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STATUTORY INSTRUMENTS

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**2008 No.**

**FAMILY LAW**

**CHILD SUPPORT**

**The Child Support (Recovery of Arrears from Estates)  
Regulations 2008**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred on him by section 43A of the Child Support Act 1991(a).

**Citation, commencement, interpretation and application**

**1.**—(1) These Regulations may be cited as the Child Support (Recovery of Arrears from Estates) 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 Act;

“liability order” includes a liability order made under section 33 of the Child Support Act 1991(b).

(3) These Regulations apply only in relation to non resident parents who died on or after the day on which these Regulations came into force.

**Recovery of arrears from estates**

**2.**—(1) Where a non-resident parent was liable for arrears of child support maintenance immediately before his death, the Commission may recover those arrears from the non-resident parent’s estate.

(2) Those arrears shall be a debt payable by the deceased’s executor or administrator out of the deceased’s estate to the Commission.

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(a) 1991 c.48. Section 43A was inserted by section 34 of the Child Maintenance and Other Payments Act 2008 (c.xx).  
(b) Section 33 of the Child Support Act 1991 was repealed by section 53 and Schedule 8 of the Child Maintenance and Other Payments Act 2008 (c.xx).

### **Amount of arrears**

3.—(1) This regulation shall apply for the purpose of determining the amount of the arrears recoverable under Regulation 2.

(2) That amount must be included in a liability order.

(3) Any liability orders made before the death of the non resident parent will be used to determine the amount of those arrears.

(4) Where there is no liability order in place or arrears are outstanding for a period not covered by a liability order, the Commission may establish the amount recoverable by making a liability order under section 32I(a) of the Act.

(5) Paragraph (4) shall apply notwithstanding the fact that the non-resident parent is deceased.

### **Appeals and other proceedings**

4.—(1) The executor or administrator has the same rights as the non-resident parent had before his death to institute, continue or withdraw any proceedings under the Act in relation to those arrears, whether by way of appeal or otherwise.

(2) When exercising their powers under paragraph (1) the executor or administrator shall be subject to the procedures and time limits that applied to the non-resident parent before his death.

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

	<i>Name</i>
	Minister of State,
Date	Department for Work and Pensions

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, made under section 43A of the Child Support Act 1991 (“the Act”) as amended by the Child Maintenance and Other Payments Act 2008, provide that arrears of child support maintenance that are owed by a non resident parent immediately before his death shall be payable as a debt out of his estate. The Child Maintenance and Enforcement Commission may recover the arrears from the deceased non resident parent’s executor or administrator if it deems it appropriate.

Regulation 3 sets out how the amount of the arrears is to be established.

Regulation 4 provides that the executor or administrator may institute, continue or withdraw proceedings under the Act. The executor or administrator can therefore appeal the amount of the arrears or the maintenance assessments, or dispute parentage, in the same way as the non resident parent himself could have done, and are subject to the same procedures and time limits as the non resident parent would have been.

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(a) Section 32I was inserted into the Act by section \*\*\* of the Child Maintenance and Other Payments Act 2008.