
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the amendment of regulations relating to child support.

The powers exercised to make these Regulations are those contained in the Child Support Act 1991 (“the 1991 Act”). Some of those powers are conferred by provisions of the 1991 Act prior to the amendments made to the 1991 Act by the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”), which amendments are not yet fully in force, and relate to the child support scheme which was in force prior to 3rd March 2003 and which remains in force for the purposes of certain cases (“the old scheme”). Other powers are conferred by provisions of the 1991 Act as amended by the 2000 Act, which relate to the child support scheme provided for by those amendments, which came into force for the purposes of specified categories of cases on 3rd March 2003 (see the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003) (“the new scheme”).

Regulations 2, 3(3), 4(2)(e), (4) and (7)(a) amend, respectively, the Child Support Departure Direction and Consequential Amendments Regulations 1996, the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the Assessment Procedure Regulations”) and the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (“the Assessments and Special Cases Regulations”), all of which relate to the old scheme, in consequence of the introduction of state pension credit.

Regulations 3(2), (4) and (5) and 5 respectively amend the Assessment Procedure Regulations, which relate to the old scheme, and the Child Support (Maintenance Calculation Procedure) Regulations 2000, which relate to the new scheme. The amendments are made in consequence of the abolition of the residential allowance in income support and income-based jobseeker’s allowance and other changes resulting from the coming into force of the Care Standards Act 2000 and the Regulation of Care (Scotland) Act 2001. Regulation 9 makes savings provisions in respect of the amendments made by regulations 3(2), (4) and (5) and 5.

Regulations 4(2)(a) to (d), (3) and (5) and 6(2)(a) to (d) and (4) respectively amend the Assessments and Special Cases Regulations and the Calculations and Special Cases Regulations to reflect changes in terminology introduced in the Care Standards Act 2000 and the Regulation of Care (Scotland) Act 2001 and make provision for how persons who are in a care home or an independent hospital or who are being provided with a care home service or an independent health care service should be treated for child support purposes.

Regulations 4(6) and (7)(b) and (d) and 6(2)(g) and (3) respectively amend the Assessments and Special Cases Regulations, which relate to the old scheme, and the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (“the Calculations and Special Cases Regulations”), which relate to the new scheme. The amendments provide for a war widower’s pension to be treated for child support purposes in the same way as a war widow’s pension is to be treated under provisions already in force and for the treatment for child support purposes of specific payments for war widows and widowers.

Regulation 4(7)(c) amends the provision in the Assessments and Special Cases Regulations which provides that specified payments from local authorities or the National Assembly for Wales shall not be counted as income for child support purposes.

In the Calculations and Special Cases Regulations, regulation 6(2)(e) amends the definition of “occupational pension scheme”, regulation 6(2)(f) substitutes the definition of “training allowance”

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and regulation 6(5) amends the provision for cases where a non-resident parent is liable to pay child support maintenance as well as child maintenance under a court order in respect of a different child.

Regulation 7 amends the Child Support (Transitional Provisions) Regulations 2000 (“the Transitional Regulations”), which make provision for the conversion of cases from the old scheme to the new scheme. Regulation 7(2) and (6) amends provisions in respect of the “maximum transitional amount”, which is the most a non-resident parent can be required to pay in child support maintenance, to make provision for cases where regulation 22 of the Transitional Regulations or regulation 26 of the Child Support (Variations) Regulations 2000 (“the Variations Regulations”) applies. Regulation 7(3) amends regulation 7(g)(ii) of the Transitional Regulations to link the ground set out in that provision to the making of an application for a variation in relation to the same transfer of capital or property as has been taken into account as a “relevant property transfer” in the conversion decision. Regulation 7(4) amends the Transitional Regulations to ensure that a relevant property transfer and a variation cannot be in force at the same time in relation to the same property or capital transfer. Regulation 7(5) and (7) amends regulations 24 and 27 of the Transitional Regulations respectively to make provision for specific cases where a subsequent decision is made.

Regulation 8 makes an amendment to the Variations Regulations, which relate to the new scheme, in consequence of the amendment made by regulation 7(4).

These Regulations do not impose any costs on business.