

2008 No. 2551

FAMILY LAW

The Child Support Information Regulations 2008

Made - - - - 26th September 2008

Laid before Parliament 2nd October 2008

Coming into force - - 27th October 2008

CONTENTS

**PART 1
GENERAL**

1. Citation and commencement
2. Interpretation

**PART 2
DUTY TO PROVIDE INFORMATION**

3. Information from the applicant
4. Information from other persons
5. Information from persons denying parentage
6. Information from a court
7. Duty of persons from whom information requested
8. Commission to warn of consequences of failing to provide information or providing false information
9. Duty to notify change of address
10. Continuing duty of person with care
11. Powers of inspectors in relation to Crown premises

**PART 3
DISCLOSURE OF INFORMATION**

12. Disclosure of information to a court or tribunal
13. Disclosure of information to other persons
14. Employment to which section 50 of the 1991 Act applies

**PART 4
MISCELLANEOUS**

15. Revocation and saving

16. Transitional provisions in relation to transfer of child support functions

The Secretary of State, in exercise of the powers conferred by sections 4(4), 7(5), 14(1) and (3), 50(5), 51(1), 52(4), 54 and 57(1) and (2) of, and paragraph 16(10) of Schedule 1 to, the Child Support Act 1991(a) makes the following Regulations:

PART 1
GENERAL

Citation and commencement

1. These Regulations may be cited as the Child Support Information Regulations 2008 and come into force on 27th October 2008.

Interpretation

2.—(1) In these Regulations—

“the 1991 Act” means the Child Support Act 1991;

“local authority” means, in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly and, in relation to Wales, a county council or a county borough council and, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (b);

“Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations 2000(c);

(2) These Regulations apply to a 1993 scheme case in the same way as they apply to a 2003 scheme case and any references to expressions in the 1991 Act (including “non-resident parent” and “maintenance calculation”) or to regulations made under that Act are to be read, in relation to a 1993 scheme case, with the necessary modifications.

(3) In paragraph (2)—

(a) “2003 scheme case” means a case in respect of which the provisions of the Child Support, Pensions and Social Security Act 2000(d) have been brought into force in accordance with article 3 of the Child Support, Pensions, and Social Security Act 2000 (Commencement No.12) Order 2003(e); and

(b) “1993 scheme case” means a case in respect of which those provisions have not been brought into force.

(4) References in these Regulations to a non-resident parent are to a person who is the non-resident parent in relation to an application for a maintenance calculation or in relation to a maintenance calculation that is or has been in force and includes a person treated as a non-resident parent by virtue of regulations made under section 42 of the 1991 Act.

(a) 1991 c. 48. Section 54 is cited because of the meaning given to the word “prescribed”.

(b) 1994 c. 39.

(c) S.I. 2001/157.

(d) 2000 c. 19.

(e) S.I. 2003/192.

PART 2

DUTY TO PROVIDE INFORMATION

Information from the applicant

3.—(1) A person who has made an application for a maintenance calculation under section 4 of the 1991 Act must furnish such information as the Commission requires to enable—

- (a) the non-resident parent to be identified or traced (where that is necessary);
- (b) the amount of child support maintenance payable by the non-resident parent to be calculated; or
- (c) that amount to be recovered from the non-resident parent.

(2) A qualifying child who has made an application for a maintenance calculation under section 7 of the 1991 Act (right of a child in Scotland to apply for a calculation) must furnish such information as the Commission requires for any of the purposes, except enabling the non-resident parent to be identified, set out in paragraph (1).

Information from other persons

4.—(1) The persons listed in paragraph (2) must furnish such information or evidence as is required by the Commission and is needed—

- (a) for the determination of any application made under the 1991 Act or any question arising in connection with such an application;
- (b) for the making of any decision, or in connection with the imposition of any condition or requirement, under that Act; or
- (c) in connection with the collection or enforcement of child support or other maintenance under that Act.

(2) The persons required to furnish information or evidence are—

- (a) subject to regulation 5, the non-resident parent;
- (b) a current or previous employer of the non-resident parent;
- (c) a person for whom the non-resident parent is providing or has provided services under a contract for services;
- (d) a person who acts or has acted as an accountant for the non-resident parent;
- (e) a person, other than the applicant, who provides day to day care for a child in respect of whom an application for a maintenance calculation has been made or in respect of whom a maintenance calculation is or has been in force;
- (f) a credit reference agency within the meaning given by the Consumer Credit Act 1974(a);
- (g) a local authority in whose area the non-resident parent or the person with care resides or has resided;
- (h) persons employed in the service of the Crown or otherwise in the discharge of Crown functions—

(a) 1974 c. 39.

- (i) under the Road Traffic (Northern Ireland) Order 1981(a), sections 97 to 99A of the Road Traffic Act 1988 (b) or Part II of the Vehicle Excise and Registration Act 1994(c); or
- (ii) under the Prison Act 1952(d), the Prison Act (Northern Ireland) 1953(e) or the Prisons (Scotland) Act 1989(f);
- (i) a person who, in the course of business, may lawfully accept deposits in the United Kingdom;
- (j) a person who, within the meaning of the Electricity Act 1989(g), distributes or supplies electricity;
- (k) a person who is the holder of a licence under section 7 of the Gas Act 1986(h) to convey gas through pipes or the holder of a licence under section 7A(1) of that Act to supply gas through pipes.

(3) The persons mentioned in paragraph (2) (b) and (c) include persons employed in the service of the Crown or otherwise in the discharge of Crown functions.

Information from persons denying parentage

5. Where a person is alleged to be, but denies being, the parent of a child in respect of whom an application for a maintenance calculation has been made, unless the case falls within one of those set out in section 26(2) of the 1991 Act (disputes about parentage), the information or evidence which that person may be required to furnish is limited to what is needed for the purposes of enabling the non-resident parent to be identified or to enable a decision to be made as to whether the Commission has jurisdiction under section 44 to make a maintenance calculation.

Information from a court

6.—(1) Where there is or has been a relevant court order, or there have been proceedings in which such an order was sought or where such proceedings are pending, the persons mentioned in paragraph (2) must furnish such information or evidence in relation to that order or those proceedings as is required by the Commission and is needed for any of the purposes mentioned in regulation 4(1).

(2) The persons who are required to furnish information or evidence are—

- (a) in England and Wales—
 - (i) in relation to the High Court, the senior district judge of the principal registry of the Family Division or, where proceedings were instituted in a district registry, the district judge;
 - (ii) in relation to a county court, the proper officer of that court within the meaning of Order 1, Rule 3 of the County Courts Rules 1981(i);
 - (iii) in relation to a magistrates' court, the designated officer for that court;
- (b) in Scotland—
 - (i) in relation to the Court of Session, the Deputy Principal Clerk of Session;

(a) S.I. 1981/154 (N.I. 1).

(b) 1988 c. 52. Sections 97 to 99A were amended by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22), the Road Traffic Act 1991 (c. 40), the Driving Licence (Community Driving Licence) Regulations 1990 S.I. 1990/144, the Driving Licence (Community Driving Licence) Regulations 1996 S.I. 1996/1974, the Driving Licence (Community Driving Licence) Regulations 1998 S.I. 1998/1420 and the Transport Act 2000 (c. 38).

(c) 1994 c. 22. Part II was amended by the Finance Act 1995 (c. 4), the Finance Act 1996 (c. 8), the Finance Act 1997 (c. 16), the Finance (No. 2) Act 1997 (c. 58), the Finance Act 1998 (c. 36), the Vehicles (Crime) Act 2001 (c. 3), the Finance Act 2002 (c. 23), the Finance Act 2003 (c. 14) and the Serious Organised Crime and Police Act 2005 (c. 15).

(d) 1952 c. 52.

(e) 1953 c. 18.

(f) 1989 c. 45.

(g) 1989 c. 29.

(h) 1986 c. 44.

(i) S.I. 1981/1687, to which there are amendments not relevant to these Regulations.

(ii) in relation to a sheriff court, the sheriff clerk.

(3) In paragraph (1) “relevant court order” means—

- (a) an order as to periodical or capital provision or as to variation of property rights made under an enactment specified in paragraphs (a) to (ea) of section 8(11) of the 1991 Act or prescribed under section 8(11) of that Act in relation to a person who has made an application for a maintenance calculation or a qualifying child, person with care or non-resident parent in relation to such an application;
- (b) an order under Part II of the Children Act 1989^(a) (orders with respect to children in family proceedings) in relation to a qualifying child or, in Scotland, an order under section 3 of the Law Reform (Parent and Child) (Scotland) Act 1986^(b) or a decree of declarator under section 7 of that Act in relation to a qualifying child.

Duty of persons from whom information requested

7.—(1) Persons required to furnish information or evidence under regulations 3 to 6 must furnish the information or evidence requested if it is in their possession or they can reasonably be expected to acquire it.

(2) The information must be furnished as soon as is reasonably practicable in the particular circumstances of the case.

(3) Paragraph (2) is subject to regulation 3(4) of the Maintenance Calculation Procedure Regulations (which provides for a time limit where additional information is requested in relation to an ineffective application).

Commission to warn of consequences of failing to provide information or providing false information

8. A request by the Commission under regulations 3 to 6 must set out the possible consequences of failure to provide the information or evidence, including details of the offences provided for in section 14A of the 1991 Act^(c) for failing to provide, or providing false, information.

Duty to notify change of address

9. Persons who are liable to make payments of child support maintenance must, if they change their address, notify the Commission of their new address within 7 days of the change.

Continuing duty of person with care

10. Where a person with care with respect to whom a maintenance calculation has been made believes that, by virtue of section 44 or 55 of, or paragraph 16 of Schedule 1 to, the 1991 Act, the calculation has ceased to have effect, that person must, as soon as is reasonably practicable, inform the Commission of that belief, and of the reasons for it, and must provide such other information as the Commission may reasonably require, with a view to assisting the Commission in determining whether the calculation has ceased to have effect.

Powers of inspectors in relation to Crown premises

11. Subject to Her Majesty not being in residence, an inspector appointed under section 15 of the 1991 Act may enter any Crown premises for the purposes of exercising any powers conferred by that section.

(a) 1989 c. 41.

(b) 1986 c. 9.

(c) Section 14A is inserted in to the Act by section 13 of the Child Support, Pensions and Social Security Act 2000.

PART 3

DISCLOSURE OF INFORMATION

Disclosure of information to a court or tribunal

12.—(1) The Commission may disclose any information held for the purposes of the 1991 Act to—

- (a) a court;
- (b) any tribunal or other body or person mentioned in the 1991 Act;
- (c) a person with a right of appeal under the 1991 Act to an appeal tribunal,

where such disclosure is made for the purposes of any proceedings before any of those bodies relating to the 1991 Act, the benefit Acts, the Jobseekers Act 1995(a) or Part 1 of the Welfare Reform Act 2007(b).

(2) For the purposes of this regulation “proceedings” includes the determination of an application referred to an appeal tribunal under section 28D(1)(b) of the 1991 Act.

(3) The Commission may disclose information held for the purposes of the 1991 Act to a court in any case where—

- (a) that court has exercised any power it has to make, vary or revive a maintenance order or to vary a maintenance agreement; and
- (b) such disclosure is made for the purposes of any proceedings before that court in relation to that maintenance order or that maintenance agreement or for the purposes of any matters arising out of those proceedings.

Disclosure of information to other persons

13.—(1) The Commission may disclose information held for the purposes of the 1991 Act relating to one party to a maintenance calculation to another party to that calculation where, in the opinion of the Commission, such information is essential to inform the party to whom it would be given as to—

- (a) why it has decided not to make a maintenance calculation in response to an application made under section 4 or 7 of the 1991 Act, or an application for a revision under section 16 of that Act or a decision under section 17 of that Act superseding an earlier decision has been rejected;
- (b) why, although an application for a maintenance calculation referred to in sub-paragraph (a) has been made, that calculation cannot, at the time in question, be proceeded with;
- (c) why a maintenance calculation has ceased to have effect;
- (d) how a maintenance calculation has been calculated, in so far as the matter has not been dealt with by the notification given under regulation 23 of the Maintenance Calculation Procedure Regulations;
- (e) why a decision has been made not to arrange for, or to cease, collection of any child support maintenance under section 29 of the 1991 Act;
- (f) why a particular method of enforcement under the 1991 Act of an amount due under a maintenance calculation has been adopted in a particular case; or
- (g) why a decision has been made not to enforce, or to cease to enforce, under the 1991 Act the amount due under a maintenance calculation.

(2) For the purposes of this regulation, “party to a maintenance calculation” means—

- (a) a person who has made an application for a maintenance calculation;

(a) 1995 c. 18.
(b) 2007 c. 5.

- (b) a qualifying child, person with care or non-resident parent in respect of whom an application for a maintenance calculation has been made;
- (c) a person appointed under regulation 34 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999^(a) (death of party to an appeal);
- (d) the personal representative of a person mentioned in sub-paragraph (a) or (b) where—
 - (i) a revision, supersession or appeal was pending at the date of death of that person and the personal representative is dealing with that revision, supersession or appeal on behalf of that person; or
 - (ii) an application for a variation has been made but not determined at the date of death of that person and the personal representative is dealing on behalf of that person with any matters arising in connection with such an application.

(3) Any application for information under this regulation shall be made to the Commission in writing setting out the reasons for the application.

(4) Except where a person gives written permission to the Commission that the information mentioned in sub-paragraphs (a) and (b) below in relation to that person may be conveyed to other persons, any information given under the provisions of paragraph (1) shall not contain—

- (a) the address of any person other than the recipient of the information in question (other than the address of the office of the officer concerned who is exercising functions of the Commission under the 1991 Act) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a party to the maintenance calculation, being identified.

Employment to which section 50 of the 1991 Act applies

14. Section 50 of the 1991 Act (unauthorised disclosure of information) applies to the following kinds of employment, in addition to those specified in subsection (5) of that section—

- (a) the Comptroller and Auditor General;
- (b) any member of staff of the National Audit Office or any other person who carries out administrative work of that Office, or who provides or is employed in the provision of, services to it;
- (c) the Parliamentary Commissioner for Administration;
- (d) the Health Service Commissioner for Wales;
- (e) the Health Service Commissioner for Scotland;
- (f) any officer of any of the Commissioners referred to in paragraphs (c) to (e) above.

PART 4

MISCELLANEOUS

Revocation and saving

15.—(1) The Child Support (Information, Evidence and Disclosure) Regulations 1992^(b) are revoked.

(2) The revocation of those Regulations shall not affect any request for information made before 27th October 2008 and those Regulations shall remain in force for the purposes of any proceedings under section 14A of the 1991 Act (information offences) in relation to any such request.

(a) S.I. 1999/991.
 (b) S.I. 1992/1812.

Transitional provisions in relation to transfer of child support functions

16. During the period from the coming into force of these Regulations to the date on which section 13 of the Child Maintenance and Other Payments Act 2008(a) (transfer of child support functions to the Commission) comes into force, any reference in these Regulations to the Commission is to be read as a reference to the Secretary of State.

Signed by authority of the Secretary of State for Work and Pensions.

26th September 2008

Stephen C. Timms
Minister of State,
Department for Work and Pensions

(a) 1998 c. 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the furnishing of information or evidence required by the Child Maintenance and Enforcement Commission for the purpose of their functions under the Child Support Act 1991 (“the 1991 Act”). They also provide for the disclosure by the Commission of information held for the purpose of the 1991 Act. These Regulations replace the Child Support (Information, Evidence and Disclosure) Regulations 1992.

Part 2 relates to the duty to furnish information or evidence:

Regulations 3 to 6 impose a duty to furnish information required by the Commission on the applicant, on other persons (including the non-resident parent and a person alleged to be a non-resident parent) and on the courts. Regulation 7 deals with the obligation of persons from whom information is requested. Regulation 8 requires a request under regulations 3 to 6 to contain a warning as to the consequences of failure to comply.

Regulations 9 and 10 impose obligations to report matters to the Commission. Regulation 9 requires persons liable to pay child support maintenance to notify a change of address. Regulation 10 requires persons with care to inform the Commission where they believe that the maintenance calculation has ceased to have effect.

Regulation 11 gives inspectors appointed under the 1991 Act a right of entry to Crown premises.

Part 3 deals with disclosure of information:

Regulation 12 provides for disclosure of information by the Commission to a court or tribunal and regulation 13 provides for disclosure of information to the parties to a maintenance calculation.

Regulation 14 extends the application of section 50 of the 1991 Act, which creates an offence for unauthorised disclosure of information, to the employments listed in that regulation.

Part 4 contains miscellaneous provisions.

Regulation 15 revokes the Child Support (Information, Evidence and Disclosure) Regulations 1992 with a saving provision in relation to outstanding requests for information.

Regulation 16 is a transitional provision which enables references to the Commission to be read as references to the Secretary of State pending the transfer of child support functions to the Commission.

An assessment of the impact of these Regulations on the private and voluntary sectors has been made. Copies of this impact assessment are available in the libraries of both Houses of Parliament. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, level 4, The Adelphi, 1-11 John Adam Street, London WC2N 6HT, or from the DWP website: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.

STATUTORY INSTRUMENTS

2008 No. 2551

FAMILY LAW

The Child Support Information Regulations 2008

£5.00