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STATUTORY INSTRUMENTS

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**2001 No. 156**

**The Child Support (Variations) Regulations 2000**

**PART II**

**APPLICATION AND DETERMINATION PROCEDURE**

**Procedure in relation to the determination of an application**

**9.—(1)** Subject to paragraph (3), where the Secretary of State has given the preliminary consideration to an application and not rejected it he—

- (a) shall give notice of the application to the relevant persons other than the applicant, informing them of the grounds on which the application has been made and any relevant information or evidence the applicant has given, except information or evidence falling within paragraph (2);
  - (b) may invite representations, which need not be in writing but shall be in writing if in any case he so directs, from the relevant persons other than the applicant on any matter relating to that application, to be submitted to the Secretary of State within 14 days of the date of notification or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case; and
  - (c) shall set out the provisions of paragraphs (2)(b) and (c), (4) and (5) in relation to such representations.
- (2) The information or evidence referred to in paragraphs (1)(a), (4)(a) and (7), are—
- (a) details of the nature of the long-term illness or disability of the relevant other child which forms the basis of a variation application on the ground in regulation 11 where the applicant requests they should not be disclosed and the Secretary of State is satisfied that disclosure is not necessary in order to be able to determine the application;
  - (b) medical evidence or medical advice which has not been disclosed to the applicant or a relevant person and which the Secretary of State considers would be harmful to the health of the applicant or that relevant person if disclosed to him; or
  - (c) the address of a relevant person or qualifying child, or any other information which could reasonably be expected to lead to that person or child being located, where the Secretary of State considers that there would be a risk of harm or undue distress to that person or that child or any other children living with that person if the address or information were disclosed.
- (3) The Secretary of State need not act in accordance with paragraph (1)—
- (a) where regulation 29 applies (variation may be taken into account notwithstanding that no application has been made);
  - (b) where the variation agreed is one falling within paragraph 3 of Schedule 4B to the Act (property or capital transfer), the Secretary of State ceases to have jurisdiction to make a maintenance calculation and subsequently acquires jurisdiction in respect of the same non-

resident parent, person with care and any child in respect of whom the earlier calculation was made;

- (c) if he is satisfied on the information or evidence available to him that the application would not be agreed to, but if, on further consideration of the application, he is minded to agree to the variation he shall, before doing so, comply with the provisions of this regulation; or
- (d) where—
  - (i) a variation has been agreed in relation to a maintenance calculation;
  - (ii) the decision as to the maintenance calculation is replaced with a default maintenance decision under section 12(1)(b) of the Act;
  - (iii) the default maintenance decision is revised in accordance with section 16(1B) of the Act,

and the Secretary of State is satisfied, on the information or evidence available to him, that there has been no material change of circumstances relating to the variation since the date from which the maintenance calculation referred to in head (i) ceased to have effect.

- (4) Where the Secretary of State receives representations from the relevant persons—
  - (a) he may, if he considers it reasonable to do so, send a copy of the representations concerned (excluding material falling within paragraph (2)) to the applicant and invite any comments he may have within 14 days or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case; and
  - (b) where the Secretary of State acts under sub-paragraph (a) he shall not proceed to determine the application until he has received such comments or the period referred to in that sub-paragraph has expired.

(5) Where the Secretary of State has not received representations from the relevant persons notified in accordance with paragraph (1) within the time limit specified in sub-paragraph (b) of that paragraph, he may proceed to agree or not (as the case may be) to a variation in their absence.

(6) In considering an application for a variation, the Secretary of State shall take into account any representations received at the date upon which he agrees or not (as the case may be) to the variation from the relevant persons, including any representation received in accordance with paragraphs (1) (b), 4(a) and (7).

(7) Where any information or evidence requested by the Secretary of State under regulation 8 is received after notification has been given under paragraph (1), the Secretary of State may, if he considers it reasonable to do so, and except where such information or evidence falls within paragraph (2), send a copy of such information or evidence to the relevant persons and may invite them to submit representations, which need not be in writing unless the Secretary of State so directs in any particular case, on that information or evidence.

(8) The Secretary of State may, if he considers it appropriate, treat an application for a variation made on one ground as if it were an application made on a different ground, and, if he does intend to do so, he shall include this information in the notice and invitation to make representations referred to in paragraphs (1), (4) and (7).

(9) Two or more applications for a variation with respect to the same maintenance calculation or application for a maintenance calculation, made or treated as made, may be considered together.