
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Support (Maintenance Assessment Procedure) Regulations 1992, the Child Support (Maintenance Assessments and Special Cases) Regulations 1992, the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992, the Child Support (Collection and Enforcement) Regulations 1992, the Child Support (Collection and Enforcement of Other Forms of Maintenance) Regulations 1992 and the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992, all of which are made under the Child Support Act 1991 (“the Act”).

The Child Support (Maintenance Assessment Procedure) Regulations are amended in the following respects—

(1) regulation 5 is amended to remove the obligation on the Secretary of State, where he is satisfied that a maintenance assessment can be dealt with in the absence of a completed and returned maintenance enquiry form, to give notice of an effective application to the relevant persons other than the applicant and to give or send them maintenance enquiry forms (regulation 2);

(2) regulation 8 is amended to introduce an additional category of interim maintenance assessment where a child support officer is unable to make a maintenance assessment because the partner of an absent parent or of a parent with care fails to provide information about income (regulation 3) and regulation 9 is amended so that its provisions do not apply to this additional category of interim maintenance assessments (regulation 4);

(3) regulation 17 is amended so that a fresh assessment following a review under section 18 or 19 of the Act does not affect the date of the next periodical review under section 16 of the Act (regulation 7);

(4) regulation 20 is amended to remove, in two situations, the requirement that for a fresh maintenance assessment to be made following a change of circumstances review under section 17 of the Act, the difference between the previous and fresh assessment has to exceed a minimum amount (regulation 9);

(5) regulation 24 is amended to extend the time limits to seek review of a child support officer’s refusal to make a maintenance assessment on the grounds of lack of jurisdiction where, on a subsequent application to a court for a maintenance order, the court refuses to make an order on the grounds of lack of jurisdiction (regulation 10);

(6) A new regulation 26A is inserted: this provides for treating an application for a review under section 18 of the Act where parentage is an issue, but not the only issue, as two separate applications (regulation 11);

(7) a new regulation 32A is inserted: this provides for the cancellation of a maintenance assessment made under section 7 of the Act where a child is no longer habitually resident in Scotland (regulation 12);

(8) regulation 42 is amended to provide that a reduced benefit direction may be reviewed where relevant reasons are provided by a person other than a parent with care; and where a question arises as to whether the welfare of a child is likely to be affected by a reduced benefit direction continuing in force (regulation 14);

(9) regulation 51 is amended, in conjunction with the insertion of a new regulation 27A into the Child Support (Maintenance Assessments and Special Cases) Regulations 1992, so as to include

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

within the category of persons with care a parent of a child whom the local authority allow the child to live with under section 23(5) of the Children Act 1989 (regulations 15 and 25);

(10) regulation 57 is added to the Regulations: this permits the Secretary of State to disclose information contained in an application for a review under section 17 or 18 of the Act where a question as to the entitlement to benefit arises, and to delay referring the application to a child support officer in these circumstances (regulation 16);

The Child Support (Maintenance Assessments and Special Cases) Regulations are amended in the following respects—

(1) In regulation 1 several definitions are amended or substituted and a new paragraph (2A) is inserted which deals with the calculation of income tax and social security contributions (regulation 19);

(2) a new sub-paragraph (7) is inserted into paragraph 3 of Schedule 1 to provide for the calculation of the earnings of business partners and share fishermen (regulation 27(4));

(3) two new paragraphs are inserted into Schedule 2 so as to provide that in calculating a parent's net income any guardian's allowance under the Social Security (Contributions and Benefits) Act 1992 and any allowances in respect of duties mentioned in paragraph 1(1)(i) of Schedule 1 (auxiliary coastguard, part-time fireman etc.) and which relate to a period of a year or more are to be disregarded (regulation 32); and

(4) paragraph (1)(d) of Schedule 3 is amended so as to provide that the sum to be taken into account as eligible housing costs are to include any interest on a loan taken out to meet any service charge imposed to meet the cost of the repairs and improvements mentioned in that sub-paragraph (regulation 33).

The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations are amended in the following respects—

(1) regulation 4 is amended by providing that there be no liability to pay interest on arrears which are paid within 28 days of the payment being missed (regulation 36);

(2) regulation 5 is amended to remove the requirement that an arrears agreement be in writing, but obliging the Secretary of State to prepare a payments schedule where an arrears agreement has been entered into (regulation 37);

(3) regulation 12 is amended to remove the jurisdiction of a child support officer to review the calculation of arrears due under a maintenance assessment or of the interest payable with respect to arrears (regulation 39), and consequential amendments are made to regulation 13 (regulation 40).

The Child Support (Maintenance Arrangements and Jurisdiction) Regulations are amended to provide that the provisions of regulation 7 (cancellation of a maintenance assessment on grounds of lack of jurisdiction) extend to parents who are treated as absent parents for the purposes of the Act (regulation 45). Other minor amendments are also made to the Regulations mentioned in the first paragraph of this note.