
STATUTORY INSTRUMENTS

1996 No. 635

**The Child Support Departure Direction
(Anticipatory Application) Regulations 1996**

PART IV

Property or capital transfers

Prescription of certain terms for the purposes of paragraphs 3 and 4 of Schedule 4B to the Act

21.—(1) For the purposes of paragraphs 3(1)(a) and 4(1)(a) of Schedule 4B to the Act—

(a) a court order means an order made—

(i) under one or more of the enactments listed in or prescribed under section 8(11) of the Act; and

(ii) in connection with the transfer of property of a kind defined in paragraph (2);

(b) an agreement means a written agreement made in connection with the transfer of property of a kind defined in paragraph (2).

(2) Subject to paragraphs (3) to (5), for the purposes of paragraph 3(1)(b) and 4(1)(b) of Schedule 4B to the Act, a transfer of property is a transfer by the absent parent of his beneficial interest in any asset to the person with care, to a child in respect of whom the current assessment was made or to trustees where the object or one of the objects of the trust is the provision of basic day to day necessities for that child.

(3) Where the provision of maintenance for the child referred to in paragraph (2) is only one of the objects of a trust, the transfer of property for the purposes of paragraph 3(1)(b) and 4(1)(b) of Schedule 4B to the Act shall be the transfer of that proportion only of the asset transferred to the trustees which in the opinion of the Secretary of State relates to the maintenance of that child.

(4) Where a transfer of property would not originally have fallen within paragraph (2) but the Secretary of State is satisfied that some or all of the amount of that property transferred was subsequently transferred to the person currently with care of a child in respect of whom the current assessment was made, the transfer of that property to the person currently with care shall count as a transfer of property for the purposes of paragraph 3(1)(b) and 4(1)(b) of Schedule 4B to the Act.

(5) Where, if the Act had been in force at the time a transfer of property falling within paragraph (2) was made, the person who, at the time the application is made is the person with care would have been the absent parent and the person who, at the time the application is made is the absent parent would have been the person with care, that transfer shall not count as a transfer of property for the purposes of this regulation.

(6) For the purposes of paragraph 3(3) of Schedule 4B to the Act, the effect of a transfer of property is properly reflected in the current assessment if the amount of child support maintenance payable under any fresh maintenance assessment which would be made in consequence of a departure direction differs from the amount of child support maintenance payable under that current assessment by less than the amount specified in regulation 31.