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STATUTORY INSTRUMENTS

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**2009 No. 2909**

**The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2009**

**Amendment of the Maintenance Assessment Procedure Regulations**

- 3.—(1) The Maintenance Assessment Procedure Regulations are amended as follows.
- (2) After paragraph (3) of regulation 20 (supersession of decisions)(1), insert—
- “(3A) For the purposes of paragraph 2 of Schedule 4C to the Act(2), the circumstances in which a decision may be superseded under paragraph (2) or (3) include where the material change of circumstances causes the maintenance assessment to cease by virtue of paragraph 16(1) of Schedule 1 to the Act or where the Commission no longer has jurisdiction by virtue of section 44 of the Act (jurisdiction)(3).”.
- (3) After paragraph (21) of regulation 23 (date from which a decision is superseded)(4), insert—
- “(21A) Where a superseding decision is made in a case to which regulation 20(3A) applies and the material circumstance is—
- (a) a qualifying child dies or ceases to be a qualifying child;
  - (b) the person with care ceases to be a person with care in relation to a qualifying child; or
  - (c) the person with care, the absent parent or a qualifying child ceases to be habitually resident in the United Kingdom,
- the decision takes effect from the first day of the maintenance period in which the change occurred.”.
- (4) In Schedule 1 (meaning of “child” for the purposes of the Act)(5)—
- (a) for paragraph 1 (persons of 16 or 17 years of age who are not in full-time non-advanced education), substitute—
- “1. The conditions which must be satisfied for a person to be a child within section 55(1)(c) of the Act are that the person—
- (a) is registered for training with a qualifying body; and

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(1) Regulation 20 was substituted by [S.I. 1999/1047](#) and revoked with savings by [S.I. 2001/157](#) (as amended by [S.I. 2003/328](#), [2003/347](#) and [2004/2415](#)) and [S.I. 2000/3186](#) (as amended by [S.I. 2004/2415](#)). Relevant amending instruments are [S.I. 2000/1596](#) and [2005/785](#).

(2) Schedule 4C was inserted by section 86(1) of, and paragraph 54 of Schedule 7 to, the 1998 Act.

(3) Some of the words in section 44 were substituted by section 86(1) of, and paragraph 41 of Schedule 7 to, the 1998 Act and section 13(4) of, and paragraphs (1) and (46) of Schedule 3 to, the Child Maintenance and Other Payments Act 2008 (c. 6). Some words in section 44(1) and subsection (2A) were inserted by section 22(1) to (3) of the Child Support, Pensions and Social Security Act 2000 (c. 19) and some of the words in section 44(2A)(c) were substituted by [S.I. 2009/1941](#). There are other substitutions none of which are relevant to these Regulations.

(4) Regulation 23 was substituted by [S.I. 1999/1047](#) and revoked with savings by [S.I. 2001/157](#) (as amended by [S.I. 2003/328](#), [2003/347](#) and [2004/2415](#)) and [S.I. 2000/3186](#) (as amended by [S.I. 2004/2415](#)). There are other amendments none of which are relevant to these Regulations.

(5) Schedule 1 was revoked with savings by [S.I. 2001/157](#) (as amended by [S.I. 2003/328](#), [2003/347](#) and [2004/2415](#)) and [S.I. 2000/3186](#) (as amended by [S.I. 2004/2415](#)). Relevant amending instruments are [S.I. 1993/913](#), [1999/977](#), [1999/1047](#) and [2009/396](#).

(b) is a person in respect of whom child benefit is payable.

**Period for which a person is to be treated as continuing to fall within section 55(1) of the Act**

**1A.** Where a person (“P”) has ceased to fall within section 55(1) of the Act, P is to be treated as continuing to fall within that subsection for any period during which P is a person in respect of whom child benefit is payable.”;

(b) for paragraph 2 (meaning of “advanced education” for the purposes of section 55 of the Act), substitute—

“**2.** For the purposes of section 55 of the Act “advanced education” means education for the purposes of—

(a) a course in preparation for a degree, a diploma of higher education, a higher national diploma or a teaching qualification; or

(b) any other course which is of a standard above ordinary national diploma, a national diploma or national certificate of Edexcel, a general certificate of education (advanced level) or Scottish national qualifications at higher or advanced higher level.”;

(c) for sub-paragraph (2) of paragraph 4 (interruption of full-time education), substitute—

“(2) The provisions of sub-paragraph (1) do not apply to any period of interruption of a person’s full-time education which is followed immediately by a period during which child benefit ceases to be payable in respect of that person.”;

(d) omit paragraph 5 (circumstances in which a person who has ceased to receive full-time education is to be treated as continuing to fall within section 55(1) of the Act);

(e) for paragraph 6 (interpretation), substitute—

“**6.** In this Schedule “qualifying body” has the same meaning as in regulation 5(4) of the Child Benefit (General) Regulations 2006 (extension period: 16 and 17 year olds)(**6**).”.