

*Draft laid before Parliament under section *** of the *** Act ***, for approval by resolution of each House of Parliament.*

D R A F T S T A T U T O R Y I N S T R U M E N T S

2008 No.

FAMILY LAW

CHILD SUPPORT

The Child Support (Part Payment of Arrears in Full and Final Satisfaction) Regulations 2008

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - ***

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred on him by sections 41D of the Child Support Act 1991(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Part Payment of Arrears in Full and Final Satisfaction) Regulations 2008 and shall come into force on the ****2008.

(2) In these Regulations —

“the Act” means the Child Support Act 1991,

“arrears of child support maintenance” is to be construed in accordance with section 41(1) and (2) of the 1991 Act.

Consent of the person with care

2.—(1) In exercising its power under section 41D, the Commission must not accept part payment of arrears in full and final satisfaction of the non-resident parent’s liability without the consent in writing of the person with care unless —

(a) the Commission is entitled, by virtue of section 41(2) of the Act to retain all the arrears.

(b) in a case where the Commission is also entitled to retain part of the arrears, the amount accepted in part payment is sufficient to cover the whole of the amount the Commission is not entitled to retain.

(a) 1991 c.48. Section 41D was inserted by section 30 of the Child Maintenance and Other Payments Act 2008.

(2) If the consent of the person with care is required, the Commission must make available such information and guidance as it thinks appropriate for the purpose of helping them give consent.

Agreement

3.—(1) Where the Commission proposes to accept an offer by the non-resident parent in exercise of its powers under section 41D, the Commission must prepare a written agreement.

(2) The agreement shall –

- (a) state the amount of arrears that is agreed will be paid in full and final satisfaction of the liability of the non-resident parent;
- (b) state the period to which the arrears relate;
- (c) state how payment will be made;
- (d) state the day and interval by reference to which payments of the arrears are to be made;
- (e) where applicable, set out the payment schedule or payment plan agreed with the non-resident parent;

(3) The Commission shall ensure that the person with care and the non-resident parent have a copy of the proposed agreement.

(4) The agreement shall not take effect until—

- (i) the non-resident parent has agreed in writing to its terms and;
- (ii) where applicable, the person with care has given to the Commission their consent in writing.

Where payment is received

4.—(1) Where the non-resident parent is complying with the terms of the agreement, the Commission shall not take action to recover any of the arrears for the period to which the arrears relate.

(2) Where the non-resident parent has made all payments in accordance with the agreement all remaining liability in respect of arrears of child maintenance for the period to which the arrears relate shall be extinguished.

(3) Where the non-resident parent fails to make payment or only makes partial payment or otherwise fails to adhere to the terms of the agreement, the non-resident parent shall become liable to pay the full amount of any outstanding arrears for the period to which the arrears relate and the Commission may arrange to recover any of the arrears in accordance with the Act.

(4) Nothing in these regulations shall prevent the Commission from entering into a new agreement with the non-resident parent for the same period or a different period provided that the requirements set out in regulations 2 and 3 are complied with.

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

Address
Date

Name
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations make provision in relation to the powers to accept part payment of arrears, in full and final satisfaction under section 41D of the Child support Act 1991.

Regulation 2 sets out the circumstances when the Commission does not have to obtain the consent of the person with care when accepting part payment of arrears.

Regulation 3 sets out that where it is proposed to accept an offer of a part payment of arrears, the Commission must set out the terms of the agreement in writing and send it to both the person with care and the non-resident parent. Before the agreement is effective both parties must have given their written consent to it.

Regulation 4 sets out that while a non-resident parent is complying with the agreement, the Commission will not take steps to recover the outstanding arrears for the period for which the arrears relate and once all payments have been made in accordance with the terms of the agreement then the remaining arrears shall be extinguished. Where the agreement has not been adhered to, the Commission may recover all outstanding arrears. However the Commission may enter into a new agreement with the non-resident parent provided the requirements set out in regulations 2 and 3 are complied with.