc) inserted, respectively by reg. 18(3) and (4) of S.I. 1995/3261 as from 22.1.96

⁸Reg. 10(2)(d) substituted, and reg. 10(2)(h) added, respectively by reg. 18(5) and (6) of S.I. 1995/3261 as from 22.1.96.

⁹Reg. 10(2)(i) inserted by reg. 67(3) of S.I. 1996/2907 as from 2.12.96.

¹⁰Words deleted in reg. 10(2)(i) by reg. 11(c)(ii) of S.I. 1999/1047 as from 1.6.99.

¹¹Reg. 10(2A) inserted by reg. 6(3) of S.I. 1995/123 as from 16.2.95.

¹²Words inserted into reg. 10(2A) by reg. 30(4) of S.I. 1995/1045 as from 18.4.95.

¹³Words inserted in reg. 10(2A) by reg. 11(d) of S.I. 1999/1047 as from 1.6.99.

¹⁴Reg. 10(2AA) added by reg. 67(4) of S.I. 1996/2907 as from 2.12.96.

10.—¹(1) A person with a right of appeal to ²the Upper Tribunal³ under—
(a) section 20 of the Act (a); and
(b) section 20 of the Act as extended by paragraph 3(1)(b) of Schedule 4C to the Act (b),

shall be given notice of that right and of the decision to which that right relates.⁴

(1A)-(1C) ⁵⁶

(2) ⁷Subject to ⁸paragraphs (2A) and (2B)⁹, a notification under paragraph(1)¹⁰ of a new or fresh maintenance assessment made under section 11, 16 or 17¹¹ shall set out, in relation to the maintenance assessment in question—

- (a) the maintenance requirements;
- (b) the effective date of assessment;
- ¹²(c) the net and assessable income of the absent parent and, where relevant, the amount determined under regulation 9(1)(b) of the Maintenance Assessments and Special Cases Regulations (housing costs);¹³
- ¹⁴(cc) where relevant, the absent parent's protected income level and the amount of the maintenance assessment before the adjustment in respect of protected income specified in paragraph 6(2) of Schedule 1 to the Act was carried out;¹⁵
- ¹⁶(d) the net and assessable income of the parent with care, and, where relevant, an amount in relation to housing costs determined in the manner specified in regulation 10 of the Maintenance Assessments and Special Cases Regulations (calculation of exempt income of parent with care);¹⁷
- (e) details as to the minimum amount of child support maintenance payable by virtue of regulations made under paragraph 7 of Schedule 1 to the Act; and
- (f) details as to apportionment where a case is to be treated as a special case for the purposes of the Act under section 42 of the Act;

Where the provisions of Part II of the Schedule to S.I. 1992/2644 (C.83) are applied, a further item (sub-para.(g)) is to be included in this notification by virtue of para. 10 of that Schedule.

- ¹⁸(h) (c) any amount determined in accordance with Schedule 3A or 3B to the Maintenance Assessments and Special Cases Regulations (qualifying transfer of property and travel costs).¹⁹
- ²⁰(i) where the notification under paragraph (1)(a) ²¹follows the giving, or cancellation of a departure direction, the amounts calculated in accordance with Part I of Schedule 1 to the Act, or in accordance with regulation 8A, which have been changed as a result of the giving or cancellation of that departure direction.²²

²³(2A) Where a new Category A ²⁴Category C or Category D²⁵ interim maintenance assessment is made, or a fresh Category A ²⁶Category C or Category D²⁷ interim maintenance assessment is made following, ²⁸a revision of a maintenance assessment under section 16 of the Act or a supersession of a maintenance assessment under section 17 of the Act²⁹ a notification under paragraph (1) shall set out, in relation to that interim maintenance assessment, the maintenance requirement and the effective date.³⁰

³¹(2AA) Where a fresh Category D interim maintenance assessment is made following the giving or cancellation of a departure direction, a notification under paragraph (1) shall set out in relation to that interim maintenance assessment the amounts calculated in accordance with regulation 8A which have changed as a result of the giving or cancellation of that departure direction.³²

- (a) Section 20 was substituted by section 42 of the Social Security Act 1998 (c.14).
- (b) Schedule 4C was inserted by the Social Security Act 1998, Schedule 7, paragraph 54.
- (c) Where the provisions of Part II of the Schedule to S.I. 1992/2644 (C.83) are applied a further item (sub-paragraph (g)) is to be included in paragraph (2) by virtue of paragraph 10 of that Schedule.

▶¹(2B) A notification under paragraph (1) in relation to a Category B interim maintenance assessment shall set out in relation to it—

- ▶²(a) the matters listed in sub-paragraphs (a), (b) and (d) to (f) of paragraph (2);
- (b) where known, the absent parent's assessable income; and
- (c) where the Category B interim maintenance assessment is made following the giving or cancellation of a departure direction, the amounts calculated in accordance with regulation 8A which have changed as a result of the giving or cancellation of that departure direction.◀◀

(3) Except where a person gives written permission to the Secretary of State that the information, in relation to him, mentioned in sub-paragraphs (a) and (b) below may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office ▶³of the officer concerned who is exercising functions of the Secretary of State under the Act◀) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

▶⁴(4) Where a decision as to a maintenance assessment is made under section 11, 12, 16 or 17 of the Act, a notification under paragraph (1) shall include information as to the provisions of sections 16 and 17 of the Act.◀

▶⁵◀

▶⁶(5) Paragraphs (2) to (4) of this regulation apply in the case of a decision in respect of which there is no right of appeal as the result of regulation 17A (consideration of revision before appeal) as they apply in the case of a decision which may be appealed under section 20 of the Act (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000).◀

▶⁷**Notification of increase or reduction in the amount of a maintenance assessment**

10A.—(1) Where, in a case falling within paragraph (2B) of regulation 22 of the Maintenance Assessments and Special Cases Regulations (multiple applications relating to an absent parent), ▶⁷the Secretary of State◀ has increased or reduced one or more of the other maintenance assessments referred to in that paragraph following the making of the fresh assessment referred to in sub-paragraph (c) of that paragraph, he shall, so far as that is reasonably practicable, immediately notify the relevant persons in respect of whom each maintenance assessment so increased or reduced was made of—

- (a) the making of that fresh assessment;
- (b) the amount of the increase or reduction in that maintenance assessment; and
- (c) the date on which that increase or reduction shall take effect,

and the notification shall include information as to the provisions of ▶⁷sections 16 and 17◀ of the Act.

(2) Except where a person gives written permission to the Secretary of State that the information in relation to him mentioned in sub-paragraphs (a) and (b) below may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office ▶⁷of the officer concerned who is exercising functions of the Secretary of State under the Act◀) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.◀

▶⁸◀

¹Reg. 10(2B) inserted by reg. 30(5) of S.I. 1995/1045 as from 18.4.95.

²Sub-para. 10(2B)(a) and (b) substituted by reg. 67(5) of S.I. 1996/2907 as from 2.12.96.

³Words inserted in reg. 10(3)(a) by reg. 11(e) of S.I. 1999/1047 as from 1.6.99.

⁴Paras. (4) to (6) substituted in reg. 10 by reg. 11(f) of S.I. 1999/1047 as from 1.6.99.

⁵Paras. (5) & (6) substituted by para. (4) of S.I. 1999/1047 as from 1.6.99.

⁶Reg. 10(5) inserted by reg. 3(2) of S.I. 2013/2380 as from 28.10.13.

⁷Words inserted in para. 10A(1) & (2) by reg. 12(a) & (b) of S.I. 1999/1047 as from 1.6.99.

⁸Regs. 11 to 15A are revoked by reg. 13 of S.I. 1999/1047 as from 1.6.99.

Notification when an applicant under section 7 of the Act ceases to be a child

16. Where a maintenance assessment has been made in response to an application by a child under section 7 of the Act and that child ceases to be a child for the purposes of the Act, a child support officer shall immediately notify, so far as that is reasonably practicable—

¹Words substituted in reg. 16(a) by reg. 6 of S.I. 1993/913 as from 5.4.93.

- (a) the other qualifying children ¹who have attained the age of 12 years and the absent parent with respect to whom that maintenance assessment was made; and
- (b) the person with care.

²Reg. 16A substituted by reg. 15 of S.I. 1999/1047 as from 1.6.99.

Notification that an appeal has lapsed

16A. Where an appeal lapses in accordance with section 16(6) of the Act, the Secretary of State shall, so far as is reasonably practicable, notify the relevant persons that that appeal has lapsed.

³Regs. 17 to 29 substituted by reg. 16 of S.I. 1999/1047 with regs. 17 to 24 as from 1.6.99.

PART V

REVISIONS AND SUPERSESSIONS

Revision of decisions

17.—(1) Subject to paragraphs (6) and (8), any decision may be revised by the Secretary of State—

⁴Words in reg. 17(1)(a) omitted & inserted by reg. 2(2)(a) & (b) of S.I. 2015/338 as from 23.3.15.

- (a) if the Secretary of State receives an application for the revision of a decision under section 16 of the Act ⁴either—
 - (i) within one month of the date of notification of the decisions;
 - (ii) within one month of the date on which notice of the correction is given under regulation 53A(3) (correction of accidental errors); or
 - (iii) within such longer time as may be allowed by regulation 18; ⁴
- (b) if—
 - (i) the Secretary of State notifies a person, who applied for a decision to be revised within the period specified in sub-paragraph (a), that the application is unsuccessful because the Secretary of State is not in possession of all of the information or evidence needed to make a decision; and
 - (ii) that person reapplies for a decision to be revised within one month of the notification described in head (i) above, or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case, and provides in that application sufficient evidence or information to enable a decision to be made;
- (c) if the decision arose from an official error;
- (d) if the Secretary of State is satisfied that the original decision was erroneous due to a misrepresentation of, or failure to disclose, a material fact and that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error; ⁵
- (e) if the Secretary of State commences action leading to the revision of a decision within one month of the date of notification of the decision ⁵or
- (f) if an appeal is made under section 20 of the Act against a decision within the time prescribed in ⁶by the Tribunal Procedure Rules but the appeal has not been determined.

⁵In reg. 17(1), word 'or' omitted from para. (d) & word & para. (f) inserted by reg. 4 of S.I. 2004/2415 as from 16.9.04.

⁶Words in reg. 17(1)(f) substituted by reg. 3(4) of S.I. 2013/2380 as from 28.10.13.

Words deleted but kept in force for saving and transitional provisions. See reg. 8 to S.I. 2013/2380 for when to apply.

regulation 31 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(a), or in a case to which regulation 32 of those Regulations applies within the time prescribed in that regulation,

(a) S.I. 1999/991, relevant amending instruments are S.I. 1999/2570, S.I. 2002/1204 and S.I. 2002/1379.

(2) A decision may be revised by the Secretary of State in consequence of a departure direction where that departure direction takes effect on the effective date.

(3) Subject to regulation 20(6) a decision of the Secretary of State under section 12 of the Act may be revised where—

- (a) the Secretary of State receives information which enables him to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act for the whole of the period beginning with the effective date applicable to a particular case; or
- (b) the Secretary of State is satisfied that there was unavoidable delay by the absent parent in—
 - (i) completing and returning a maintenance enquiry form under the provisions of regulation 6(1);
 - (ii) providing information or evidence that is required by him for the determination of an application for a maintenance assessment; or
 - (iii) providing information or evidence that is required by him to enable him to revise a decision under section 16 of the Act or supersede a decision under section 17 of the Act.

(4) Where an interim maintenance assessment is in force which is not a Category B interim maintenance assessment and the Secretary of State is satisfied that it would be appropriate to make a Category B interim maintenance assessment, he may revise the interim maintenance assessment which is in force.

(5) Where the Secretary of State revises an interim maintenance assessment in accordance with paragraph (4) and that interim maintenance assessment was made immediately following a previous interim maintenance assessment, he may also revise that previous interim maintenance assessment.

▶¹(6) Paragraph (1) shall not apply in respect of a material change of circumstances which—

- (a) occurred since the date on which the decision was made; or
- (b) is expected, according to information or evidence which the Commission has, to occur.◀

¹Regulation 17(6) substituted by reg. 3(2) of S.I. 2011/1464 as from 4.7.11.

(7) In paragraphs (1), (2) and (6) and regulation 18(3) “decision” means a decision of the Secretary of State under section 11 or 12 of the Act and any supersession of such a decision.

(8) Paragraph (1) shall apply in relation to—

- (a) any decision of the Secretary of State with respect to ▶²◀ a person’s liability under section 43 of the Act; and
- (b) the supersession of any such decision under section 17 as extended by paragraph 2 of Schedule 4C to the Act,

²Words omitted in reg. 17(8)(a) by reg. 2(4) of S.I. 2008/2543 as from 27.10.08.

as it applies in relation to any decision of the Secretary of State under sections 11, 12 or 17 of the Act.

▶³**Consideration of revision before appeal**

17A.—(1) This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision; and
- (b) that notice includes a statement to the effect that there is a right of appeal to the First-tier Tribunal against the decision only if the Secretary of State has considered an application for a revision of the decision.

³Reg. 17A inserted by reg. 3(3) of S.I. 2013/2380 as from 28.10.13.

(2) In a case to which this regulation applies, a person has a right of appeal under section 20 of the Act against the decision only if the Secretary of State has considered on an application whether to revise the decision under section 16 of the Act.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 17(1) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 16 of the Act.

(5) In this regulation “decision” means a decision mentioned in section 20 of the Act (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000).◀

Late applications for a revision

18.—(1) The period of one month specified in regulation 17(1)(a) may be extended where the requirements specified in the following provisions of this regulation are met.

(2) An application for an extension of time shall be made by a relevant person or a person acting on his behalf.

(3) An application for an extension of time under this regulation shall—

- (a) be made within 13 months of the date on which notification of the decision which it is sought to have revised was given or sent; and
- (b) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified.

(4) The application for an extension of time shall not be granted unless the person making the application or any person acting for him satisfies the Secretary of State that—

- (a) it is reasonable to grant that application;
- (b) the application for a decision to be revised has merit ▶¹except in a case to which regulation 17A applies◀; and
- (c) special circumstances are relevant to the application for an extension of time,

¹Words added to reg. 18(4)(b) by reg. 3(5)(a) of S.I. 2013/2380 as from 28.10.13.

and as a result of those special circumstances, it was not practicable for the application for a decision to be revised to be made within one month of the date of notification of the decision which it is sought to have revised.

(5) In determining whether it is reasonable to grant an application for an extension of time, the Secretary of State shall have regard to the principle that the greater the time that has elapsed between the expiration of the period of one month described in regulation 17(1)(a) from the date of notification of the decision which it is sought to have revised and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

²Words in reg. 18(6) inserted by reg. 3(5)(b) of S.I. 2013/2380 as from 28.10.13.

(6) In determining whether it is reasonable to grant the application for an extension of time ▶²except in a case to which regulation 17A applies◀, no account shall be taken of the following—

- (a) that the person making the application for an extension of time or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that ▶³the Upper Tribunal◀ or a court has taken a different view of the law from that previously understood and applied.

³Words substituted in reg. 18(6)(b) by para. 59 of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

Date from which revised decision takes effect

19. Where the date from which a decision took effect is found to be erroneous on a revision under section 16 of the Act, the revision shall take effect from the date on which the revised decision would have taken effect had the error not been made.

Supersession of decisions

20.—(1) Subject to paragraphs (9) and (10), for the purposes of section 17 of the Act, the cases and circumstances in which a decision (“a superseding decision”) may be made under that section are set out in paragraphs (2) to (7).

(2) A decision may be superseded by a decision made by the Secretary of State acting on his own initiative—

- (a) where he is satisfied that the decision is one in respect of which there has been a material change of circumstances since the decision was made;
- (b) where he is satisfied that the decision was made in ignorance of, or was based upon a mistake as to, some material fact; or
- (c) in consequence of a departure direction or of a revision or supersession of a decision with respect to a departure direction.

(3) Except where paragraph (8) applies, ¹but subject to regulation 23(22) a decision may be superseded by a decision made by the Secretary of State where—

- (a) an application is made on the basis that—
 - (i) there has been a change of circumstances ²since the date from which the decision had effect; or
 - (ii) it is expected that a change of circumstances will occur; and
- (b) the Secretary of State is satisfied that the change of circumstances is or would be material.

¹Words inserted in reg. 20(3) by reg. 3(4) of S.I. 2005/785 as from 16.3.05.

²Words in reg. 20(3)(a)(i) substituted by reg. 8 of S.I. 2000/1596 as from 19.6.00.

³(3A) For the purposes of paragraph 2 of Schedule 4C to the Act (a), the circumstances in which a decision may be superseded under paragraph (2) or (3) include where the material change of circumstances causes the maintenance assessment to cease by virtue of paragraph 16(1) of Schedule 1 to the Act or where the Commission no longer has jurisdiction by virtue of section 44 of the Act (jurisdiction) (b).

³Reg. 20(3A) inserted by reg. 3(2) of S.I. 2009/2909 as from 4.12.09.

(4) A decision may be superseded by a decision made by the Secretary of State where—

- (a) an application is made on the basis that the decision was made in ignorance of, or was based upon a mistake as to, a fact; and
- (b) the Secretary of State is satisfied that the fact is or would be material.

⁴(4A) A decision may be superseded by a decision made by the Secretary of State—

- (a) where an application is made on the basis that; or
- (b) acting on his own initiative where,

⁴Para. (4A) inserted in reg. 20 by reg. 5(1) of S.I. 2003/1050 as from 5.5.03.

the decision to be superseded is a decision of ⁵an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or of a Child Support Commissioner that was made in accordance with section 28ZB(4)(b) of the Act, in a case where section 28ZB(5) of the Act applies.

⁵Words substituted in reg. 20(4A) by reg. 2(2) of S.I. 2012/1267 as from 4.6.12.

(5) A decision, other than a decision given on appeal, may be superseded by a decision made by the Secretary of State—

- (a) acting on his own initiative where he is satisfied that the decision was erroneous in point of law; or
- (b) where an application is made on the basis that the decision was erroneous in point of law.

(6) An interim maintenance assessment may be superseded by a decision made by the Secretary of State where he receives information which enables him to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act for a period beginning after the effective date of that interim maintenance assessment.

(7) Subject to paragraphs (4) and (5) of regulation 17, where the Secretary of State is satisfied that it would be appropriate to make an interim maintenance assessment the category of which is different from that of the interim maintenance assessment

(a) Schedule 4C was inserted by section 86(1) of, and paragraph 54 of Schedule 7 to, the 1998 Act.

(b) Some of the words in section 44 were substituted by section 86(1) of, and paragraph 41 of Schedule 7 to, the 1998 Act and section 13(4) of, and paragraphs (1) and (46) of Schedule 3 to, the Child Maintenance and Other Payments Act 2008 (c. 6). Some words in section 44(1) and subsection (2A) were inserted by section 22(1) to (3) of the Child Support, Pensions and Social Security Act 2000 (c. 19) and some of the words in section 44(2A)(c) were substituted by S.I. 2009/1941. There are other substitutions none of which are relevant to these Regulations.

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which is in force, he may make a decision which supersedes the interim maintenance assessment which is in force.

- (8) This paragraph applies—
- (a) where any paragraph of regulation 21 applies; and
 - (b) in the case of a Category A or Category D interim maintenance assessment.

(9) The cases and circumstances in which a decision may be superseded shall not include any case or circumstance in which a decision may be revised.

- (10) Paragraphs (2) to (6) shall apply neither in respect of—
- (a) a decision to refuse an application for a maintenance assessment; nor
 - (b) a decision to cancel a maintenance assessment.

(11) For the purposes of section 17 of the Act as extended by paragraph 2 of Schedule 4C to the Act, paragraphs (2) to (5) shall apply in relation to—

- (a) a decision with respect to ¹ a person's liability under section 43 of the Act; and
- (b) any decision of the Secretary of State under section 17 of the Act as extended by paragraph 2 of Schedule 4C to the Act, whether as originally made or as revised under section 16 of the Act as extended by paragraph 1 of Schedule 4C to the Act, as they apply in relation to any decision as to a maintenance assessment save that paragraph (8) shall not apply in respect of such a decision.

¹Words omitted in reg. 20(11)(a) by reg. 2(5) of S.I. 2008/2543 as from 27.10.08.

Circumstances in which a decision may not be superseded

21.—(1) A decision of the Secretary of State shall not be superseded in any of the circumstances specified in the following paragraphs of this regulation.

(2) Except where paragraph (3) or (4) applies and subject to paragraph (5) and regulation 22, this paragraph applies where the difference between—

- (a) the amount of child support maintenance (“the amount”) fixed in accordance with the original decision; and
- (b) the amount which would be fixed in accordance with a superseding decision, is less than £10.00 per week.

(3) Subject to paragraph (5), this paragraph applies where the circumstances of the absent parent are such that the provisions of paragraph 6 of Schedule 1 to the Act would apply and either—

- (a) the amount fixed in accordance with the original decision is less than the amount that would be fixed in accordance with a superseding decision and the difference between the two amounts is less than £5.00 per week; or
- (b) the amount fixed in accordance with the original decision is more than the amount that would be fixed in accordance with the superseding decision and the difference between the two amounts is less than £1.00 per week.

(4) Subject to paragraph (5), this paragraph applies where—

- (a) the children, in respect of whom child support maintenance would be fixed in accordance with a superseding decision, are not the same children for whom child support maintenance was fixed in accordance with the original decision; and
- (b) the difference between—
 - (i) the amount of child support maintenance (“the amount”) fixed in accordance with the original decision; and
 - (ii) the amount which would be fixed in accordance with a superseding decision,

is less than £1.00 per week.

(5) This regulation shall not apply where—

- (a) the absent parent is, by virtue of paragraph 5(4) of Schedule 1 to the Act, to be taken for the purposes of that Schedule to have no assessable income;

- (b) the case falls within paragraph 7(2) of Schedule 1 to the Act; ¹◀
- (c) it appears to the Secretary of State that the case no longer falls within paragraph 5(4) of Schedule 1 to the Act ¹or
- (d) a decision is superseded and in relation to that superseding decision a maintenance assessment is made to which paragraph 15 of Schedule 1 to the Act applies.◀

¹Word deleted in sub-para. (b) of reg. 21(5) & sub-para. 21(5)(d) inserted by reg. 3(3)(a) & (d) of S.I. 2011/1464 as from 4.7.11.

(6) In this regulation—

“original decision” means the decision which would be superseded but for the application of this regulation; and

“superseding decision” means a decision which would supersede the original decision but for the application of this regulation.

Special cases and circumstances for which regulation 21 is modified

22. Where an application is made for a supersession on the basis of a change of circumstances which is relevant to more than one maintenance assessment, regulation 21 shall apply with the following modifications—

- (a) before the word “amount” in each place it occurs there shall be inserted the word “aggregate”; and
- (b) for the word “decision” in each place it occurs there shall be substituted the word “decisions”.

Date from which a decision is superseded

23.—(1) Except in a case to which paragraph (2) ²or (25)◀ applies, where notice is given under regulation 24 in the period which begins 28 days before an application for a supersession is made and ends 28 days after that application is made, the superseding decision of which notice was given under regulation 24 shall take effect as from the first day of the maintenance period in which that application was made.

²Words inserted in reg. 23(1) by reg. 40(3)(b) of S.I. 2013/630 as from 29.4.13.

³(2) Where a superseding decision is made in a case to which regulation 20(2)(a) applies and—

³Reg. 23 paragraph (2) substituted by reg. 3(4)(a) of S.I. 2011/1464 as from 4.7.11.

- (a) the absent parent begins or ceases to receive a benefit mentioned in Schedule 4 to the Maintenance Assessments and Special Cases Regulations (case where child support maintenance is not to be payable); or
- (b) the absent parent or person with care begins or ceases to be a person who receives a benefit referred to in paragraph 5(4) of Schedule 1 to the Act (assessable income),

the decision takes effect from the first day of the maintenance period in which the change occurred.◀

(3) ⁴Subject to paragraph (25),◀ where a superseding decision is made in a case to which either paragraph (2)(b) or (5)(a) of regulation 20 applies, the decision shall take effect as from the first day of the maintenance period in which the decision was made.

⁴Words inserted in reg. 23(3), (5) & (10) and substituted in para. (4) by reg. 40(3)(a) & (c) of S.I. 2013/630 as from 29.4.13.

(4) ⁵Subject to ⁴paragraphs (19) and (25)◀, where a superseding decision is made◀ in a case to which regulation 20(3)(a)(i), (4) or (5)(b) applies, the decision shall take effect as from the first day of the maintenance period in which the application for a supersession was made.

⁵Words substituted in reg. 23(4) by reg. 9(b) of S.I. 2000/1596 as from 19.6.00.

(5) ⁴Subject to paragraph (25),◀ where a superseding decision is made in a case to which regulation 20(3)(a)(ii) applies, the decision shall take effect as from the first day of the maintenance period in which the change of circumstances is due to occur.

(6) Subject to paragraphs (1), (3) and (14), in a case to which regulation 24 applies, a superseding decision shall take effect as from the first day of the maintenance period in which falls the date which is 28 days after the date on which the Secretary of State gave notice to the relevant persons under that regulation.

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(7) For the purposes of paragraph (6), where the relevant persons are notified on different dates, the period of 28 days shall be counted from the date of the latest notification.

(8) For the purposes of paragraphs (6) and (7)–

- (a) notification includes oral and written notification;
- (b) where a person is notified in more than one way, the date on which he is notified is the date on which he was first given notification; and
- (c) the date of written notification is the date on which it was handed or sent to the person.

(9) Regulation 1(6) shall not apply in a case to which paragraph (8)(c) applies.

(10) ¹Subject to paragraph (25),² where–

- (a) a decision made by ²an appeal tribunal or the First-tier Tribunal under section 20 of the Act or the Upper Tribunal or a Child Support Commissioner² is superseded on the ground that it was erroneous due to a misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the Secretary of State is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

the superseding decision shall take effect as from the date the decision of the ²an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or the Child Support Commissioner² took, or was to take effect.

(11) Any decision given under section 17 of the Act in consequence of a determination which is a relevant determination for the purposes of section 28ZC of the Act^(a) (restrictions on liability in certain cases of error) shall take effect as from the date of the relevant determination.

(12) ³Subject to paragraph (25),⁴ where the Secretary of State supersedes a decision in accordance with regulation 20(6), the superseding decision shall take effect as from the first day of the maintenance period in which the Secretary of State has received the information referred to in that paragraph.

(13) ³Subject to paragraph (25),⁴ where the Secretary of State supersedes a decision in accordance with regulation 20(7), the superseding decision shall take effect as from the first day of the maintenance period in which the Secretary of State became satisfied that it would be appropriate to make an interim maintenance assessment the category of which is different from that of the maintenance assessment which is in force.

(14) Where a decision is superseded in consequence of a departure direction or a revision or supersession of a decision with respect to a departure direction–

- (a) paragraph (6) above shall not apply; and
- (b) the superseding decision shall take effect as from the date on which the departure direction or, as the case may be, the revision or supersession, took effect.

(15)–(18) ⁴

⁵(19) Where a superseding decision is made in a case to which regulation 20(2)(a) or (3) applies and the material circumstance is–

- (a) a qualifying child dies or ceases to be a qualifying child;
- (b) a relevant child dies or ceases to be a relevant child; or
- (c) a child who is a member of the family of the absent parent for the purposes of regulation 11(1)(g) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992, dies or ceases to be a member of the family of the absent parent for those purposes,

¹Words inserted in reg. 23(10) by reg. 40(3)(c) of S.I. 2013/630 as from 29.4.13.

²Words substituted in reg. 23(10) by reg. 2(3)(a) & (b) of S.I. 2012/1267 as from 4.6.12.

³Words in reg. 23(12) & (13) inserted by reg. 40(3)(a) of S.I. 2013/630 as from 29.4.13.

⁴Paras. (15)–(18) omitted in reg. 23 by reg. 2(6) of S.I. 2008/2543 as from 27.11.08.
⁵Reg. 23(19) substituted by reg. 4 of S.I. 2012/712 as from 30.4.12.

(a) Section 28ZC was inserted by section 44 of the Social Security Act 1998 (c. 14).

the decision shall take effect as from the first day of the maintenance period in which the change occurred.◀

▶¹(20) ▶²Subject to paragraph (25),◀ where a superseding decision is made in a case to which regulation 20(4A) applies that decision shall take effect from the first day of the maintenance period following the date on which the ▶³the decision of the appeal tribunal, the First-tier Tribunal or the Child Support Commissioner◀ decision would have taken effect had it been decided in accordance with the determination of the ▶⁴Upper Tribunal◀ ▶³or the Child Support Commissioner◀ or the court in the appeal referred to in section 28ZB(1)(b) of the Act.◀

▶⁵(21) Where a superseding decision is made in a case to which regulation 20(2)(a) or (3) applies, and the relevant circumstance is that a person has ceased to be a person with care in relation to a qualifying child in respect of whom the maintenance assessment was made, the decision shall take effect from the first day of the maintenance period in which that person ceased to be that person with care in relation to that qualifying child.

▶⁶(21A) Where a superseding decision is made in a case to which regulation 20(3A) applies and the material circumstance is—

- (a) a qualifying child dies or ceases to be a qualifying child;
- (b) the person with care ceases to be a person with care in relation to a qualifying child; or
- (c) the person with care, the absent parent or a qualifying child ceases to be habitually resident in the United Kingdom,

the decision takes effect from the first day of the maintenance period in which the change occurred.◀

▶⁷(21B) Where—

- (a) a superseding decision is made in a case to which regulation 20(3) applies; and
- (b) in relation to that decision, a maintenance assessment is made to which paragraph 15 of Schedule 1 to the Act applies,

the effective date of the assessment or assessments is the first day of the maintenance period in which the change of circumstances to which the assessment relates occurred or is expected to occur and where it occurred before the date of the application for the supersession and was notified after that date, the first day of the maintenance period in which that application was made.◀

(22) Regulation 21 shall not apply where a superseding decision is made under regulation 20(3) in the circumstances set out in paragraph (19) or (21).◀

▶⁸(23) The reference in paragraph (2) to when an absent parent begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be.

(24) In paragraph (19), “relevant child” has the same meaning as in regulation 1(2) of the Maintenance Assessments and Special Cases Regulations.◀

▶⁹(25) Where a superseding decision is made under regulation 20(2) or (3) with respect to the circumstance that a parent with care or an absent parent—

- (a) has been awarded universal credit on the basis that they have no earned income;
- (b) was awarded universal credit on that basis and their award has been revised or superseded on the basis of their having, at the time the award was made or after that time, earned income; or
- (c) was awarded universal credit on the basis that they had earned income and their award has been revised or superseded on the basis of their not having, at the time the award was made or after that time, earned income,

¹Reg. 23(20) inserted by reg. 5(2) of S.I. 2003/1050 as from 5.5.03.

²Words in reg. 23(20) inserted by reg. 40(3)(a) of S.I. 2013/630 as from 29.4.13.

³Words substituted in reg. 23(20) by regs. 2(3)(b)(i) & (ii) of S.I. 2012/1267 as from 4.6.12.

⁴Words substituted in reg. 23(20) by Sch. 1, para. 61(b) of S.I. 2008/2683 as from 3.11.08.

⁵Paras. (21) & (22) inserted in reg. 23 by reg. 3(5) of S.I. 2005/785 as from 16.3.05.

⁶Reg. 23(21A) inserted by reg. 3(3) of S.I. 2009/2909 as from 4.12.09.

⁷Reg. 23(21B) inserted by reg. 3(4)(b)-(c) of S.I. 2011/1464 as from 4.7.11.

⁸Paras. (23) & (24) inserted by reg. 3(4)(d) of S.I. 2011/1464 as from 4.7.11.

⁹Reg. 23(25) & (26) inserted by reg. 40(3)(d) of S.I. 2013/630 as from 29.4.13.

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the decision takes effect from the first day of the maintenance period in which the award of universal credit, or the revision or supersession of such an award, as the case may be, took effect or is due to take effect.

(26) For the purposes of paragraph (25), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013(a).◀

Procedure where the Secretary of State proposes to supersede a decision on his own initiative

24. Where the Secretary of State on his own initiative proposes to make a decision superseding a decision other than in consequence of a decision with respect to a departure direction or a revision or supersession of such a decision he shall notify the relevant persons who could be materially affected by the decision of that intention.◀

(a) S.I. 2013/376.

PART VIII

COMMENCEMENT AND TERMINATION OF MAINTENANCE ASSESSMENTS AND MAINTENANCE PERIODS

Effective dates of new maintenance assessments

30.—(1) Subject to ¹regulation 8C (effective dates of interim maintenance assessments), 30A (effective dates in particular cases), 33(7) (maintenance periods) and to regulation 3(5) ³, (7) and (8) of the Maintenance Arrangements and Jurisdiction Regulations (maintenance assessments where court order in force), the effective date of a new maintenance assessment following an application under section 4 ⁴ or 7 of the Act shall be the date determined in accordance with paragraphs (2) to (4).

¹Words substituted in reg. 30(1) by reg. 32(2) of S.I. 1995/3261 as from 22.1.96.

²Words added to reg. 30(1) by reg. 7 of S.I. 1995/123 as from 16.2.95.

³Words in reg. 30(1) & reg. 30(2) substituted by reg. 36(2) & (3) of S.I. 1995/1045 as from 18.4.95.

⁴Word omitted in reg. 30(1) by reg. 2(7) of S.I. 2008/2543 as from 27.10.08.

³(2) Where no maintenance assessment made in accordance with Part I of Schedule 1 to the Act is in force with respect to the person with care and absent parent, the effective date of a new assessment shall be—

(a) in a case where the application for a maintenance assessment is made by a person with care or by a child under section 7 of the Act—

(i) eight weeks from the date on which a maintenance enquiry form has been given or sent to an absent parent, where such date is on or after 18th April 1995 and where within four weeks of the date that form was given or sent, it has been returned by the absent parent to the Secretary of State and it contains his name, address and written confirmation that he is the parent of the child or children in respect of whom the application for a maintenance assessment was made;

(ii) in all other circumstances, the date a maintenance enquiry form is given or sent to an absent parent;

(b) in a case where the application for a maintenance assessment is made by an absent parent—

(i) eight weeks from the date on which an application made by an absent parent was received by the Secretary of State, where such date is on or after 18th April 1995 and where, on, or within four weeks of, the date of receipt of that maintenance application, the absent parent has provided his name, address and written confirmation that he is the parent of the child or children in respect of whom the application was made;

(ii) in all other circumstances, the date an effective maintenance application form is received by the Secretary of State.

⁵(c) in a case where the application for a maintenance assessment is an application in relation to which the provisions of regulation 3 have been applied, the date an effective maintenance application form is received by the Secretary of State.

⁵Sub-para. (c) added to reg. 30(2) by reg. 32(2) of S.I. 1995/3261 as from 22.1.96.

⁶(2A) Where ⁷the Secretary of State is satisfied that there was unavoidable delay by the absent parent in providing the information listed in sub-paragraphs (a)(i) or (b)(i) of paragraph (2) within the time specified in those sub-paragraphs, he may apply the provisions of those sub-paragraphs for the purpose of setting the effective date of a maintenance assessment even though that information was not provided within the time specified in those sub-paragraphs.

⁶Reg. 30(2A) inserted by reg. 36(4) of S.I. 1995/1045 as from 18.4.95.

⁷Words substituted in reg. 30(2A) & (4) by reg. 17 of S.I. 1999/1047 as from 1.6.99.

(3) The provisions of regulation 1(6)(b) shall not apply to paragraph (2)(a).

(4) Where ⁷the Secretary of State is satisfied that an absent parent has deliberately avoided receipt of a maintenance enquiry form, he may determine the date on which the form would have been given or sent but for such avoidance, and that date shall be the relevant date for the purposes of paragraph (2)(a).

Reg. 30A

¹Reg. 30A inserted by reg. 33 of S.I. 1995/3261 as from 22.1.96.

²Reg. 30A(2) substituted by reg. 8(2) of S.I. 1996/3196 as from 13.1.97.

³Words substituted in reg. 30A(2), (4), (5) & (6) by reg. 18 of S.I. 1999/1047 as from 1.6.99.

⁴Regs. 30A(3)-(7) inserted by reg. 8(3) of S.I. 1996/3196 as from 13.1.97.

⁵Words in reg. 30A(3) substituted by reg. 40 of S.I. 1998/58 as from 19.1.98.

⁶Words inserted in regs. 30A(5) by reg. 3(3) of S.I. 2003/2779 as from 5.11.03.

⁷Words substituted in reg. 30A(5) by reg. 57(5) of S.I. 2008/1554 as from 27.10.08.

⁸Para. (8) inserted in reg. 30A by reg. 4 of S.I. 2008/2544 as from 27.10.08.

▶¹Effective dates of new maintenance assessments in particular cases

30A.—(1) Subject to regulation 33(7), where a new maintenance assessment is made in accordance with Part I of Schedule 1 to the Act following an interim maintenance assessment which has ceased to have effect in the circumstances set out in regulation 8D(6), the effective date of that maintenance assessment shall be the date upon which that interim maintenance assessment ceased to have effect in accordance with that regulation.

▶²(2) Where ▶³the Secretary of State◀ 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.◀

▶⁴(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 ▶⁵Secretary of State◀ 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, ▶³the Secretary of State◀ 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 ▶⁶, state pension credit◀ ▶⁷, an income-based jobseeker's allowance or an income-related employment and support allowance◀, the Secretary of State shall be treated as having received the information or evidence which enables ▶³him◀ to make the assessment referred to in that paragraph on the first day in respect of which income support ▶⁶, state pension credit◀ ▶⁷, an income-based jobseeker's allowance or an income-related employment and support allowance◀ was payable under that award.

(6) Where, in a case falling within paragraph (3), ▶³the Secretary of State◀ 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).◀

▶⁸(8) The effective date of a new maintenance assessment, where the circumstances set out in paragraph (9) apply, shall be—

- (a) on, or on one of the 6 days immediately following, the effective date as it would have been but for this paragraph; and

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- (b) on the same day of the week as the day on which the maintenance period in respect of the previous maintenance assessment, as defined in paragraph 9(b), began.
- (9) The circumstances referred to in paragraph (8) are where—
 - (a) a maintenance assessment (“the previous maintenance assessment”) has been in force in relation to the absent parent, whether or not in respect of the same parent with care; and
 - (b) the previous maintenance assessment is no longer in force when the decision as to the maintenance assessment is made.◀

31.-31C. ▶¹◀**Cancellation of a maintenance assessment**

32. Where ▶²the Secretary of State◀ cancels a maintenance assessment under paragraph 16(2) ▶³◀ of Schedule 1 to the Act, the assessment shall cease to have effect from the date of receipt of the request for the cancellation of the assessment or from such later date as ▶²he◀ may determine.

▶⁴Cancellation of maintenance assessments made under section 7 of the Act where the child is no longer habitually resident in Scotland

32A.—(1) Where a maintenance assessment made in response to an application by a child under section 7 of the Act is in force and that child ceases to be habitually resident in Scotland, ▶²the Secretary of State◀ shall cancel that assessment.

(2) In any case where paragraph(1) applies, the assessment shall cease to have effect from the date that the ▶²the Secretary of State◀ determines is the date on which the child concerned ceased to be habitually resident in Scotland.◀

▶⁵Notification of intention to cancel a maintenance assessment under paragraph 16(4A) of Schedule 1 to the Act

32B.—(1) ▶²The Secretary of State◀ shall, if it is reasonably practicable to do so, give written notice to the relevant persons of his intention to cancel a maintenance assessment under paragraph 16(4A) of Schedule 1 to the Act.

(2) Where a notice under paragraph (1) has been given, ▶²the Secretary of State◀ shall not cancel that maintenance assessment before the end of a period of 14 days commencing with the date that notice was given or sent.◀

Maintenance periods

33.—(1) The child support maintenance payable under a maintenance assessment shall be calculated at a weekly rate and be in respect of successive maintenance periods, each such period being a period of 7 days.

(2) Subject to paragraph (6), the first maintenance period shall commence on the effective date of the first maintenance assessment, and each succeeding maintenance period shall commence on the day immediately following the last day of the preceding maintenance period.

(3) The maintenance periods in relation to a fresh maintenance assessment ▶⁶made upon the supersession of a decision under section 17 of the Act◀ shall coincide with the maintenance periods in relation to the earlier assessment, had it continued in force, and the first maintenance period in relation to a fresh assessment shall commence on the day following the last day of the last maintenance period in relation to the earlier assessment.

(4) The amount of child support maintenance payable in respect of a maintenance period which includes the effective date of a fresh maintenance assessment shall be the amount of maintenance payable under that fresh assessment.

¹Regs. 31 to 31C are revoked by reg. 19 of S.I. 1999/1047 as from 1.6.99.

²Words substituted in reg. 32, 32A(2), 32B(1) & (2), by reg. 20, 21(2)(a), (b) & 22 of S.I. 1999/1047 as from 1.6.99.

³Words omitted in reg. 32 by reg. 2(8) of S.I. 2008/2543 as from 27.10.08.

⁴Reg. 32A inserted by reg. 12 of S.I. 1993/913 as from 5.4.93.

⁵Reg. 32B inserted by reg. 35 of S.I. 1995/3261 and reg. 2 of S.I. 1995/3265 as from 22.1.96.

⁶Words substituted in reg. 33(3) by reg. 23 of S.I. 1999/1047 as from 1.6.99.

(5) The amount of child support maintenance payable in respect of a maintenance period during the course of which a cancelled maintenance assessment ceases to have effect shall be the amount of maintenance payable under that assessment.

¹Reg. 33(6) substituted by regs. 12(2) and 25(1) of S.I. 1996/1945 for applications made from 5.8.96.

►¹(6) Where a case is to be treated as a special case for the purposes of the Act by virtue of regulation 22 of the Maintenance Assessments and Special Cases Regulations (multiple applications relating to an absent parent) and an application is made by a person with care in relation to an absent parent where—

- (a) there is already a maintenance assessment in force in relation to that absent parent and a different person with care; or
- (b) sub-paragraph (a) does not apply, but before a maintenance assessment is made in relation to that application, a maintenance assessment is made in relation to that absent parent and a different person with care,

the maintenance periods in relation to an assessment made in response to that application shall coincide with the maintenance periods in relation to the earlier maintenance assessment, except where regulation 3(7) of the Maintenance Arrangements and Jurisdiction Regulations or paragraph (8) applies, and the first such period shall, subject to paragraph (9), commence not later than 7 days after the date of notification to the relevant persons of the later maintenance assessment.◀

Reg. 33(6) as in force before 5.8.96, and saved for application made before 5.8.96 by reg. 25(1) of S.I. 1996/1945, is reproduced as follows:—

(6) Where a case is to be treated as a special case for the purposes of the Act by virtue of regulation 22 of the Maintenance Assessments and Special Cases Regulations (multiple applications relating to an absent parent) and an application is made by a person with care in relation to an absent parent where there is already a maintenance assessment in force in relation to that absent parent and a different person with care, the maintenance periods in relation to an assessment made in response to that application shall coincide with the maintenance periods in relation to the earlier maintenance assessment, ►²except where regulation 3(7) of the Maintenance Arrangements and Jurisdiction Regulations or paragraph (8) applies,◀ and the first such period shall commence not later than 7 days after the date of notification to the relevant persons of the later maintenance assessment.

²Words inserted in reg. 33(6) by reg. 36(2) of S.I. 1995/3261 as from 22.1.96.

►³(7) Subject to regulation 3(7) of the Maintenance Arrangements and Jurisdiction Regulations and to paragraph (8), the effective date of a maintenance assessment made in response to an application falling within paragraph (6) shall be the date upon which the first maintenance period in relation to that application commences in accordance with that paragraph.

³Paras. (7) and (8) added to reg. 33 by reg. 36(3) of S.I. 1995/3261 as from 22.1.96.

(8) The first maintenance period in relation to a maintenance assessment which is made in response to an application falling within paragraph (6) and which immediately follows an interim maintenance assessment shall commence on the effective date of that interim maintenance assessment or 22nd January 1996 whichever is the later, and the effective date of that maintenance assessment shall be the date upon which that first maintenance period commences.◀

⁴Reg. 33(9) added by regs. 12(3) and 25(1) of S.I. 1996/1945 for applications made from 5.8.96.

►⁴(9) Where the case is one to which, if paragraphs (6) and (7) did not apply, regulation 30(2)(a)(i) or (b)(i) would apply, and the first maintenance period would, under the provisions of paragraph (6), commence during the 8 week period referred to in sub-paragraph (a) or (b) of that regulation, the first maintenance period shall commence not later than 7 days after the expiry of that period of 8 weeks.◀

PART IX

34.-50. ▶¹◀

¹Regs. 34-50 omitted by reg. 2(9) of S.I. 2008/2543 as from 27.10.08.

PART X

MISCELLANEOUS PROVISIONS

Persons who are not persons with care

51.—(1) For the purposes of the Act the following categories of person shall not be persons with care—

- (a) a local authority;
- (b) a person with whom a child who is looked after by a local authority is placed by that authority under the provisions of the Children Act 1989(a) ▶²except where that person is a parent of such a child and the local authority allow the child to live with that parent under section 23(5) of that Act◀;
- ▶³(ba) in Scotland, a family or relative with whom a child is placed by a local authority under the provisions of section 26 of the Children (Scotland) Act 1995 or who is providing continuing care by virtue of arrangements made under section 26A of that Act.◀
- (c) in Scotland, a person with whom a child is boarded out by a local authority under the provisions of section 21 of the Social Work (Scotland) Act 1968(b).

²Words added in reg. 51(1)(b) by reg. 15 of S.I. 1993/913 as from 5.4.93.

³Reg. 51(1)(ba) inserted by reg. 16(2) of S.I. 2017/995 as from 7.11.17.

(2) In paragraph (1) above—

“local authority” means, in relation to England and Wales, the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London and, in relation to Scotland, a regional council or an islands council;

“a child who is looked after by a local authority” has the same meaning as in section 22 of the Children Act 1989.

52. ▶⁴◀

⁴Reg. 52 revoked by reg. 31 of S.I. 1999/1047 as from 1.6.99.

Authorisation of representative

53.—(1) A person may authorise a representative, whether or not legally qualified, to receive notices and other documents on his behalf and to act on his behalf in relation to the making of applications and the supply of information under any provision of the Act or these Regulations.

(2) Where a person has authorised a representative for the purposes of paragraph (1) who is not legally qualified, he shall confirm that authorisation in writing to the Secretary of State.

▶⁵Correction of accidental errors

53A.—(1) An accidental error in a decision of the Secretary of State made under the Act, or in any record of such a decision, may be corrected by the Secretary of State at any time.

⁵Reg. 53A inserted by reg. 2(3) of S.I. 2015/338 as from 23.4.15.

(2) Such a correction is to be treated as part of that decision or of that record.

(3) The Secretary of State must give written notice of the correction as soon as practicable to the persons to whom notice of the decision was required to be given.

(a) 1989 c. 41.

(b) 1968 c. 49.

(4) In calculating the time within which an application may be made under regulation 17(1)(a) (revision of decisions) for a decision to be revised, no account is to be taken of any day falling before the date on which notice of any correction was given. ◀

¹Regs. 54 to 57 revoked
by reg. 31 of S.I. 1999/
1047 as from 1.6.99.

54.-57. ▶¹◀

Signed by authority of the Secretary of State for Social Security.

20th July 1992

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

SCHEDULE 1

Regulation 1(4)

MEANING OF “CHILD” FOR THE PURPOSES OF THE ACT

►¹Conditions prescribed for the purposes of section 55(1)◄

►²1.—(1) A person satisfies such conditions as may be prescribed for the purposes of section 55(1)(b) of the Act (a) if that person satisfies any of the conditions in sub-paragraphs (2) and (3).

- (2) The person is receiving full-time education (which is not advanced education)—
- (a) by attendance at a recognised educational establishment; or
 - (b) elsewhere, if the education is recognised by the Secretary of State.
- (3) The person is a person in respect of whom child benefit is payable.◄

1A. ►²◄

¹Heading to Sch. 1, para. 1 substituted by reg. 2(2)(a) of S.I. 2013/1517 as from 30.9.13.

²Para. 1 & words in paras. 2, 3, 4 substituted & para. 1A omitted by reg. 2(2)-(6) of S.I. 2012/2785 as from 8.10.12.

Meaning of “advanced education” for the purposes of section 55 of the Act

►³2. For the purposes of ►²this Schedule◄ “advanced education” means education for the purposes of—

- (a) a course in preparation for a degree, a diploma of higher education►², a higher national certificate◄, a higher national diploma or a teaching qualification; or
- (b) any other course which is of a standard above ordinary national diploma, a national diploma or national certificate of Edexcel, a general certificate of education (advanced level) or Scottish national qualifications at higher or advanced higher level.◄

³Paras. 2 & 4(2) of Sch. 1 substituted & para. 5 omitted by reg. 3(4)(a)-(d) of S.I. 2009/2909 as from 10.11.09.

Circumstances in which education is to be treated as full-time education

3. For the purposes of ►²this Schedule◄ education shall be treated as being full-time if it is received by a person attending a course of education at a recognised educational establishment and the time spent receiving instruction or tuition, undertaking supervised study, examination of practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course, exceeds 12 hours per week, so however that in calculating the time spent in pursuit of the course, no account shall be taken of time occupied by meal breaks or spent on unsupervised study, whether undertaken on or off the premises of the educational establishment.

Interruption of full-time education

4.—(1) Subject to sub-paragraph (2), in determining whether a person falls within ►²paragraph 1(2)◄ no account shall be taken of a period (whether beginning before or after the person concerned attains age 16) of up to 6 months of any interruption to the extent to which it is accepted that the interruption is attributable to a cause which is reasonable in the particular circumstances of the case; and where the interruption or its continuance is attributable to the illness or disability of mind or body of the person concerned, the period of 6 months may be extended for such further period as ►⁴the Secretary of State◄ considers reasonable in the particular circumstances of the case.

►³(2) The provisions of sub-paragraph (1) do not apply to any period of interruption of a person’s full-time education which is followed immediately by a period during which child benefit ceases to be payable in respect of that person.◄

5. ►³◄

⁴Words substituted in para. 4(1) by reg. 32 of S.I. 1999/1047 as from 1.6.99.

Interpretation

►⁵6. In this Schedule, “recognised educational establishment” means an establishment recognised by the Secretary of State for the purposes of this Schedule as being, or as comparable to, a university, college or school.

⁵Para. 6 substituted and para. 7 inserted by reg. 2(7) & (8) of S.I. 2012/2785 as from 8.10.12.

(a) Section 55 was substituted by section 42 of the 2008 Act.

Education otherwise than at a recognised educational establishment

7. For the purposes of paragraph 1(2), the Secretary of State may recognise education provided for a person otherwise than at a recognised educational establishment only if satisfied that education was being so provided for that person immediately before that person attained the age of 16.◀

¹Para. 8 inserted in Sch. 1 by reg. 2(2)(b) of S.I. 2013/1517 as from 30.9.13.

►¹Person in respect of whom child benefit is payable

8. For the purposes of paragraphs 1(3) and 4(2), a person in respect of whom child benefit is payable includes a person in respect of whom an election has been made under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit)(a) for payments of child benefit not to be made.◀

SCHEDULE 2

Regulation 4

MULTIPLE APPLICATIONS

No maintenance assessment in force: more than one application for a maintenance assessment by the same person under section 4 ►²◀ of the Act

²Words in heading to & in para. 1(1) and para. 1(2) omitted by reg. 2(10)(a)-(c) of S.I. 2008/2543 as from 27.10.08.

1.—(1) Where a person makes an effective application for a maintenance assessment under section 4 ►²◀ of the Act and, before that assessment is made, makes a subsequent effective application under that section with respect to the same absent parent or person with care, as the case may be, those applications shall be treated as a single application.

(2) ►²◀

No maintenance assessment in force: more than one application by a child under section 7 of the Act

2. Where a child makes an effective application for a maintenance assessment under section 7 of the Act and, before that assessment is made, makes a subsequent effective application under that section with respect to the same person with care and absent parent, both applications shall be treated as a single application for a maintenance assessment.

No maintenance assessment in force: applications by different persons for a maintenance assessment

³Words substituted in para. 3(1)-(5) by reg. 33(a)(i) & (ii) of S.I. 1999/1047 as from 1.6.99.

3.—(1) Where the Secretary of State receives more than one effective application for a maintenance assessment with respect to the same person with care and absent parent, he shall ►³, if no maintenance assessment has been made in relation to any of the applications,◀ determine which application he shall proceed with in accordance with sub-paragraphs (2) to (11).

⁴Words omitted in Sch. 2, para. 3(2) by reg. 2(11)(a) of S.I. 2008/2543 as from 27.10.08.

(2) Where there is an application by a person with care under section 4 ►⁴◀ of the Act and an application by an absent parent under section 4 of the Act, ►³the Secretary of State◀ shall proceed with the application of the person with care.

(3) Where there is an application for a maintenance assessment by a qualifying child under section 7 of the Act and a subsequent application is made with respect to that child by a person who is, with respect to that child, a person with care or an absent parent, ►³the Secretary of State◀ shall proceed with the application of that person with care or absent parent, as the case may be.

(4) Where, in a case falling within sub-paragraph (3), there is more than one subsequent application, ►³the Secretary of State◀ shall apply the provisions of sub-paragraph (2), (8), (9) or (11), as is appropriate in the circumstances of the case, to determine which application he shall proceed with.

(5) Where there is an application for a maintenance assessment by more than one qualifying child under section 7 of the Act in relation to the same person with care and absent parent, ►³the Secretary of State◀ shall proceed with the application of the elder or, as the case may be, eldest of the qualifying children.

(a) 1992 c. 5. Section 13A was inserted by section 8 of, and paragraph 3 of Schedule 1 to, the Finance Act 2012 (c. 14).

(6) Where a case is to be treated as a special case for the purposes of the Act under regulation 19 of the Maintenance Assessments and Special Cases Regulations (both parents are absent) and an effective application is received from each absent parent, ►¹the Secretary of State◄ shall proceed with both applications, treating them as a single application for a maintenance assessment.

¹Words substituted in para. 3(6)-(12) by reg. 33(a)(ii) of S.I. 1999/1047 as from 1.6.99.

(7) Where, under the provisions of regulation 20 of the Maintenance Assessments and Special Cases Regulations (persons treated as absent parents), two persons are to be treated as absent parents and an effective application is received from each such person, ►¹the Secretary of State◄ shall proceed with both applications, treating them as a single application for a maintenance assessment.

(8) ►²◄

²Words omitted in Sch. 2 sub-para. (8) by reg. 2(11)(b) of S.I. 2008/2543 as from 27.10.08.

(9) Where—

- (a) more than one person with care makes an application for a maintenance assessment under section 4 of the Act in respect of the same qualifying child or qualifying children (whether or not any of those applications is also in respect of other qualifying children);
- (b) each such person has parental responsibility for (or, in Scotland, parental rights over) that child or children; and
- (c) under the provisions of regulation 20 of the Maintenance Assessments and Special Cases Regulations one of those persons is to be treated as an absent parent,

►¹the Secretary of State◄ shall proceed with the application of the person who does not fall to be treated as an absent parent under the provisions of regulation 20 of those Regulations.

(10) Where, in a case falling within sub-paragraph (9), there is more than one person who does not fall to be treated as an absent parent under the provisions of regulation 20 of those Regulations, ►¹the Secretary of State◄ shall apply the provisions of paragraph (11) to determine which application he shall proceed with.

(11) Where—

- (a) more than one person with care makes an application for a maintenance assessment under section 4 of the Act in respect of the same qualifying child or qualifying children (whether or not any of those applications is also in respect of other qualifying children); and
- (b) either—
 - (i) none of those persons has parental responsibility for (or, in Scotland, parental rights over) that child or children; or
 - (ii) the case falls within sub-paragraph (9)(b) but the child support officer has not been able to determine which application he is to proceed with under the provisions of sub-paragraph (9),

►¹the Secretary of State◄ shall proceed with the application of the principal provider of day to day care, as determined in accordance with sub-paragraph (12).

(12) Where—

- (a) the applications are in respect of one qualifying child, the application of that person with care with whom the child spends the greater or, as the case may be, the greatest proportion of his time;
- (b) the applications are in respect of more than one qualifying child, the application of that person with care with whom the children spend the greater or, as the case may be, the greatest proportion of their time, taking account of the time each qualifying child spends with each of the persons with care in question;
- (c) ►¹the Secretary of State◄ cannot determine which application he is to proceed with under paragraph (a) or (b), and child benefit is paid in respect of the qualifying child or qualifying children to one but not any other of the applicants, the application of the applicant to whom child benefit is paid;

¹Words substituted in para. 3(11) to (14) & omitted in para. 4 by reg. 33(a)(ii) & (b) of S.I. 1999/1047 as from 1.6.99.

²Para. 3(15) inserted by reg. 2(3) of S.I. 2013/1517 as from 30.9.13.

³Para. 5 omitted in Sch. 2 by reg. 2(12) of S.I. 2008/2543 as from 27.10.08.

⁴Para. 6(1) substituted & 6(2) omitted by reg. 41(2) of S.I. 1998/58 as from 19.1.98.

⁵Words in para. 6(3) inserted & substituted by reg. 41(3)(a) & (b) of S.I. 1998/58 as from 19.1.98.

⁶Words in para. 6(3) substituted by reg. 18 of S.I. 1993/913 as from 5.4.93.

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- (d) ¹the Secretary of State[◀] cannot determine which application he is to proceed with under paragraph (a), (b) or (c), the application of that applicant who in the opinion of the child support officer is the principal provider or day to day care for the child or children in question.

(13) Subject to sub-paragraph (14), where, in any case falling within sub-paragraphs (2) to (11), the applications are not in respect of identical qualifying children, the application that ¹the Secretary of State[◀] is to proceed with as determined by those paragraphs shall be treated as an application with respect to all of the qualifying children with respect to whom the applications were made.

(14) Where ¹the Secretary of State[◀] is satisfied that the same person with care does not provide the principal day to day care for all of the qualifying children with respect to whom an assessment would but for the provisions of this paragraph by made under sub-paragraph (13), he shall make separate assessments in relation to each person with care providing such principal day to day care.

²(15) For the purposes of sub-paragraph (12)(c), where a person has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made in respect of a child, that person is to be treated as the person to whom child benefit is being paid in respect of that child.[◀]

Maintenance assessment in force: subsequent application for a maintenance assessment with respect to the same persons

4. Where a maintenance assessment is in force and a subsequent application is made under the same section of the Act for an assessment with respect to the same person with care, absent parent, and qualifying child or qualifying children as those with respect to whom the assessment in force has been made, that application shall not be proceeded with ¹◀.

Maintenance assessment in force: subsequent application for a maintenance assessment under section 6 of the Act

5. ³◀

Maintenance assessment in force: subsequent application for a maintenance assessment in respect of additional children

6.—⁴(1) Where there is in force a maintenance assessment made in response to an application under section 4 of the Act by an absent parent or person with care and that assessment is not in respect of all of the absent parent's children who are in the care of the person with care with respect to whom that assessment was made—

- (a) if that absent parent or that person with care makes an application under section 4 of the Act with respect to the children in respect of whom the assessment currently in force was made and the additional child or one or more of the additional children in the care of that person with care who are children of that absent parent, an assessment made in response to that application shall replace the assessment currently in force;
- (b) if that absent parent or that person with care makes an application under section 4 of the Act in respect of an additional qualifying child or additional qualifying children of that absent parent in the care of that person with care, that application shall be treated as an application for a maintenance assessment in respect of all the qualifying children concerned and the assessment made shall replace the assessment currently in force.[◀]

(2) ⁴◀

(3) Where a maintenance assessment made in response to an application by a child under section 7 of the Act is in force and the person with care ⁵or the absent parent[◀] of that child makes an application for a maintenance assessment under section 4 of the Act in respect of ⁶one or more ⁵children of that absent parent who are in the care of that person with care[◀], that application shall be treated as an application for a maintenance assessment with respect to all the ⁵children of that absent parent who are in the care of that person with care[◀], and[◀] that assessment shall replace the assessment currently in force.

EXPLANATORY NOTE

Supplement No. 45 [Aug 2013]

The Law Relating to Child Support

(This note is not part of the Regulations)

