
STATUTORY INSTRUMENTS

1999 No. 1510

The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999

PART V

AMENDMENT OF THE CHILD SUPPORT (ARREARS, INTEREST AND ADJUSTMENT OF MAINTENANCE ASSESSMENTS) REGULATIONS 1992

Amendment of regulation 3

24. In regulation 3^{M1} (liability to make payments of interest with respect to arrears)—
- (a) in paragraph (4), for the words “following a review under section 16, 17, 18 or 19 of the Act or” there shall be substituted the words “ by virtue of a revision under section 16 of the Act, a decision under section 17 of the Act superseding an earlier decision or of ”;
 - (b) in paragraph (5), for the words “following a review under section 16, 17, 18 or 19 of the Act or” there shall be substituted the words “ made by virtue of a revision under section 16 of the Act, a decision under section 17 of the Act superseding an earlier decision or of ”; and
 - (c) in paragraph (6), for the words “the review under section 16, 17, 18 or 19 of the Act or an appeal under section 20 of the Act results in” there shall be substituted the words “ by virtue of a revision under section 16 of the Act, a decision under section 17 of the Act superseding an earlier decision or of an appeal under section 20 of the Act there is ”.

Marginal Citations

M1 Regulation 3 was amended by S.I. 1993/913.

Amendment of regulation 4

25. In regulation 4(2)(b)^{M2} (circumstances in which no liability to pay interest arises), the words “or a child support officer” shall be omitted.

Marginal Citations

M2 Regulation 4 was amended by S.I. 1993/913 and 1995/1045.

Amendment of regulation 10

26. In regulation 10^{M3} (adjustment of the amount payable under a maintenance assessment)—
- (a) subject to paragraph (b) below, for the words “a child support officer” in each place in which they occur there shall be substituted the words “ the Secretary of State ”; and

- (b) in paragraph (2), for the words from “revised as a result” to “and a fresh maintenance assessment made” there shall be substituted the words “ replaced by a fresh maintenance assessment made by virtue of a revision under section 16 of the Act or of a decision under section 17 of the Act superseding an earlier decision ”.

Marginal Citations

M3 Regulation 10 was substituted by S.I. 1995/1045 and amended by S.I. 1996/2907 and 1998/2799.

Amendment of regulation 11

27. In regulation 11^{M4} (notifications following a cancellation or adjustment under the provisions of regulation 10)—

- (a) in paragraph (1), for the words “a child support officer” there shall be substituted the words “ the Secretary of State ”; and
- (b) in paragraph (2), for the words from “regulation 12(1)” (where they first occur) to the end there shall be substituted the words “ regulations 12 to 15 ”.

Marginal Citations

M4 Regulation 11 was amended by S.I. 1995/1045.

Substitution of regulations 12 to 15

28. For regulations 12 to 15^{M5} there shall be substituted the following regulations—

“ Extension of the application of Schedule 4C to the Act

12. Schedule 4C to the Act is hereby extended so that it applies to any decision with respect to the adjustment of amounts payable under maintenance assessments for the purpose of taking account of overpayments of child support maintenance.

Revision of decisions

13.—(1) A decision may be revised by the Secretary of State—

- (a) if the Secretary of State receives an application for the revision of a decision under section 16 of the Act as extended by regulation 12 above within one month of the date of notification of the decision or within such longer time as may be allowed by regulation 14;
- (b) if the decision arose from an official error;
- (c) 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; or
- (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.

(2) In paragraph (1)—

“decision” means a decision of the Secretary of State—

- (a) adjusting the amount payable under a maintenance assessment; or
- (b) cancelling an adjustment of an amount payable under a maintenance assessment, under regulation 10 and a decision superseding such a decision;

“official error” means an error made by 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.

(3) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the date as from which the decision had effect.

Late application for revision

14.—(1) The period of one month specified in regulation 13(1)(a) may be extended where the conditions specified in the following provisions of this regulation are satisfied.

(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) An 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 the application;
- (b) the application for a revision has merit; and
- (c) special circumstances are relevant to the application for an extension of time 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 one month described in regulation 13(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.

(6) In determining whether it is reasonable to grant the application for an extension of time, 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 a Child Support Commissioner or a court has taken a different view of the law from that previously understood and applied.

(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

15. Where the date as from which a decision took effect is found to be erroneous on a revision under section 16 of the Act as extended by regulation 12 above, the revision shall take effect as from the date on which the revised decision would have taken effect had the error not been made.

Supersession of decisions

16.—(1) For the purposes of section 17 of the Act as extended by regulation 12 above, the cases and circumstances in which a decision adjusting the amount payable under a maintenance assessment may be superseded by a decision under that section as extended are set out in paragraphs (2) to (4).

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

- (a) is one in respect of which there has been a material change of circumstances since the decision was made; or
- (b) was made in ignorance of, or was based upon a mistake as to, some material fact.

(3) A decision may be superseded by a decision made by the Secretary of State where an application is made on the basis that—

- (a) there has been a change of circumstances since the decision was made and the Secretary of State is satisfied that the change of circumstances is or would be material; or
- (b) the decision was made in ignorance of, or was based upon a mistake as to, a fact and the Secretary of State is satisfied that the fact is or would be material.

(4) 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.

(5) The cases and circumstances in which a decision may be superseded under section 17 of the Act as extended by regulation 12 above shall not include any case or circumstance in which a decision may be revised.

Application of regulations 1(6), 10(3) and 53 of the Maintenance Assessment Procedure Regulations

17.—(1) The provisions of regulation 10(3) of the Maintenance Assessment Procedure Regulations shall apply to any notification—

- (a) under regulation 11; and
- (b) of a decision under the provisions of regulation 13, 14 or 16.

(2) Regulations 1(6) and 53 of the Maintenance Assessment Procedure Regulations shall apply to the provisions of these Regulations.”.

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Marginal Citations

M5 [Regulation 12](#) was substituted by [S.I. 1995/1045](#) and amended by [S.I. 1995/3261](#). Regulation 13 was amended by [S.I. 1993/913](#), 1995/1045 and 1995/3261.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999, PART V.