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STATUTORY INSTRUMENTS

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**1995 No. 3261**

**The Child Support (Miscellaneous  
Amendments) (No. 2) Regulations 1995**

**Substitution of regulation 8 of the Maintenance Assessment Procedure Regulations** **E+W**  
**+S**

**16.** For regulation 8 of the Maintenance Assessment Procedure Regulations (amount and duration of an interim maintenance assessment) there shall be substituted the following regulations—

**“ Categories of interim maintenance assessment**

**8.—**(1) Where a child support officer 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 a child support officer 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 Assessments 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 or the child support officer;
- (c) a Category C interim maintenance assessment where—
  - (i) the absent parent 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 a child support officer 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 a child support officer, 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.
- (e) in this regulation and in regulation 8A, "family" and "partner" have the same meanings as in the Maintenance Assessments and Special Cases Regulations.

#### **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 a child support officer 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.

(4) Where the disposable income of an absent parent, calculated in accordance with regulation 12(1)(a) of the Maintenance Assessments and Special Cases Regulations, would, without taking account of the income of any member of his family, bring him within the provisions of paragraph 6 of Schedule 1 to the Act (protected income), and a child support officer is unable to ascertain the disposable income of the other members of his family, 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 Schedule 1 to the Act 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 his 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 child support maintenance fixed by a Category C interim maintenance assessment shall be £30.00 but a child support officer 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) A child support officer 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 parent's income, in so far as the child support officer 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-paragraph (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.

### **Review of an interim maintenance assessment**

**8B.**—(1) Subject to paragraph (4), where a child support officer—

- (a) makes a Category A interim maintenance assessment following a review of a Category A interim maintenance assessment under section 16 of the Act; or
- (b) makes a Category D interim maintenance assessment following a review of a Category D maintenance assessment under section 16 of the Act,

the effective date of that assessment shall be 104 weeks after the effective date of the previous interim maintenance assessment, disregarding any previous interim maintenance assessment made following a review under section 19 of the Act.

(2) Subject to paragraph (4), where a child support officer reviews a Category A or Category D interim maintenance assessment under section 19(1)(c) <sup>MI</sup> of the Act on the grounds that it is defective because of a mistake as to its effective date or for reasons which include a mistake as to its effective date, the effective date of a Category A or Category D interim maintenance assessment made following such a review shall be the correct effective date applicable to the interim maintenance assessment being reviewed, as determined in accordance with paragraph (1), regulation 8C(1) or regulation 3(5) of the Maintenance Arrangements and Jurisdiction Regulations, as the case may be.

(3) Subject to paragraph (4), where a child support officer reviews a Category A or Category D interim maintenance assessment under section 19(1)(c) of the Act on the

grounds that it is defective for reasons which do not include a mistake as to its effective date, the effective date of a Category A or Category D interim maintenance assessment made following such a review shall be the same as the effective date of the interim maintenance assessment that has been reviewed.

(4) Where the effective date of a Category A interim maintenance assessment made following a review under section 16 or 19(1)(c) of the Act would by virtue of the provisions of paragraphs (1) to (3) be earlier than 16th February 1995, the effective date of that assessment shall be 16th February 1995.

### **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 9(9) or 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 regulations 8B, 9(2) and (3) and 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;
- (b) in respect of a Category B interim maintenance assessment made after 22nd January 1996, subject to sub-paragraph (d) and to regulations 31 to 31C, 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) and regulations 31 to 31C, 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).

(2) The effective date of an interim maintenance assessment made under section 12(1) (b) or (c) of the Act<sup>M2</sup> shall, subject to regulations 8B, 9(2), (3) and (9), or 33(7), and, as regards Category B and Category C interim maintenance assessments to regulations 31 to 31C, 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 is being reviewed.

(3) In cases where the effective date of an interim maintenance assessment is determined under paragraph (1), regulation 8B or 9(2), (3) or (9), 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 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.

(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) Subject to regulations 9(13) and 9A(6), for the purposes of sections 17, 18 and 19(1) (a), (b) and (e) and (6), of the Act, a maintenance assessment shall not include a Category A or Category D interim maintenance assessment.

(4) The provisions of regulations 29, 31 to 31C, 32, 33(5) and 55 shall not apply to a Category A or Category D interim maintenance assessment.

(5) Subject to paragraph (6) and regulation 9(15), 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 a child support officer 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 a child support officer 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.

(8) For the purposes of paragraph (6), the Secretary of State shall be treated as having received the information or evidence which has caused the interim maintenance assessment to cease to have effect on the first day upon which the absent parent in question became entitled to income support.”

#### **Marginal Citations**

**M1** Section 19 was substituted by section 15 of the Child Support Act 1995.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995, Section 16. (See end of Document for details)*

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**M2** [Section 12\(1\)\(b\)](#) and (c) were inserted by section 11 of the Child Support Act 1995.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995, Section 16.