STATUTORY INSTRUMENTS

2002 No. 1204

The Child Support (Miscellaneous Amendments) Regulations 2002

Amendment of the Transitional Regulations

8.—(1) The Transitional Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 4 (revision, supersession and appeal of conversion decisions), for paragraph (4) there shall be substituted—

"(4) In their application to a decision referred to in these Regulations, the Decisions and Appeals Regulations shall be modified so as to provide—

(a) on any revision or supersession of a conversion decision under section 16 or 17 respectively of the Act, that—

(i) the conversion decision may include a relevant departure direction or relevant property transfer; and

(ii) the effective date of the revision or supersession shall be as determined under the Decisions and Appeals Regulations or the case conversion date, whichever is the later;

(b) on any appeal in respect of a conversion decision under section 16 or 17 respectively of the Act, that the time within which the appeal must be brought shall be—

(i) within the time from the date of notification of the conversion decision against which the appeal is brought, to one month after the case conversion date of that decision; or

(ii) as determined under the Decisions and Appeals Regulations,

whichever is the later.".

(3) Regulation 9 (amount of child support maintenance payable) shall be amended as follows—

(a) in paragraph (1), for the words after "the new amount,", there shall be substituted—

"unless—

(a) regulation 10 applies, in which case it shall be a transitional amount as provided for in regulations 11 and 17 to 28; or

(b) regulation 12 or 13 applies, in which case it shall be a transitional amount as provided for in those regulations."; and

(b) in paragraph (2), for "regulations 10 to 28" there shall be substituted "regulations 10 to 14 and 16 to 28".

(4) In regulation 10 (circumstances in which a transitional amount is payable), after "reduced rate", there shall be inserted ", an amount calculated under regulation 22".

(5) Regulation 12 (transitional amount in flat rate cases) shall be amended as follows—

(a) in paragraphs (1) and (2), ", nil" shall be omitted at the end of the paragraph;

(b) in paragraph (3), for the words after "apportioned" there shall be substituted "among the persons with care, other than any in respect of whom paragraph 8 of Part I of Schedule 1 to the Act applies, in accordance with paragraph 6(2) of that Schedule, unless paragraph (4) or (5) applies.";

(c) in paragraphs (4) and (5), after "paragraph 4(1)(b)" there shall be inserted "or (c)";

(d) for paragraph (6) there shall be substituted—

"(6) Where paragraph (4) or (5) applies, the transitional amount shall be apportioned among the persons with care, other than any in respect of whom the former assessment amount is nil and paragraph 8 of Part I of Schedule 1 to the Act applies, in accordance with paragraph 6(2) of that Schedule."; and

(e) in paragraph (7), "in paragraph (5)" shall be omitted.

(6) Regulation 13 (transitional amount–certain flat rate cases) shall be renumbered as paragraph (1) of that regulation and at the end there shall be added—

"(2) Where paragraph 4(1)(b) or (c) of Part I of Schedule 1 to the Act applies and the former assessment amount is nil, the amount of child support maintenance payable for the year beginning on the case conversion date shall be a transitional amount equivalent to half the first prescribed amount and thereafter shall not be a transitional amount but shall be the new amount.".

(7) In regulation 14(c) (certain cases where the new amount is payable), "or" shall be omitted.

(8) In regulation 15(4) (case conversion date)—

(a) for "paragraph (3)" there shall be substituted "this regulation"; and

(b) before the definition of "relevant person", there shall be inserted—

""maintenance assessment" has the meaning given in section 54 of the former Act;".

(9) In regulation 17 (relevant departure decision and relevant property transfer)—

(a) in the heading, for "decision" there shall be substituted "direction"; and

(b) for paragraph (6), there shall be substituted—

"(6) Where, but for the application of a relevant departure direction referred to in paragraph (5), the new amount would be—

(a) the first prescribed amount owing to the application of paragraph 4(1)(b) of Part I of Schedule 1 to the Act;

(b) the amount referred to in sub-paragraph (a), but is less than that amount or is nil, owing to the application of paragraph 8 of that Part; or

(c) the nil rate under paragraph 5(a) of that Part,

paragraph (5) applies where the amount of the additional income exceeds £100.".

(10) In regulation 21(1) (effect on conversion calculation—relevant property transfer), for "regulation 23" there shall be substituted "regulations 23 and 23A".

(11) In regulation 22(1) (effect on conversion calculation—maximum amount payable where relevant departure direction is on additional cases ground) for "the amount of child support maintenance which the non-resident parent shall be liable to pay" there shall be substituted "the new amount".

(12) In paragraph (2) of regulation 23 (effect of a relevant departure direction on conversion calculation—general), the words from ", other" to "costs)," shall be omitted.

(13) After regulation 23, there shall be inserted—

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"**Effect of a relevant property transfer and a relevant departure direction—general**

23A. Where—

(a) more than one relevant property transfer applies; or

(b) one or more relevant property transfers and one or more relevant departure directions apply,

regulation 23 shall apply as if references to a relevant departure direction were to a relevant property transfer or to the relevant property transfers and relevant departure directions, as the case may be.".

(14) In regulation 24 (phasing amount)—

(a) in paragraph (3), for "For", there shall be substituted "Subject to paragraph (4), for"; and

(b) after paragraph (3), there shall be added—

"(4) Where the new amount is calculated under regulation 22(1), "relevant income" for the purposes of paragraph (2) is the aggregate of the income calculated under regulation 22(1)(b).".

(15) Regulation 27 (subsequent decision with effect in transitional period—amount payable) shall be amended as follows—

(a) in paragraph (3)(b), after "new amount," there shall be added "and greater than the previous transitional amount,";

(b) in paragraph (5)(b), after "new amount," there shall be added "and less than the previous transitional amount,";

(c) in paragraph (6) for the words after "prescribed amount" there shall be substituted—

", would be the first or the second prescribed amount but is less than that amount, or is nil, owing to the application of paragraph 8 of Part I of Schedule 1 to the Act, or is the nil rate.".

(16) Regulation 28 (linking provisions) shall be amended as follows—

(a) in paragraphs (1) and (2), for "Where" there shall be substituted "Subject to paragraph (2A), where";

(b) after paragraph (2), there shall be inserted—

"(2A) Paragraph (1) or (2) shall not apply where, before any application for a maintenance calculation of a type referred to in paragraph (1) or (2) is made or treated as made, an application for a maintenance calculation is made or treated as made in relation to either the person with care or the non-resident parent (but not both of them) to whom the maintenance assessment referred to in paragraph (1) or (2) related.";

(c) in paragraph (4)(a), for the words from "at the first" to the end of the sub-paragraph there shall be substituted—

"at—

(i) the first or second prescribed amount;

(ii) what would be an amount referred to in head (i) but is less than that amount, or is nil, owing to the application of paragraph 8 of Part I of Schedule 1 to the Act; or

(iii) the nil rate; and";

(d) in paragraph (4)(b), for the words after "other than" there shall be substituted "a rate referred to in sub-paragraph (a)";

(e) in paragraph (5), for "Where" there shall be substituted "Subject to paragraph (5A), where";

(f) after paragraph (5), there shall be inserted—

"(5A) Paragraph (5) shall not apply where, before any second subsequent decision is made, an application for a maintenance calculation is made or treated as made in relation to either the person with care or the non-resident parent (but not both of them) to whom the first subsequent decision referred to in paragraph (4) related.";

(g) in paragraph (7)—

(i) for "Where" there shall be substituted "Subject to paragraph (7A), where"; and

(ii) for "an application for child support maintenance" there shall be substituted "an application for a maintenance calculation";

(h) after paragraph 7, there shall be inserted—

"(7A) Paragraph (7) shall not apply where, before an application for a maintenance calculation of a type referred to in that paragraph is made or treated as made, an application for a maintenance calculation is made or treated as made in relation to either the person with care or the non-resident parent (but not both of them) to whom the conversion calculation referred to in that paragraph related.";

(i) paragraph (8) shall be amended as follows—

(i) for "Where" there shall be substituted "Subject to paragraph (9), where"; and

(ii) for sub-paragraph (a), there shall be substituted—

"(a) a conversion calculation is in force, or pursuant to regulation 16(3) a maintenance calculation is in force, ("the calculation") and the new amount—

(i) is the first or second prescribed amount;

(ii) would be an amount referred to in head (i), but is less than that amount, or is nil, owing to the application of paragraph 8 of Part I of Schedule 1 to the Act; or

(iii) is the nil rate;"; and

(j) after paragraph (8), there shall be added—

"(9) Paragraph (8) shall not apply where, before a subsequent decision of a type referred to in paragraph (8)(b) is made, an application for a maintenance calculation is made or treated as made in relation to the person with care or the non-resident parent (but not both of them) to whom the calculation relates.".