
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions consequential on, or connected with, the bringing into force of the changes to the meaning of “child” for the purposes of the Child Support Act 1991, provided for in section 42 of the Child Maintenance and Other Payments Act 2008 (c. 6) (“the 2008 Act”), and the changes to the rules for the calculation of child support maintenance, provided for in Schedule 4 to the 2008 Act and the Child Support Maintenance Calculation Regulations 2012 (S.I. 2012/2677).

Part 2 of the Regulations, dealing with the meaning of “child”, comes into force on the day on which section 42 of the 2008 Act (meaning of “child”) is commenced. Part 3 of the Regulations comes into force in relation to a particular case on the day on which paragraph 2 of Schedule 4 to the 2008 Act (calculation by reference to gross weekly income) comes into force in relation to that type of case. Commencement Orders will set out when paragraph 2 of Schedule 4 will come into force for the purposes of particular types of cases. In relation to an arrears-only case, regulation 4(3) to (6), which amends provisions relating to deduction from earnings orders, comes into force on 10th December 2012, subject to the saving in regulation 11. Regulation 1(5) defines an “arrears-only case”.

Regulation 2 amends the Child Support (Maintenance Assessment Procedure) Regulations 1992 (S.I. 1992/1813), prescribing conditions for the purposes of section 55(1)(b) of the 1991 Act (meaning of “child”). Regulation 3 does the same in relation to the Child Support (Maintenance Calculation Procedure) Regulations 2000 (S.I. 2000/157).

Regulation 4 amends the Child Support (Collection and Enforcement) Regulations 1992 (S.I. 1992/1989) (“the Collection and Enforcement Regulations”). Paragraph (2) substitutes a provision allowing payments of child support maintenance to be scheduled as equal instalments payable over an annual period. Regulation 4(3) amends regulation 8 of the Collection and Enforcement Regulations changing the definition of “normal deduction rate” to set out the amount to be deducted per month and the amount for a 1, 2 and 4 week equivalent of that amount. Paragraph (4) substitutes regulation 10 of the Collection and Enforcement Regulations to provide that the normal deduction rate is set by reference to the period by reference to which the liable person is paid where that payment period is monthly or 1, 2 or 4 weekly. The employer must select the normal deduction rate which applies depending on the period by reference to which the liable person is paid. Where the liable person is not paid by reference to a monthly, 1, 2 or 4 weekly period the deduction from earnings order must be discharged in accordance with regulation 20. Regulation 4(6) amends regulation 20 to allow for deduction from earnings orders to be discharged in these circumstances. Regulation 4(5) substitutes regulation 11 of the Collection and Enforcement Regulations to provide that the protected earnings proportion must be 60% of net earnings at the liable person's pay day for each deduction made under the order. Regulation 4(7) makes an amendment to the maximum deduction rate for a regular deduction order, so it is calculated by reference to gross, rather than net, income.

Regulation 6 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991) by removing provisions relating to child support maintenance.

Regulation 8 inserts new provision in the Child Support Information Regulations 2008 (S.I. 2008/2551) allowing the Secretary of State to require a non-resident parent whose income has been calculated by reference to current employment as an employee or officeholder, or whose income has been calculated by reference to current income to whom the nil rate applies, to report an increase in that income. Failure to comply with the new provisions will be an offence under section 14A of the Child Support Act 1991. Regulation 8 also makes consequential amendments.

Changes to legislation: *There are currently no known outstanding effects for the The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012. (See end of Document for details)*

Regulations 5, 7 and 9 make consequential amendments to, respectively, the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 (S.I. 1992/2645), Child Support (Voluntary Payments) Regulations 2000 (S.I. 2000/3177) and the procedure rules for the First-Tier Tribunal (Social Entitlement Chamber) (S.I. 2008/2685).

Regulation 10 revokes a number of sets of regulations which are replaced by the Child Support Maintenance Calculation Regulations 2012.

Regulation 11 saves regulations 8, 10, 11 and 20 of the Collection and Enforcement Regulations for the purposes of arrears-only cases as they have effect immediately before regulation 4(3) to (6) comes into force until notice is given to the non-resident parent in such cases that the regulations as amended apply in their case.

Regulation 12 makes transitional provision. Where a deduction from earnings order made under the Collection and Enforcement Regulations, prior to the amendments in regulation 4(3) to (6) coming into force, has effect immediately before those provisions come into force in the case, the existing deduction from earnings order will continue to take effect until it lapses or is discharged. The existing order will be discharged, if it is still in effect, on the date on which the first order made under the Collection and Enforcement Regulations as amended by regulation 4(3) to (6) takes effect.

These Regulations reduce costs on the private sector and civil society organisations. An assessment of the impact has been made; a copy of the impact assessment is available in the libraries of both Houses of Parliament and is annexed to the Explanatory Memorandum, which is available alongside the instrument on www.legislation.gov.uk. Copies of the impact assessment may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1H 9NA, or from the DWP website: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.

A full impact assessment of the effect that the Child Support Maintenance Calculation Regulations 2012 will have on the costs of business and the voluntary sector is also available from the same address and is annexed to the Explanatory Memorandum to those Regulations, which is available alongside that instrument on www.legislation.gov.uk.

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