

Department for Work and Pensions

ADJUDICATION AND CONSTITUTIONAL ISSUES DIVISION

The Law Relating to Child Support

Supplement 37 – September 2007

1. Supplements to The Law Relating to Child Support are issued at regular intervals.
2. This supplement incorporates amendments set out in S.I. 2007/1979 as well as other miscellaneous amendments.
3. This supplement is now issued in PDF format only. Please refer to ACI General Bulletin 01/2006, issued September 2006 for details.
4. The amended pages have been reprinted in full. The supplement number is printed at the bottom of each replacement page.
5. Due to space constraints, ACI can only reproduce legislation currently in force. Where users are instructed to remove pages they may like to consider the need to retain such pages for their own use.
6. Remove the sheets in the left-hand column and insert new sheets in the right-hand column (the numbers quoted are those printed at the bottom of the respective pages). When the revised sheets have been inserted, note the record of amendments at the back of the volume.
7. The last two supplements issued were
Supplement No. 35 [August 2006]
Supplement No. 36 [December 2006]
8. While every effort is made to ensure the accuracy of this work, the ACI Publications team would be happy to hear from anyone who spots errors. Please contact either Quentin Chu on 0113 232 4861 or Mike Vidal on 0113 232 4856.

The Law Relating to Child Support is available on the DWP Website at
<http://www.dwp.gov.uk/advisers/docs/lawvols/orangvol/>
9. Starting in Supplement 35 the triangles ►◄ signifying additions, deletions or amendments to Statutory Instruments will be numbered to aid reference. Numbering will start at 1 on each page however, only those pages being updated will be affected.

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(8) If an appeal under this section is allowed, the appeal tribunal may—

- (a) itself make such decision as it considers appropriate; or**
- (b) remit the case to the Secretary of State, together with such directions (if any) as it considers appropriate.]**

22.—(1) Her Majesty may from time to time appoint a Chief Child Support Commissioner and such number of other Child Support Commissioners as she may think fit.

Child Support
Commissioners.

(2) The Chief Child Support Commissioner and the other Child Support Commissioners shall be appointed from among persons who—

- (a) have a 10 year general qualification; or
- (b) are advocates or solicitors in Scotland of 10 years' standing.

(3) The Lord Chancellor, after consulting the Lord Advocate, may make such regulations with respect to proceedings before Child Support Commissioners as he considers appropriate.

(4) The regulations—

- (a) may, in particular, make any provision of a kind mentioned in [¹Schedule 5 to the Social Security Act 1998]; and
- (b) shall provide that any hearing before a Child Support Commissioner shall be in public except in so far as the Commissioner for special reasons directs otherwise.

(5) Schedule 4 shall have effect with respect to Child Support Commissioners.

23.—(1) Her Majesty may from time to time appoint a Chief Child Support Commissioner for Northern Ireland and such number of other Child Support Commissioners for Northern Ireland as she may think fit.

Child Support
Commissioners for
Northern Ireland.

(2) The Chief Child Support Commissioner for Northern Ireland and the other Child Support Commissioners for Northern Ireland shall be appointed from among persons who are barristers or solicitors of not less than 10 years' standing.

(3) Schedule 4 shall have effect with respect to Child Support Commissioners for Northern Ireland, subject to the modifications set out in paragraph 8.

(4) Subject to any Order made after the passing of this Act by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the matters to which this subsection applies shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

1973 c. 36.

(5) Subsection (4) applies to all matters relating to Child Support Commissioners, including procedure and appeals, other than those specified in paragraph 9 of Schedule 2 to the Northern Ireland Constitution Act 1973.

[²23A.—(1) This section applies where an application is made to a person under section 24(6)(a) for leave to appeal from a decision of an appeal tribunal.

Redetermination of
appeals

(2) If the person who constituted, or was the chairman of, the appeal tribunal considers that the decision was erroneous in law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.

¹ Words in s. 22 (4)(a) substituted (1.6.99) by S.S. Act 98, Sch. 7, para. 29.

² S. 23A inserted (15.2.01) by s. 11 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

CHILD SUPPORT ACT 1991 (c. 48)

S. 24

(3) If each of the principle parties to the case expresses the view that the decision was erroneous in the point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.

- (4) The “principle parties” are—
- (a) the Secretary of State; and
 - (b) those who are qualifying persons for the purpose of section 20(2) in relation to the decision in question.]

Appeal to Child Support Commissioner.

24.—(1) Any person who is aggrieved by a decision of [¹an appeal tribunal, and the Secretary of State], may appeal to a Child Support Commissioner on a question of law.

[...²]

(2) Where, on an appeal under this section, a Child Support Commissioner holds that the decision appealed against was wrong in law he shall set it aside.

(3) Where a decision is set aside under subsection (2), the Child Support Commissioner may—

- (a) if he can do so without making fresh or further findings of fact, give the decision which he considers should have been given by [¹the appeal tribunal];
- (b) if he considers it expedient, make such findings and give such decision as he considers appropriate in the light of those findings; or
- [³(c) on a appeal by the Secretary of State, refer the case to [¹an appeal tribunal] with directions for its determination; or
- (d) on any other appeal, refer the case to [²the Secretary of State] or, if he considers it appropriate, to [¹an appeal tribunal] with directions for its determination.]

¹(4) The reference under subsection (3) to the Secretary of State shall, subject to any direction of the Child Support Commissioner, be to an officer of his, or a person providing him with services, who has taken no part in the decision originally appealed against.]

(5) On a reference under subsection (3) to [¹an appeal tribunal], the tribunal shall, subject to any direction of the Child Support Commissioner, consist of persons who were not members of the tribunal which gave the decision which has been appealed against.

¹ Words & Ss. (4) substituted in s. 24 (1.6.99) by S.S. Act 98, Sch. 7, para. 30.

² S. 24(1A) repealed (1.6.99) by Sch. 8 to S.S. Act 1998 (c. 14).

³ Paras. (c) and (d) of s. 24(3) substituted for para. (c) by para. 7(3) of sch. 3 to Child Support Act 1995 (c. 34).

CHILD SUPPORT ACT 1991 (c. 48)

Ss. 24-25

Appeal from Child Support Commissioner on question of law.

(6) No appeal lies under this section without the leave—

- (a) of the person [¹who constituted, or was the chairman of, the appeal tribunal] when the decision appealed against was given or of [¹such other person] as may be determined in accordance with regulations made by the Lord Chancellor; or
- (b) subject to and in accordance with regulations so made, of a Child Support Commissioner.

(7) The Lord Chancellor may by regulations make provision as to the manner in which, and the time within which, appeals under this section are to be brought and applications for leave under this section are to be made.

(8) Where a question which would otherwise fall to be determined by [²the Secretary of State] first arises in the course of an appeal to a Child Support Commissioner, he may, if he thinks fit, determine it even though it has not been considered by [²the Secretary of State].

(9) Before making any regulations under subsection (6) or (7), the Lord Chancellor shall consult the Lord Advocate.

25.—(1) An appeal on a question of law shall lie to the appropriate court from any decision of a Child Support Commissioner.

(2) No such appeal may be brought except—

- (a) with leave of the Child Support Commissioner who gave the decision or, where regulations made by the Lord Chancellor so provide, of a Child Support Commissioner selected in accordance with the regulations; or
- (b) if the Child Support Commissioner refuses leave, with the leave of the appropriate court.

(3) An application for leave to appeal under this section against a decision of a Child Support Commissioner (“the appeal decision”) may only be made by—

- (a) a person who was a party to the proceedings in which the original decision, or appeal decision, was given;
- (b) the Secretary of State; or
- (c) any other person who is authorised to do so by regulations made by the Lord Chancellor.

[²(3A) The Child Support Commissioner to whom an application for leave to appeal under this section is made shall specify as the appropriate court either the Court of Appeal or the Court of Session.

(3B) In determining the appropriate court, the Child Support Commissioner shall have regard to the circumstances of the case, and in particular the convenience of the persons who may be parties to the appeal.]

(4) In this section—

“appropriate court” [³, except in subsections (3A) and (3B), means the court specified in accordance with those subsections]; and
“original decision” means the decision to which the appeal decision in question relates.

(5) The Lord Chancellor may by regulations make provision with respect to—

- (a) the manner in which and the time within which applications must be made to a Child Support Commissioner for leave under this section; and
- (b) the procedure for dealing with such applications.

(6) Before making any regulations under subsection (2), (3) or (5), the Lord Chancellor shall consult the Lord Advocate.

¹ Words & Ss. (4) substituted in s. 24 (1.6.99) by S.S. Act 98, Sch. 7, para. 30.

² Words in s. 24(8) and 26(1) substituted (1.6.99) by S.S. Act 1998, Sch. 7, paras. 30(7) and 31(1).

³ S. 25(3A) and (3B) inserted (4.9.95) by Child Support Act 1995 (c. 34), Sch. 3, para. 8(1).

“(2) No statutory instrument containing (whether alone or with other provisions) regulations made under—

- (a) section 6(1), 12(4) (so far as the regulations make provision for the default rate of child support maintenance mentioned in section 12(5)(b)), 28C(2)(b), 28F(2)(b), 30(5A), 41(2), 41A, 41B(6), 43(1), 44(2A)(d), 46 or 47;
- (b) paragraph 3(2) or 10A(1) of Part I of Schedule 1; or
- (c) Schedule 4B,

or an order made under section 45(1) or (6), shall be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

(2A) No statutory instrument containing (whether alone or with other provisions) the first set of regulations made under paragraph 10(1) of Part I of Schedule 1 as substituted by section 1(3) of the Child Support, Pensions and Social Security Act 2000 shall be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.”

26. Schedule 3 (amendment of enactments) shall have effect.

Amendments

27.—(1) This section applies where—

- (a) a maintenance assessment is made before a prescribed date following an application for one under section 4, 6 or 7 of the 1991 Act; or
- (b) a fresh maintenance assessment has been made following either a periodic review under section 16 of the 1991 Act or a review under section 17 of that Act (as they had effect before their substitution by section 40 or 41 respectively of the Social Security Act 1998),

Temporary compensation payment scheme.

and the effective date of the assessment is earlier than the date on which the assessment was made, with the result that arrears of child support maintenance have become due under the assessment.

(2) The Secretary of State may in regulations provide that this section has effect as if it were modified so as—

- (a) to apply to cases of arrears of child support maintenance having become due additional to those referred to in subsection (1);
- (b) not to apply to any such case as is referred to in subsection (1).

(3) If this section applies, the Secretary of State may in prescribed circumstances agree with the absent parent, on terms specified in the agreement, that—

- (a) the absent parent will not be required to pay the whole of the arrears, but only some lesser amount; and
- (b) the Secretary of State will not, while the agreement is complied with, take action to recover any of the arrears.

(4) The terms which may be specified are to be prescribed in or determined in accordance with regulations made by the Secretary of State.

[See S.I. 2002/1854 at page 9121 for modifications to sub section (5) where the years 2002 and 2003 are substituted for 2005 and 2006.]

(5) An agreement may be entered into only if it is made before 1st April [¹2005]and expires before 1st April [¹2006].

(6) If the absent parent enters into such an agreement, the Secretary of State may, while the absent parent complies with it, refrain from taking action under the 1991 Act to recover the arrears.

¹ Words substituted (17.7.02) in s. 27(5) by the Child Support (Temporary Compensation Payment Scheme) Regulations 2002, reg. 2(a) & (b).

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Ss. 27-29

- (7) Upon the expiry of the agreement, if the absent parent has complied with it—
- (a) he ceases to be liable to pay the arrears; and
 - (b) the Secretary of State may make payments of such amounts and at such times as he may determine to the person with care.

(8) If the absent parent fails to comply with the agreement he becomes liable to pay the full amount of any outstanding arrears (as well as any other amount payable in accordance with the assessment).

(9) The Secretary of State may by regulations provide for this section to have effect as if there were substituted for the dates in subsection (5) such later dates as are prescribed.

(10) In this section, “prescribed” means prescribed in regulations made by the Secretary of State.

(11) Regulations under this section shall be made by statutory instrument.

(12) No statutory instrument containing regulations under subsection (9) is to be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament; but otherwise a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Pilot schemes.

28.—(1) Any regulations made under—

- (a) provisions inserted or substituted in the 1991 Act by this Part of this Act (or Schedule 1, 2 or 3); and*
- (b) in so far as they are consequential on or supplementary to any such regulations, regulations made under any other provisions in the 1991 Act,*

may be made so as to have effect for a specified period not exceeding 12 months.

(2) Any regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as “a pilot scheme”.

(3) A pilot scheme may provide that its provisions are to apply only in relation to—

- (a) one or more specified areas or localities;*
- (b) one or more specified classes of person;*
- (c) persons selected by reference to prescribed criteria, or on a sampling basis.*

(4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.

(5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same provision as that made by the previous scheme (apart from the specified period), or similar provision.

(6) A statutory instrument containing (whether alone or with other provisions) a pilot scheme shall not be made unless a draft of the instrument has been laid before Parliament and approved by resolution of each House of Parliament.

Interpretation, transitional provisions, savings, etc.

29.—(1) In this Part, “the 1991 Act” means the Child Support Act 1991.

(2) The Secretary of State may in regulations make such transitional and transitory provisions, and such incidental, supplementary, savings and consequential provisions, as he considers necessary or expedient in connection with the coming into force of this Part or any provision in it.

- (a) the name and address of his employer;
- (b) the amount of his earnings and anticipated earnings;
- (c) his place of work, the nature of his work and any works or pay number;

and it shall be the duty of the liable person to comply with any such requirement within 7 days of being given written notice to that effect.

(2) A liable person in respect of whom a deduction from earnings order is in force shall notify the Secretary of State in writing within 7 days of every occasion on which he leaves employment or becomes employed or re-employed.

Duty of employers and others to notify Secretary of State

16.—(1) Where a deduction from earnings order is served on a person on the assumption that he is the employer of a liable person but the liable person to whom the order relates is not in his employment, the person on whom the order was served shall notify the Secretary of State of that fact in writing, at the address specified in the order, within 10 days of the date of service on him of the order.

(2) Where an employer is required to operate a deduction from earnings order and the liable person to whom the order relates ceases to be in his employment the employer shall notify the Secretary of State of that fact in writing, at the address specified in the order, within 10 days of the liable person ceasing to be in his employment.

(3) Where an employer becomes aware that a deduction from earnings order is in force in relation to a person who is an employee of his he shall, within 7 days of the date on which he becomes aware, notify the Secretary of State of that fact in writing at the address specified in the order.

►¹Requirement to review deduction from earnings orders

17.—(1) Subject to paragraph (2), the Secretary of State shall review a deduction from earnings order in the following circumstances—

- (a) where there is a change in the amount of the maintenance ►²calculation◄;
- (b) where any arrears ►², penalty payment, interest or fees◄ payable under the order are paid off.

(2) There shall be no obligation to review a deduction from earnings order under paragraph (1) where the normal deduction rates specified in the order take account of the changes which will arise as a result of the circumstances specified in sub-paragraph (a) or (b) of that paragraph.◄

¹Reg. 17 substituted by reg. 18 of S.I. 1995/1045 as from 18.4.95.

²Words substituted in reg. 17(1) by reg. 2(5)(f) of S.I. 2001/162, subject to the savings provision in reg. 6 of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

Power to vary deduction from earnings orders

18.—(1) The Secretary of State may (whether on a review under regulation 17 or otherwise) vary a deduction from earnings order so as to—

- (a) include any amount which may be included in such an order or exclude or decrease any such amount;
- (b) substitute a subsequent employer for the employer at whom the order was previously directed.

(2) The Secretary of State shall serve a copy of any deduction from earnings order, as varied, on the liable person's employer and on the liable person.

Compliance with deduction from earnings order as varied

19.—(1) Where a deduction from earnings order has been varied and a copy of the order as varied has been served on the liable person's employer it shall, subject to paragraph (2), be the duty of the employer to comply with the order as varied.

(2) The employer shall not be under any liability for non-compliance with the order, as varied, before the end of the period of 7 days beginning with the date on which a copy of the order, as varied, was served on him.

Discharge of deduction from earnings orders

20.—►³(1) The Secretary of State may discharge a deduction from earnings order where it appears to him that—

³Reg. 20(1) substituted by reg. 19 of S.I. 1995/1045 as from 18.4.95.

Regs. 20-22

¹Words substituted in reg. 20(1)(f) and omitted in reg. 21(6), by reg. 2(5)(g) and (h) of S.I. 2001/162, subject to the savings provision in reg. 6 of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

- (a) no further payments are due under it;
- (b) the order is ineffective or some other way of securing that payments are made would be more effective;
- (c) the order is defective;
- (d) the order fails to comply in a material respect with any procedural provision of the Act or regulations made under it other than provision made in regulation 9, 10 or 11;
- (e) at the time of the making of the order he did not have, or subsequently ceased to have, jurisdiction to make a deduction from earnings order; or
- (f) in the case of an order made at a time when there is in force ¹a default or interim maintenance decision¹, it is inappropriate to continue deductions under the order having regard to the compliance or the attempted compliance with the ¹maintenance calculation¹ by the liable person.¹

(2) The Secretary of State shall give written notice of the discharge of the deduction from earnings order to the liable person and to the liable person's employer.

Lapse of deduction from earnings orders

21.—(1) A deduction from earnings order shall lapse (except in relation to any deductions made or to be made in respect of the employment not yet paid to the Secretary of State) where the employer at whom it is directed ceases to have the liable person in his employment.

(2) The order shall lapse from the pay-day coinciding with, or, if none, the pay-day following, the termination of the employment.

(3) A deduction from earnings order which has lapsed under this regulation shall nonetheless be treated as remaining in force for the purposes of regulations 15 and 24.

(4) Where a deduction from earnings order has lapsed under paragraph (1) and the liable person recommences employment (whether with the same or another employer), the order may be revived from such date as may be specified by the Secretary of State.

(5) Where a deduction from earnings order is revived under paragraph (4), the Secretary of State shall give written notice of that fact to, and serve a copy of the notice on, the liable person and the liable person's employer.

(6) Where an order is revived under paragraph (4), no amount shall be carried forward under regulation 12(4) ¹from a time prior to the revival of the order.

Appeals against deduction from earnings orders

22.—(1) A liable person in respect of whom a deduction from earnings order has been made may appeal to the magistrates' court, or in Scotland the sheriff, ²of the sheriffdom in which he resides.²

²Words substituted and inserted in reg. 22(1) & (2)(b) and sub-para. (c) added by reg. 2(2)(a)-(c) of S.I. 2007/1979 as from 1.8.07.

(2) Any appeal shall—

- (a) be by way of complaint for an order or, in Scotland, by way of application;
- (b) ²where the liable person is resident in the United Kingdom,² be made within 28 days of the date on which the matter appealed against arose.
- ²(c) where the liable person is not resident in the United Kingdom, be made within 56 days of the date on which the matter appealed against arose.²

(3) An appeal may be made only on one or both of the following grounds—

- (a) that the deduction from earnings order is defective;
- (b) that the payments in question do not constitute earnings.

(4) Where the court or, as the case may be, the sheriff is satisfied that the appeal should be allowed the court, or sheriff, may—

- (a) quash the deduction from earnings order; or
- (b) specify which, if any, of the payments in question do not constitute earnings.

Crown employment

23. Where a liable person is in the employment of the Crown and a deduction from earnings order is made in respect of him then for the purposes of this Part—

- (a) the chief officer for the time being of the Department, office or other body in which the liable person is employed shall be treated as having the liable person in his employment (any transfer of the liable person from one Department, office or body to another being treated as a change of employment); and
- (b) any earnings paid by the Crown or a minister of the Crown, or out of the public revenue of the United Kingdom, shall be treated as paid by that chief officer.

Priority as between orders

24. ►¹◄

For cases where the savings provisions in reg. 6 of S.I. 2001/162 apply, reg. 24(1) is reproduced below.

(1) Where an employer would, but for this paragraph, be obliged, on any pay-day, to make deductions under two or more deduction from earnings orders he shall—

- (a) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;
- (b) deal with any later order as if the earnings to which it relates were the residue of the liable person's earnings after the making of any deduction to comply with any earlier order.

(2) Where an employer would, but for this paragraph, be obliged to comply with ►¹a deduction from earnings order◄ and one or more attachment of earnings orders he shall—

- (a) in the case of an attachment of earnings order which was made either wholly or in part in respect of the payment of a judgment debt or payments under an administration order, deal first with the deduction from earnings order ►¹◄ and thereafter with the attachment of earnings order as if the earnings to which it relates were the residue of the liable person's earnings after the making of deductions to comply with the deduction from earnings order ►¹◄;
- (b) in the case of any other attachment of earnings order, ►¹he shall—
 - (i) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;
 - (ii) deal with any later order as if the earnings to which it relates were the residue of the liable person's earnings after the making of any deduction to comply with any earlier order.◄

“Attachment of earnings order” in this paragraph means an order made under the Attachment of Earnings Act 1971(a) or under regulation 32 of the Community Charge (Administration and Enforcement) Regulations 1989(b) ►²or under regulation 37 of the Council Tax (Administration and Enforcement) Regulations 1992(c)◄.

(3) Paragraph (2) does not apply to Scotland.

¹Reg. 24(1) omitted and words substituted and omitted in reg. 24(2) by reg. 2(5)(i) of S.I. 2001/162, subject to the savings provision in reg. 6 of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

²Words in reg. 24(2) inserted by reg. 42 of S.I. 1993/913 as from 5.4.93.

(a) 1971 c.32.
(b) S.I. 1989/438.
(c) S.I. 1992/613.

Regs. 24-25

¹Reg. 24(4) word substituted and words omitted by reg. 2(5)(i) of S.I. 2001/162 subject to the savings provision in reg. 6 of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

²Reg. 25 amended by reg. 2(3) of S.I. 1999/977 as from 6.4.99.

(4) In Scotland, where an employer would, but for this paragraph, be obliged to comply with ►¹a deduction from earnings order◄ and one or more diligences against earnings he shall deal first with the deduction from earnings order ►¹◄ and thereafter with the diligence against earnings as if the earnings to which the diligence relates were the residue of the liable person's earnings after the making of deductions to comply with the deduction from earnings order ►¹◄.

Offences

25. The following regulations are designated for the purposes of section 32(8) of the Act (offences relating to deduction from earnings orders)–

- ²(aa) regulation 14(1);◄
- ²(ab)◄ regulation 15(1) and (2);
 - (b) regulation 16(1), (2) and (3);
 - (c) regulation 19(1).

PART IV LIABILITY ORDERS

Extent of this Part

26. This Part, except ►¹regulations 29(2) and 35(5)◄, does not apply to Scotland.

¹Words substituted in reg. 26, reg. 28(2) substituted and (2A) added by reg. 3(4) & (5) of S.I. 2006/1520 as from 12.7.06.

Notice of intention to apply for a liability order

27.—(1) ►²Subject to paragraph (1A),◄ the Secretary of State shall give the liable person at least 7 days notice of his intention to apply for a liability order under section 33(2) of the Act.

²Words inserted in reg. 27(1), para. (1A) added and words omitted from reg. 28(1) by reg. 2(3) & (4) of S.I. 2007/1979 as from 1.8.07.

►²(1A) Where the liable person is not resident in the United Kingdom, the Secretary of State shall give the liable person at least 28 days notice of his intention to apply for a liability order under section 33(2) of the Act.◄

(2) Such notice shall set out the amount of child support maintenance which it is claimed has become payable by the liable person and has not been paid and the amount of any interest ►³, penalty payments or fees which have become payable and have not been paid◄.

³Words substituted in reg. 27(2) by reg. 2(6)(a) of S.I. 2001/162, subject to the savings provision in reg. 6 of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

(3) Payment by the liable person of any part of the amounts referred to in paragraph (2) shall not require the giving of a further notice under paragraph (1) prior to the making of the application.

Application for a liability order

28.—(1) An application for a liability order shall be by way of complaint for an order to the magistrates' court having ►²◄

►¹(2) Subject to paragraph (2A) there is no period of limitation in relation to an application under paragraph (1).

(2A) An application under paragraph (1) may not be instituted in respect of an amount payment of which became due on or before 12th July 2000.◄

(3) A warrant shall not be issued under section 55(2) of the Magistrates' Courts Act 1980(a) in any proceedings under this regulation.

Liability orders

29.—(1) A liability order shall be made in the form prescribed in Schedule 1.

(2) A liability order made by a court in England or Wales or any corresponding order made by a court in Northern Ireland may be enforced in Scotland as if it had been made by the sheriff.

(3) A liability order made by the sheriff in Scotland or any corresponding order made by a court in Northern Ireland may, subject to paragraph (4), be enforced in England and Wales as if it had been made by a magistrates' court in England and Wales.

(4) A liability order made by the sheriff in Scotland or a corresponding order made by a court in Northern Ireland shall not be enforced in England or Wales unless registered in accordance with the provisions of ►⁴Part II◄ of the Maintenance Orders Act 1950(b) and for this purpose—

⁴Words in reg. 29(4) substituted by reg. 43 of S.I. 1993/913 as from 5.4.93.

- (a) a liability order made by the sheriff in Scotland shall be treated as if it were a decree to which section 16(2)(b) of that Act applies (decree for payment of aliment);

(a) 1980 c. 43.
(b) 1950 c. 37.

- (b) a corresponding order made by a court in Northern Ireland shall be treated as if it were an order to which section 16(2)(c) of that Act applies (order for alimony, maintenance or other payments).

Enforcement of liability orders by distress

30.—(1) A distress made pursuant to section 35(1) of the Act may be made anywhere in England and Wales.

(2) The person levying distress on behalf of the Secretary of State shall carry with him the written authorisation of the Secretary of State, which he shall show to the liable person if so requested, and he shall hand to the liable person or leave at the premises where the distress is levied—

- (a) copies of this regulation, regulation 31 and Schedule 2;
- (b) a memorandum setting out the amount which is the appropriate amount for the purposes of section 35(2) of the Act;
- (c) a memorandum setting out details of any arrangement entered into regarding the taking of possession of the goods distrained; and
- (d) a notice setting out the liable person's rights of appeal under regulation 31 giving the Secretary of State's address for the purposes of any appeal.

(3) A distress shall not be deemed unlawful on account of any defect or want of form in the liability order.

(4) If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the Secretary of State, the Secretary of State shall accept the amount and the levy shall not be proceeded with.

(5) Where the Secretary of State has seized goods of the liable person in pursuance of the distress, but before sale of those goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the Secretary of State, the Secretary of State shall accept the amount, the sale shall not be proceeded with and the goods shall be made available for collection by the liable person.

Appeals in connection with distress

31.—(1) A person aggrieved by the levy of, or an attempt to levy, a distress may appeal to the magistrates' court ►¹◄.

(2) The appeal shall be by way of complaint for an order.

(3) If the court is satisfied that the levy was irregular, it may—

- (a) order the goods distrained to be discharge if they are in the possession of the Secretary of State;
- (b) order an award of compensation in respect of any goods distrained and sold of an amount equal to the amount which, in the opinion of the court, would be awarded by way of special damages in respect of the goods if proceedings under section 35(6) of the Act were brought in trespass or otherwise in connection with the irregularity.

(4) If the court is satisfied that an attempted levy was irregular, it may by order require the Secretary of State to desist from levying in the manner giving rise to the irregularity.

Charges connected with distress

32. Schedule 2 shall have effect for the purpose of determining the amounts in respect of charges in connection with the distress for the purposes of section 35(2)(b) of the Act.

¹Words omitted in reg. 31(1) by reg. 2(5) of S.I. 2007/1979 as from 1.8.07.

Application for warrant of commitment

33.—(1) For the purposes of enabling an inquiry to be made under section 39A of the Act as to the liable person's conduct and means, a justice of the peace may—

- (a) issue a summons to him to appear before a magistrates' court and (if he does not obey the summons) issue a warrant for his arrest; or
- (b) issue a warrant for his arrest without issuing a summons.

(2) In any proceedings under sections 39A and 40 of the Act, a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts there stated.

(3) Where an application under section 39A of the Act has been made but no warrant of commitment is issued or term of imprisonment fixed, the application may be renewed on the ground that the circumstances of the liable person have changed.

Warrant of commitment

34.—(1) A warrant of commitment shall be in the form specified in Schedule 3, or in a form to the like effect.

(2) The amount to be included in the warrant under section 40(4)(a)(ii) of the Act in respect of costs shall be such amount as in the view of the court is equal to the costs reasonably incurred by the Secretary of State in respect of the costs of commitment.

(3) A warrant issued under section 40 of the Act may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area.

(4) A warrant may be executed by a constable notwithstanding that it is not in his possession at the time but such warrant shall, on the demand of the person arrested, be shown to him as soon as possible.

(5) Where, after the issue of a warrant, part-payment of the amount stated in it is made, the period of imprisonment shall be reduced proportionately so that for the period of imprisonment specified in the warrant there shall be substituted a period of imprisonment of such number of days as bears the same proportion to the number of days specified in the warrant as the amount remaining unpaid under the warrant bears to the amount specified in the warrant.

(6) Where the part-payment is of such an amount as would, under paragraph (5), reduce the period of imprisonment to such number of days as have already been served (or would be so served in the course of the day of payment), the period of imprisonment shall be reduced to the period already served plus one day.

Disqualification from driving order

35.—(1) For the purposes of enabling an enquiry to be made under section 39A of the Act as to the liable person's livelihood, means and conduct, a justice of the peace may issue a summons to him to appear before a magistrates' court and to produce any driving licence held by him, and, where applicable, its counterpart and, if he does not appear, may issue a warrant for his arrest.

(2) In any proceedings under sections 39A and 40B of the Act, a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed for or on behalf of his employer, shall be evidence of the facts there stated.

(3) Where an application under section 39A of the Act has been made but no disqualification order is made, the application may be renewed on the ground that the circumstances of the liable person have changed.

¹Words substituted in reg. 33(1) by reg. 2(6)(b) of S.I. 2001/162, subject to the savings provision in reg. 6 of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

²Words omitted in reg. 33(1) by reg. 2(6) of S.I. 2007/1979 as from 1.8.07.

³Words substituted in regs. 33(2) & (3) & reg. 35 added by reg. 2(6)(b) & (c) of that S.I. See reg. 1 of S.I. 2001/162 for relevant effective date.

⁴Words omitted in reg. 35(1) by reg. 2(6) of S.I. 2007/1979 as from 1.8.07.

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(4) A disqualification order shall be in the form prescribed in Schedule 4.

(5) The amount to be included in the disqualification order under section 40B(3)(b) of the Act in respect of the costs shall be such amount as in the view of the court is equal to the costs reasonably incurred by the Secretary of State in respect of the costs of the application for the disqualification order.

(6) An order made under section 40B(4) of the Act may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area, if the liable person fails to appear or produce or surrender his driving licence or its counterpart to the court.

(7) An order may be executed by a constable notwithstanding that it is not in his possession at the time but such order shall, if demanded, be shown to the liable person as soon as reasonably practicable.

(8) In this regulation “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988(a).◀

Signed by authority of the Secretary of State for Social Security.

17th August 1992

Ann Widdecombe
Parliamentary Under-Secretary of State,
Department of Social Security

(a) 1998 c. 52, section 108(1).

qualifying child or, in Scotland, an order under section 3 of the Law Reform (Parent and Child) (Scotland) Act 1986(a) or a decree of declarator under section 7 of that Act in relation to a qualifying child;

“relevant person” means—

- (a) a person with care;
- (b) a ►¹non-resident parent◄;
- (c) a parent who is treated as a ►¹non-resident parent◄ under ►²regulation 8 of the Maintenance Calculations and Special Cases Regulation◄;
- (d) where the application for a ►²calculation◄ is made by a child under section 7 of the Act, that child,

in respect of whom [►²a maintenance calculation has been applied for, or has been treated as applied for under section 6(3) of the Act, or is or has been in force.◄] a maintenance ►²calculation◄ has been applied for or is or has been in force.

(3) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

►³“taxable profits” means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005(b).◄

¹“Non-resident parent” substituted for “absent parent” in defn. of “relevant person” by reg. 2(1) of S.I. 2001/161, subject to savings provision in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

²Words substituted deleted and added in reg. 1(2), 2(2)(b) by reg. 2, 3(2) and 5 of S.I. 2001/161, subject to savings provision in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

³Defn. of “taxable profits” inserted by reg. 3(2) of S.I. 2007/1979 as from 1.8.07.

PART II

FURNISHING OF INFORMATION OR EVIDENCE

Persons under a duty to furnish information or evidence

2.—►⁴(1) A person falling within a category listed in paragraph (2) shall furnish such information or evidence—

- (a) with respect to the matter or matters specified in that paragraph in relation to that category; and
- (b) which is in his possession or which he can reasonably be expected to acquire,

as is required by the Secretary of State ►⁵and is needed for any of the purposes specified in regulation 3(1)◄.

►⁵(1A) In such cases as the Secretary of State may determine, a person falling within a category listed in paragraph (2) shall furnish such information or evidence as the Secretary of State may determine which is information or evidence—

- (a) with respect to the matter or matters specified in that paragraph in relation to that category;
- (b) needed by the Secretary of State for the purpose specified in regulation 3(1A); and
- (c) in that person’s possession or which that person can reasonably be expected to acquire◄

(2) The person who may be required to furnish information or evidence, and the matter or matters with respect to which such information or evidence may be required, are as follows—

- (a) the relevant persons, with respect to the matters listed in regulation 3(1);
- ⁶(aa) where regulation 8(1) of the Maintenance Calculations and Special Cases Regulations applies (persons treated as non-resident parents), a parent of or a person who provided day to day care for the child in respect of whom a maintenance calculation has been applied for or has been treated as applied for or is or has been in force, with respect to the matter listed in sub-paragraph (1) of regulation 3(1);◄
- (b) a person who is alleged to be a parent of a child with respect to whom an application for a maintenance ►⁷calculation◄ has been made, or in

⁴Reg. 2(1) substituted by art. 6 of S.I. 1999/1510 as from 1.6.99.

⁵Words in reg. 2(1)(b) & 2(1A) substituted by reg. 2(2) of S.I. 2003/3206 as from 7.1.04.

⁶Sub-para. (aa) inserted in reg. 2(2) of S.I. 2002/1204 as from the prescribed date in reg. 1(3)(b) of that S.I.

⁷Words substituted in reg. 2(2)(b) by reg. 7(3) of S.I. 1995/3261 as from 22.1.96.

(a) 1986 c. 9.

(b) 2005 c. 5. This brings the definition of “taxable profits” for child support purposes into line with the definition for income tax purposes. Capital allowances will be deducted from, and balancing charges applied to, gross profits from self-employment to determine a self-employed person’s earnings.

Reg. 2

¹Words substituted deleted and added in regs. 2(2)(b), (c), (cc), (d), (e) and regs.

2(2)(f)-(h) added by regs. 2-5 of S.I. 2001/161, subject to savings provision in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

²Para. (2)(ba) inserted into reg. 2 by reg. 2 of S.I. 1995/123 as from 16.2.95.

³Words inserted into reg. 2(2)(c) by reg. 7(4) of S.I. 1995/3261 as from 22.1.96.

⁴Words deleted in reg. 2(2)(c) by art. 6(b)(ii) of S.I. 1999/1510 as from 1.6.99.

⁵Sub-paras. (cc) and (cd) inserted into reg. 2(2) by reg. 22 of S.I. 1995/1045 as from 18.4.95.

⁶Words inserted in reg. 2(2)(cc) by reg. 7(4) of S.I. 1995/3261 as from 22.1.96.

⁷Words deleted from reg. 2(2)(cc) by art. 6(b)(ii) of S.I. 1999/1510 as from 1.6.99.

⁸Words inserted in reg. 2(2)(e) by reg. 7(3) of S.I. 1996/1945 as from 5.8.96.

⁹Words omitted in reg. 2(2)(g), added to 2(2)(h) and 2(2)(i) inserted by reg. 2(2)(a)-(c) of S.I. 2006/1520 as from 12.7.06.

¹⁰Words inserted in reg. 2(2)(h) by reg. 4(b) of S.I. 2002/1204 as from 30.4.02.

relation to whom a maintenance calculation has been made, or has been treated as made, and that person denies that he is one of the child's parents, with respect to the matters listed in sub-paragraphs (b) and (d) of regulation 3(1);

- ▶²(ba) the current or recent employer of a person falling within sub-paragraph (b), with respect to the matters listed in sub-paragraphs (d) and (e) of regulation 3(1);
- (c) the current or recent employer of the non-resident parent in relation to whom an application for a maintenance calculation has been made or in relation to whom a maintenance calculation has been made, or has been treated as made, with respect to the matters listed in sub-paragraphs (d), (e), (f), (h) and (j) of regulation 3(1);
- ▶⁵(cc) persons employed in the service of the Crown or otherwise in the discharge of Crown functions, where they are the current or recent employer of the non-resident parent in relation to whom an application for a maintenance calculation has been made or in relation to whom a maintenance calculation has been made, or has been treated as made, with respect to the matters listed in sub-paragraphs (d), (e), (f), (h) and (j) of regulation 3(1);
- (cd) persons employed in the service of the Crown or otherwise in the discharge of Crown functions, where they are the current or recent employer of a person falling within sub-paragraph (b), with respect to the matters listed in sub-paragraphs (d) and (e) of regulation 3(1);
- (d) the local authority in whose area a person falling within a category listed in sub-paragraphs (a) and (b) above resides or has resided, with respect to the matters listed in sub-paragraph (a), (d), (e), (f) (h) and (hh) of regulation 3(1);
- (e) a person qualified in paragraph (3) below, in any case where, in relation to the qualifying child or qualifying children or the non-resident parent—
 - (i) there is or has been a relevant court order; or
 - (ii) there have been, or are pending, relating proceedings before a court, with respect to the matters listed in sub-paragraphs (aa), (ab), (g), (h) and (k) of regulation 3(1).
- ▶¹(f) a person who acts or has acted as an accountant for the absent parent, including where that person is self-employed, in relation to any business accounts of that parent with respect to matters listed in sub-paragraphs (e), (f), (h) and (hh) of regulation 3(1);
- (g) a company or partnership for whom the absent parent is providing or has provided services under a contract for services with respect to the matters listed in sub-paragraphs (e) and (f) of regulation 3(1);
- (h) persons employed in the services of the Crown or otherwise in the discharge of Crown functions—
 - (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 Regulations Act 1994 (c) with respect to the matter listed in sub-paragraph (e) of regulation 3(1); or
 - (ii) under the Prison Act 1952 (d), the Prison Act (Northern Ireland) 1953 (e) or the Prisons (Scotland) Act 1989 (f) with respect to the matter listed in sub-paragraph (e) of regulation 3(1). and
- (i) a credit reference agency within the meaning given by section 145(8) of the

(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 License (Community Driving Licence) Regulations 1990 S.I. 1990/144, the Driving License (Community Driving Licence) Regulations 1996 S.I. 1996/1974 and the Driving License (Community Driving Licence) Regulations 1998 S.I. 1998/1420.

(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) and the Finance Act 1998 (c. 36).

(d) 1952 c. 52

(e) 1953 c. 18.

(f) 1989 c. 45.

Consumer Credit Act 1974(a) with respect to the matters listed in sub-paragraphs (d), (e), (m) and (n) of regulations 3(1).◀

(3) The persons who may be required to furnish information or evidence in relation to a relevant court order or related proceedings under the provisions of paragraph (2)(e) 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 Court Rules 1981(b);
 - (iii) in relation to a magistrates' court, the ▶¹designated officer◀ for that court;
- (b) in Scotland—
 - (i) in relation to the Court of Session, the Deputy Principal Clerk of Session;
 - (ii) in relation to a sheriff court, the sheriff clerk.

¹Words substituted in reg. 2(3)(a)(iii) by art. 155 of S.I. 2005/617 as from 1.4.05.

Rule 10.21A of the Family Proceedings Rules 1991 (S.I. 1991/1247, as amended by S.I. 1993/295) provides that, in relation to court proceedings, nothing in rules 4.23 (confidentiality of documents), 10.20 (inspection etc. of documents in court) or 10.21 (disclosure of addresses) shall prevent a person mentioned in reg. 2(2) or reg. 2(3)(a) above who has been requested to furnish information or evidence for a purpose mentioned in reg. 3(1) below shall prevent that person from furnishing the information or evidence sought, or require that person to seek leave of the court before doing so.

Purposes for which information or evidence may be required

3.—(1) The Secretary of State ▶²◀ may require information or evidence under the provisions of regulation 2 only if that information or evidence is needed to enable—

- (a) a decision to be made as to whether, in relation to an application for a maintenance ▶³calculation◀, there exists a qualifying child, a ▶³non-resident parent◀ and a person with care;
- ▶⁴(aa) a decision to be made as to whether there is in force a written maintenance agreement made before 5th April 1993, or a maintenance order ▶³made on or after the date prescribed for the purposes of section 4(10)(a) of the Act(c) which has been in force for at least a year from the date it was made◀, in relation to a qualifying child and the person who as at that time the ▶³non-resident parent◀ of that child;
- (ab) a decision to be made as to whether a person with care has parental responsibility for a qualifying child for the purposes of section 5(1) of the Act:◀
- (b) a decision to be made as to whether ▶⁵the Secretary of State◀ has jurisdiction to make a maintenance ▶³calculation◀ under section 44 of the Act;
- (c) a decision to be made, where more than one application has been made, as to which application is to be proceeded with;
- (d) an ▶³non-resident parent◀ to be identified;
- (e) an ▶³non-resident parent◀ to be traced;
- (f) the amount of child support maintenance payable by an ▶³non-resident parent◀ to be ▶³calculated◀;
- (g) the amount payable under a relevant court order to be ascertained;
- (h) the amounts specified in sub-paragraphs (f) and (g) to be recovered from an ▶³non-resident parent◀;
- ▶⁶(hh) a decision to be made as to whether to take account under section 35(1) or 38(1) of the Act or to apply under section 36(1) of the Act for an order for recovery by means of garnishee proceedings or a charging order:◀
 - (i) the amount of interest payable with respect to arrears of child support maintenance to be determined;
 - (j) the amount specified in sub-paragraph (i) to be recovered from an ▶³non-resident parent◀;

²Words deleted in reg. 3(1) by art. 7 of S.I. 1999/1510 as from 1.6.99.

³Words substituted in reg. 3(1) by regs. 2,4 & 5 of S.I. 2001/161, subject to savings provisions in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective dates.

⁴Sub-paras. (aa) and (ab) inserted in reg. 3(1) by reg. 8(2) of S.I. 1996/1945 as from 5.8.96.

⁵Words substituted in sub-para. (b) by art. 7 of S.I. 1999/1510 as from 1.6.99.

⁶Sub-para. (hh) inserted in reg. 3(1) by reg. 8(3) of S.I. 1996/1945 as from 5.8.96.

(a) 1974 c. 39.

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

(c) 1992 c. 4.

Reg. 3

¹Words substituted in reg. 3(1)(l) by reg. 6 of S.I. 2001/161 subject to savings provisions in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

²Sub-para. (m) & (n) inserted in reg. 3(1) by reg. 2(3) of S.I. 2006/1520 as from 12.7.06.

³Para (1A) inserted by reg. 2(3) of S.I. 2003/3206 as from 7.1.04.

⁴Words substituted in reg. 3(2)(a), (b) and (e) by reg. 2 & 6(2)(a) of S.I. 2001/161, subject to savings provisions in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

⁵Words inserted in reg. 3(2)(b) & (c) by para. 1 of Sch. 4 to S.I. 2005/2877 as from 5.12.05.

⁶Word in reg. 3(2)(d) substituted by reg. 32(a) of S.I. 1998/58 as from 19.1.98.

⁷Words substituted and deleted in reg. 3(2) and sub-para. (j), (m) - (p) omitted by reg. 2 and 6 of S.I. 2001/161 subject to savings provisions in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

⁸Words added to reg. 3(2)(h) by reg. 4(2) of S.I. 1999/977 as from 4.10.99.

⁹Words omitted in reg. 3(2)(h) by reg. 3(3)(a) & (b) of S.I. 2007/1979 as from 1.8.07.

(k) any related proceedings to be identified.

►¹(l) a determination as to who is in receipt of child benefit, payable under Part IX of the Social Security Contributions and Benefits Act 1992 (a), either for a child who may be a relevant other child for the purposes of Schedule 1 to the Act, or for the qualifying child where a parent may fall to be treated as a non-resident parent under the Maintenance Calculations and Special Cases Regulations.◄

►²(m) an assessment of the financial standing of the non-resident parent;

(n) an amount of, or an amount treated as, overpaid child support maintenance, to be recovered in accordance with section 41B of the Act(a) (repayment of overpaid child support maintenance) and regulations made under or by virtue of that section, from a relevant person.◄

►³(1A) The Secretary of State may require information or evidence to be provided under the provisions of regulation 2(1A) only for the purpose of verifying whether information or evidence which he holds, or has held, is correct.◄

(2) The information or evidence to be furnished in accordance with regulation 2 may in particular include information and evidence as to—

(a) the habitual residence of the person with care, the ►⁴non-resident parent◄ and any child in respect of whom ►⁴the maintenance calculation has been applied for, or has been treated as applied for◄;

(b) the name and address of the person with care and of the ►⁴non-resident parent, their marital ►⁵or civil partnership◄ status, and the relationship of the person with care to any child in respect of whom ►⁴the maintenance calculation has been applied for, or has been treated as applied for◄;

(c) the name, address and date of birth of any such child, that child's marital ►⁵or civil partnership◄ status, and any education that child is undergoing;

(d) the persons who have parental responsibility for (►⁶and◄, in Scotland, parental rights over) any qualifying child where there is more than one person with care;

(e) the time spent by a qualifying child in respect of whom ►⁴the maintenance calculation has been applied for, or has been treated as applied for,◄ with each person with care, where there is more than one such person;

(f) the matters relevant for determining, in a case falling within section 26 of the Act (disputes about parentage), whether that case falls within one of the Cases set out in subsection (2) of that section, and if it does not, the matters relevant for determining the parentage of a child whose parentage is in dispute;

(g) the name and address of any current or recent employer of a ►⁷non-resident parent◄►⁷◄, and the gross earnings and the deductions from those earnings deriving from each employment;

(h) the address from which an ►⁷non-resident parent◄►⁷◄ who is self-employed carries on his trade or business, the trading name, ►⁸the ►⁹◄ taxable profits derived from his employment as a self-employed earner, ►⁹◄◄ and the gross receipts and expenses and other outgoings of the trade or business;

(i) any other income of an ►⁷non-resident parent◄;

►⁷◄

(k) amounts payable and paid under a relevant court order or a maintenance agreement;

(l) the persons living in the same household as the ►⁷non-resident parent◄►⁷◄, their relationship to the ►⁷non-resident parent◄ or the parent with care, as the case may be, and to each other, and, in the case of the children of any such party, the dates of birth of those children;

►⁷◄

(q) the identifying details of any bank, building society or similar account held in the name of the ►⁷non-resident parent◄►⁷◄, and statements relating to any such account;

(a) Section 41B was inserted by section 23 of the Child Support Act 1995 (c. 34).

- (r) the matters relevant for determining whether—
- (i) a maintenance ¹calculation⁴ has ceased to have effect ¹⁴ under the provisions of paragraph 16 of Schedule 1 to the Act;
 - (ii) a person is a child within the meaning of section 55 of the Act;

¹⁴

Contents of request for information or evidence

²3A. Any request by the Secretary of State in accordance with regulations 2 and 3 for the provision of information or evidence shall set out the possible consequences of failure to provide such information or evidence ³including details of the offences provided for in section 14A of the Act^(a) for failing to provide, or providing false, information⁴.

4. ⁴

⁵Time within which information or evidence is to be furnished

5.—(1) Subject to ⁴ the provisions of ⁴regulation 3(4) of the Maintenance Calculation Procedure Regulations⁴, information or evidence furnished in accordance with regulations 2 and 3 shall be furnished as soon as is reasonably practicable in the particular circumstances of the case.⁴

⁴

Continuing duty of persons with care

6. Where a person with care with respect to whom a maintenance ¹calculation⁴ has been made believes that, by virtue of section 44 or 55 of, or paragraph 16 of Schedule 1 to, the Act, the ¹calculation⁴ has ceased to have effect ⁴, she shall, as soon as is reasonably practicable, inform the Secretary of State of that belief, and of the reasons for it, and shall provide such other information as the Secretary of State may reasonably require, with a view to assisting the Secretary of State ⁶ in determining whether the ¹calculation⁴ has ceased to have effect, ⁴.

Powers of inspectors in relation to Crown residences

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

¹Words substituted and deleted in regs. 3(2) & (6) and sub-para. (s) omitted by regs. 2 and 6 of S.I. 2001/161 subject to savings provisions in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

²Reg. 3A substituted by art. 8 of S.I. 1999/1510 as from 1.6.99.

³Words inserted in reg. 3A by reg. 6(3) of S.I. 2001/161. See reg. 1 of S.I. 2001/161 for relevant date.

⁴Reg. 4 omitted and words substituted and omitted in regs. 5 and 6 by reg. 2 and 3 of S.I. 2001/161, subject to savings in reg. 10 of that S.I. See reg. 1 of S.I. 2001/161 for relevant effective date.

⁵Reg. 5 substituted by reg. 10 of S.I. 1995/3261 as from 22.1.96.

⁶Words deleted from reg. 6 by art. 10 of S.I. 1999/1510 as from 1.6.99.

(a) Section 14A is inserted into the Act by section 13 of the Child Support. Pensions and Social Security Act 2000.

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PART III
DISCLOSURE OF INFORMATION**Disclosure of information to a court or tribunal**

¹Reg. 8 renumbered reg. 8(1) by reg. 63 of S.I. 1996/2907 as from 2.12.96.

²Words deleted and substituted in reg. 8 by reg. 11(a)(i) & (ii) of S.I. 1999/1510 as from 1.6.99.

³Sub-para (cc) inserted in reg. 8(1) by reg. 3 of S.I. 2004/2415 as from 16.9.04. See reg. 1(2)(b) *ibid* at page 8911 for exceptions to this.

⁴Sub-para (c) deleted by art. 11(a)(iii) of S.I. 1999/1510 as from 29.11.99.

⁵Words in reg. 8(1) substituted by reg. 33(2) of S.I. 1998/58 as from 19.1.98.

⁶Reg. 8(2) inserted by reg. 63 of S.I. 1996/2907 as from 2.12.96.

⁷Words substituted in reg. 8(2) by art. 11(b) of S.I. 1999/1510 as from 1.6.99.

8. ▶¹(1)◀ The Secretary of State ▶²◀ may disclose any information held by ▶²him◀ for the purposes of the Act to—

- (a) a court;
- (b) any tribunal or other body or person mentioned in the Act;
- ▶³(cc) a person with a right of appeal under the Act to an appeal tribunal,◀

▶⁴◀

where such disclosure is made for the purposes of any proceedings before any of those bodies relating to this Act ▶⁵, to the benefit Acts or to the Jobseekers Act 1995(▶⁶a)◀

▶⁶(2) For the purposes of this regulation “proceedings” includes the determination of an application referred to ▶⁷an◀ appeal tribunal under section 28D(1)(b) of the Act.◀

(a) 1995 c. 18.

- (c) any payment where—
 - (i) the employment in respect of which it was made has ceased; and
 - (ii) a period of the same length as the period by reference to which it was calculated has expired since that cessation but prior to the effective date;
 - (d) any advance of earnings or any loan made by an employer to an employee;
 - (e) any amount received from an employer during a period when the employee has withdrawn his services by reason of a trade dispute;
 - (f) any payment in kind;
 - (g) where, in any week or other period which falls within the period by reference to which earnings are calculated earnings are received both in respect of a previous employment and in respect of a subsequent employment, the earnings in respect of the previous employment.
 - ▶¹(h) any tax-exempt allowance made by an employer to an employee ▶²except any such allowance which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1) or, as the case may be, regulation 11(1)(b)◀◀
- (3) The earnings to be taken into account for the purposes of calculating N and M shall be gross earnings less—
- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class I contributions under the Contributions and Benefits Act ▶³or under the Social Security Contributions and Benefits (Northern Ireland) Act 1992◀; and
 - (b) one half of any sums paid by the parent towards an occupational ▶⁴◀ pension scheme.
 - ▶⁵(c) one half of any sums paid by the parent towards a personal pension scheme, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured upon the parent’s home, 37.5 per centum of any such sums.◀

¹Head (h) inserted in para. (1)(3) by reg. 13(2)(b) of S.I. 1996/3196 as from 13.1.97.
²Words inserted into para. 1(2)(h) by reg. 56(2)(b) of S.I. 1998/58 as from 19.1.98.

³Words inserted into head (a)(ii) of para. 1(3) by reg. 54(3)(a) of S.I. 1995/1045 as from 18.4.95.

⁴Words “or personal” deleted in head (b) of para. 1(3) by reg. 54(3)(b) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

⁵Head (c) inserted into para. 1(3) by reg. 54(3)(c) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

⁶Para. 2(1) substituted by reg. 54(4) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

⁷Words in sub-para. 2(1) substituted by reg. 13(3)(a) of S.I. 1996/3196 as from 13.1.97.

⁸Words substituted in paras. 2(1) & (1A) by art. 19(a)(i) of S.I. 1999/1510 as from 1.6.99.

⁹Sub-para (1A) inserted by reg. 13(3)(b) of S.I. 1996/3196 as from 13.1.97.

¹⁰Words in para. (1A) substituted by reg. 6(6)(a) of S.I. 2003/328 as from 6.4.03.

¹¹Sub-para. (2) substituted by reg. 13(3)(c) of S.I. 1996/3196 as from 13.1.97.

2.—▶⁶(1) Subject to sub-paragraphs ▶⁷(1A)◀ to (4), the amount of the earnings to be taken into account for the purpose of calculating N and M shall be calculated or estimated by reference to the average earnings at the relevant week having regard to such evidence as is available in relation to that person’s earnings during such period as appears appropriate to the ▶⁸Secretary of State◀ beginning not earlier than eight weeks before the relevant week and ending not later than the date of the assessment and for the purpose of that calculation or estimate he may consider evidence of that person’s cumulative earnings during the period beginning with the start of the year of assessment (within the meaning of section 832 of the Income and Corporation Taxes Act 1988(a) in which the relevant week falls and ending with a date no later than the date of the assessment.◀

▶⁹(1A) Subject to sub-paragraph (4), where a person has claimed, or has been paid, ▶¹⁰working tax credit or child tax credit◀ on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the ▶⁸Secretary of State◀ may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).◀

▶¹¹(2) Where a person’s earnings during the period of 52 weeks ending with the relevant week include—

- (a) a bonus, commission, or payment of profit-related pay made in anticipation of the calculation of profits which is paid separately from or in relation to a longer period than, the other earnings with which it is paid; or
- (b) a payment in respect of profit-related pay made following the calculation of the employer’s profits,

(a) 1988 c. 1.

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the amount of that bonus, commission or profit-related payment shall be the determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.◀

(3) Subject to sub-paragraph (4), the amount of any earnings of a student shall be determined by aggregating the amount received in the year ending with the relevant week and dividing by 52 or, where the person in question has been a student for less than a year, by aggregating the amount received in the period starting with his becoming a student and ending with the relevant week and dividing by the number of complete weeks in that period.

¹Sub-para. 2(3A) inserted by reg. 13(3)(d) of S.I. 1998/3196 as from 13.1.97.

²Words substituted in para. (3A) & (4) by art. 19(a)(i) & (ii) of S.I. 1999/1510 as from 1.6.99.

▶¹(3A) Where a case is one to which regulation 30A(1) or (3) of the Maintenance Assessment Procedure Regulations applies (effective dates of new maintenance assessments in particular cases), the term “relevant week” shall, for the purpose of this paragraph, mean the 7 days immediately proceeding the date on which the information or evidence is received which enables ▶²the Secretary of State◀ to make a new maintenance assessment calculation in accordance with the provisions of Part I of Schedule 1 to the Act in respect of that case for a period beginning after the effective date applicable to that case.◀

(4) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the ▶²Secretary of State◀, does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the ▶²Secretary of State◀ shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, has been engaged or is due to be engaged;
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

Chapter 2

Earnings of a self-employed earner

³Paras. 2A-2C inserted by reg. 6(5)(a) of S.I. 1999/977 as from 4.10.99.

⁴Words omitted para. 2A(1)-(3) by reg. 4(2)(a)-(c) of S.I. 2007/1979 as from 1.8.07.

▶³2A.—(1) Subject to paragraphs ▶⁴◀ 2C, 4 and 5A, “earnings” in the case of employment as a self-employed earner shall have the meaning given by the following provisions of this paragraph.

(2) “Earnings” means the ▶⁴◀ taxable profits from self-employment of that earner ▶⁴◀, less the following amounts—

- (a) any income tax relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (3);
- (b) any National Insurance Contributions relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (4);
- (c) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the self-employed earner’s home, 37.5 per centum of the contributions payable.

(3) For the purposes of sub-paragraph (2)(a) the income tax to be deducted from the ▶⁴◀ taxable profits shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of earnings ▶⁵◀ calculated as if it were equivalent to any personal allowance which would be ◀ applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988(a) (personal reliefs) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the earnings remaining following the application of head(a) (the “remaining earnings”);

⁵Words substituted in para. 2A(3)(a) by reg. 4(2)(a) of S.I. 2005/785 as from 16.3.05.

(a) 1988 c. 1.

- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings,, where necessary increasing or reducing the amount payable to take account of the fact that the earnings relate to a period greater or less than one year;
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the taxable profits bears to the period of one year.

(4) For the purposes of sub-paragraph (2)(b) above, the amount to be deducted in respect of National Insurance Contributions shall be the total of—

- (a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, (3), of the Contributions and Benefits Act; and
- (b) the amount of Class 4 Contributions (if any) payable under section 15(2) of that Act,

at the rates applicable at the effective date.

►¹(5) For the purposes of this paragraph, “taxable profits” means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.

¹Sub-para. (5) & (6) inserted, 2C substituted & 2B omitted by reg. 4(2)(d), 4(3) & (4) of S.I. 2007/1979 as from 1.8.07.

(6) A self-employed earner who is a person with care or an absent parent shall provide to the Secretary of State on demand a copy of—

- (a) any tax calculation notice issued to him by Her Majesty’s Revenue and Customs; and
- (b) any revised notice issued to him by Her Majesty’s Revenue and Customs.◀

2B. ►¹◀

►¹2C. Where the Secretary of State accepts that it is not reasonably practicable for a self-employed earner to provide any of the information specified in paragraph 2A(6), “earnings” in relation to that earner shall be calculated in accordance with paragraph 3.◀

3.—(1) ►²Where paragraph 2C applies and subject◀ to sub-paragraphs (2) and (3) and to paragraph 4, “earnings” in the case of employment as a self-employed earner means the gross receipts of the employment including, where an allowance in the form of periodic payments is paid under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) in respect of the relevant week for the purpose of assisting him in carrying on his business, the total of those payments made during the period by reference to which his earnings are determined under paragraph 5.

²Words inserted in para. 3 by reg. 6(5)(b) of S.I. 1999/977 as from 4.10.99.

(2) Earnings shall not include—

- (a) any allowance paid under either of those sections in respect of any part of the period by reference to which his earnings are determined under paragraph 5 if no part of that allowance is paid in respect of the relevant week;
- (b) any income consisting of payments received for the provision of board and lodging accommodation unless such payments form the largest element of the recipient’s income.

(3) ►³Subject to sub-paragraph (7),◀ there shall be deducted from the gross receipts referred to in sub-paragraph (1)

³Words inserted in para. 3(3) by reg. 27(1)(a) of S.I. 1993/913 as from 5.4.93.

- (a) ►⁴except in a case to which paragraph 4 applies,◀ any expenses which are reasonably incurred and are wholly and exclusively defrayed for the purposes of the earner’s business in the period by reference to which his earnings are determined under paragraph 5(1) or, where paragraph 5(2) applies, any such expenses relevant to the period there mentioned (whether or not defrayed in that period);

⁴Words inserted in para. 3(3)(a) by reg. 27(1)(b) of S.I. 1993/913 as from 5.4.93.

(a) 1973 c. 50; section 2 was amended by sections 9 and 11 of, and Schedule 2, Part II, paragraph 9 and Schedule 3, to the Employment and Training Act 1981 (c. 57).

(b) 1990 c. 35.

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¹Words inserted in para. 3(3)(b) by reg. 27(1)(b) of S.I. 1993/913 as from 5.4.93.

²Words "or 5(2)" inserted into para. 3(3)(b) by reg. 54(5)(a) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

³Words inserted into para. 3(3)(e) by reg. 54(5)(b) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

⁴Paras. 3(4)(b)(i), (iii)-(v) and (vii) omitted by reg. 4(5) of S.I. 2007/1979 as from 1.8.07.

⁵Para. 3(5) substituted by reg. 13(4) of S.I. 1996/3196 as from 13.1.97.

⁶Words substituted in para. 3(5)(a) by reg. 4(2)(b) of S.I. 2005/785 as from 16.3.05.

⁷Words in head (b) of para. 3(5) to Sch. 1 inserted by reg. 56(3)(a) of S.I. 1998/58 as from 19.1.98.

⁸Head (bb) inserted into para. 3(5) to Sch. 1 by Reg. 56(3)(b) of S.I. 1998/58 as from 19.1.98.

⁹Figure in para. 3(6)(a) substituted for "(4)" by reg. 54(7) of S.I. 1995/1045 as from 18.4.95.

- (b) ►¹except in a case to which paragraph 4 ►²or 5(2)◄ applies,◄, any value added tax paid in the period by reference to which earnings are determined in excess of value added tax received in that period;
- (c) any amount in respect of income tax determined in accordance with sub-paragraph (5);
- (d) any amount in respect of National Insurance contributions determined in accordance with sub-paragraph (6);
- (e) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme ►³, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the parent's home, 37.5 per centum of the contributions payable◄.

(4) For the purposes of sub-paragraph (3)(a)–

(a) such expenses include–

- (i) repayment of capital on any loan used for the replacement, in the course of business, of equipment or machinery, or the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
- (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
- (iii) any payment of interest on a loan taken out for the purposes of the business;

(b) such expenses do not include–

- ⁴◄
- (ii) any capital expenditure;
- ⁴◄
- (vi) any expenses incurred in providing business entertainment.

►⁴◄

►⁵(5) For the purposes of sub-paragraph (3)(c), the amount in respect of income tax shall be determined in accordance with the following provisions–

- (a) subject to head (c), an amount of chargeable earnings ►⁶calculated as if it were equivalent to any personal allowance which would be◄ applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporate Taxes Act 1988 (Personal Relief) shall be disregarded;
- (b) ►⁷subject to head (bb),◄ an amount equivalent to income tax shall be calculated with respect to taxable earnings at the rates applicable at the effective date;
- ⁸(bb) where taxable earnings are determined over a period of less or more than one year, the amount of earnings to which each tax rate applies shall be reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;◄
- (c) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by chargeable earnings bears to the period of one year;
- (d) in this sub-paragraph, "taxable earnings" means the chargeable earnings of the earner following the disregard of any applicable personal allowance.◄

(6) For the purposes of sub-paragraph (3)(d), the amount to be deducted in respect of National Insurance contributions shall be the total of–

- (a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, ►⁹(3)◄ of the Contributions and Benefits Act; and
- (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,

at the rates applicable ►¹to the chargeable earnings◄ at the effective date.

►²(7) In the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(a), sub-paragraph (3) shall have effect as though it requires—

- (a) a deduction from the earner's estimated or, where appropriate, actual share of the gross receipts of the partnership or fishing boat, of his share of the sums likely to be deducted or, where appropriate, deducted from those gross receipts under heads (a) and (b) of that sub-paragraph; and
- (b) a deduction from the amount so calculated of the sums mentioned in heads (c) to (e) of that sub-paragraph.◄

►³(8) In sub-paragraphs (5) and (6) "chargeable earnings" means the gross receipts of the employment less any deductions mentioned in sub-paragraph (3)(a) and (b).◄

4. In a case where a person is self-employed as a childminder the amount of earnings referable to that employment shall be one-third of the gross receipts.

5.—(1) Subject to sub-paragraphs ►⁴(2) to (3)◄—

- (a) where a person has been a self-employed earner for 52 weeks or more including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received in the 52 weeks ending with the relevant week;
- (b) where the person has been a self-employed earner for a period of less than 52 weeks including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received during that period.

(2) ►⁵Subject to sub-paragraph (2A), where◄ a person who is a self-employed earner provides in respect of the employment a profit and loss account and, where appropriate, a trading account or a balance sheet or both, and the profit and loss accounts in respect of a period at least 6 months but not exceeding 15 months and that period terminates within the ►⁶24 months◄ immediately preceding the effective date, the amount of his earnings shall be determined by reference to the average of the earnings over the period to which the profit and loss account relates and such earnings shall include receipts relevant to that period (whether or not received in that period).

►⁷(2A) Where the ►⁸Secretary of State◄ is satisfied that, in relation to the person referred to in sub-paragraph (2) there is more than one profit and loss account, each in respect of different periods, both or all of which satisfy the conditions mentioned in that sub-paragraph, the provisions of that sub-paragraph shall apply only to the account which relates to the latest such period, unless ►⁸the Secretary of State◄ is satisfied that the latest such account is not available for reasons beyond the control of that person, in which case he may have regard to any such other account which satisfies the requirements of that sub-paragraph.◄

(3) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the ►⁸Secretary of State◄, does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the ►⁸Secretary of State◄ shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, or has been engaged or is due to be engaged;
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

¹Words inserted in para. 3(6) by reg. 27(30) of S.I. 1993/913 as from 5.4.95.

²Para. 3(7) substituted by reg. 54(8) of S.I. 1995/1045 as from 18.4.95.

³Para. 3(8) inserted by reg. 27(4) of S.I. 1993/913 as from 5.4.93.

⁴Words in para. 5(1) substituted by reg. 54(9) (a) of S.I. 1995/1045 as from 18.4.95.

⁵Words in para. 5(2) substituted for "where" by reg. 54(9)(b)(i) of S.I. 1995/1045 as from 18.4.95.

⁶Words in para. 5(2) substituted for "12 months" by reg. 54(9)(b)(ii) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

⁷Para. 5(2A) inserted by reg. 54(9)(c) of S.I. 1995/1045 as from 18.4.95 (see also transl. prov. in reg. 64(1) *ibid.*).

⁸Words substituted in paras. (2A)(3)(5) & 5A(3) by art. 19(b)(i) & (ii) of S.I. 1999/1510 as from 1.6.99.

(a) S.I. 1975/470.

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(4) In sub-paragraph (2)–

- (a) “balance sheet” means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question;
- (b) “profit and loss account” means a financial statement showing net profit or loss of the employment for the period in question; and
- (c) “trading account” means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.

¹Sub-para (5) inserted by reg. 13(5) of S.I. 1995/3196 as from 13.1.97.

²Words in para. 5(5) substituted by reg. 6(6)(a) of S.I. 2003/328 as from 6.4.03.

³Words substituted in para. (2A) by art. 19(b)(5)(ii) of S.I. 1999/1510 as from 1.6.99.

⁴Sub-para. (6) and para. 5A inserted by reg. 6(5)(c) & (d) as from 4.10.99.

⁵Words in paras. 5A(1) & (2) and sub-para. (3) omitted by reg. 4(5)(a) & (b) of S.I. 2007/1979 as from 1.8.07.

▶¹(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, ▶²working tax credit or child tax credit◀ on a day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the ▶³Secretary of State◀ may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).◀

▶⁴(6) This paragraph applies only where the earnings of a self-employed earner have the meaning given by paragraph 3 of this Schedule.

5A.—(1) Subject to sub-paragraph (2) of this paragraph, the earnings of a self-employed earner may be determined in accordance with the provisions of paragraph 2A only where the ▶⁵◀ taxable profits concerned relate to a period of not less than 6, and not more than 15 months, which terminated not more than 24 months prior to the relevant week;

(2) Where there is more than one week ▶⁵◀ taxable profit figure which would satisfy the conditions set out in sub-paragraph (1), the earnings calculation shall be based upon the figure pertaining to the latest such period;

▶⁵◀◀

- ▶¹◀
- ▶²(iia) a part-time fire-fighter employed by a fire and rescue authority;◀
 - ▶¹(iib) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005 (asp 5)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;◀
 - (iii) a person engaged part-time in the manning or launching of a lifeboat;
 - (iv) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(a);
 - (h) any payment made by a local authority to a member of that authority in respect of the performance of his duties as a member;
 - (i) any payment where—
 - (i) the employment in respect of which it was made has ceased; and
 - (ii) a period of the same length as the period by reference to which it was calculated has expired since that cessation but prior to the effective date; or
 - (j) where, in any week or other period which falls within the period by reference to which earnings are calculated, earnings are received both in respect of a previous employment and in respect of a subsequent employment, the earnings in respect of the previous employment.

¹Head (ii) revoked and head (iib) inserted in para. 4(2)(g) by para. 15 of part 2 to Sch. of S.I. 2005/2060 as from 2.8.05.

²Head (iia) inserted in para. 4(2)(g) by art. 54 of S.I. 2004/3168 as from 30.12.04.

Deductions

5.—(1) The deductions to be taken from gross earnings to calculate net income for the purposes of this Part of the Schedule are any amount deducted from those earnings by way of—

- (a) income tax;
- (b) primary Class 1 contributions under the Contributions and Benefits Act or under the Contributions and Benefits (Northern Ireland) Act; or
- (c) any sums paid by the non-resident parent towards an occupational pension scheme or personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured upon that parent's home, 75 per centum of any such sums.

(2) For the purposes of sub-paragraph (1)(a), amounts deducted by way of income tax shall be the amounts actually deducted, including in respect of payments which are not included as earnings in paragraph 4.

Calculation or estimate

6.—(1) Subject to ▶³sub-paragraphs (3) and (4)◀, the amount of earnings to be taken into account for the purpose of calculating net income shall be calculated or estimated by reference to the average earnings at the relevant week having regard to such evidence as is available in relation to that person's earnings during such period as appears appropriate to the Secretary of State, beginning not earlier than 8 weeks before the relevant week and ending not later than the date of the calculation, and for the purposes of the calculation or estimate he may consider evidence of that person's cumulative earnings during the period beginning with the start of the year of assessment (within the meaning of section 832 of the Income and Corporation Taxes Act 1988) in which the relevant week falls and ending with a date no later than the date when the calculation is made.

³Words in para. 6(1) substituted by reg. 8(4)(a) of S.I. 2003/328 as from 6.4.03.

(2) ▶⁴◀

(3) Where a person's earnings during the period of 52 weeks ending with the relevant week include a bonus or commission made in anticipation of the calculation of profits which is paid separately from, or in relation to a longer period than, the other earnings

⁴Para. 6(2) omitted by reg. 8(4)(b) of S.I. 2003/328 as from 6.4.03.

(a) S.I. 1979/591. Part I of Schedule 3 was substituted by regulation 6 of S.I. 1980/1975 and paragraph 9 was substituted by regulation 4 of S.I. 1994/1553.

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with which it is paid, the amount of that bonus or commission shall be determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.

(4) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the Secretary of State, does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately, and for this purpose the Secretary of State shall have regard to—

- (a) the earnings received, or due to be received from any employment in which the person in question is engaged, has been engaged or is due to be engaged; and
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

PART III

SELF-EMPLOYED EARNER

¹Title, sub-para. (1) & (2) substituted and sub-para. (1A) inserted by reg. 5(2)(a) - (d) of S.I. 2007/1979 as from 1.8.07.

►¹*Net weekly income of non-resident parent as a self-employed earner*◄

7.►¹(1) Subject to sub-paragraph (6) and to paragraph 8, the net weekly income of the non-resident parent as a self-employed earner shall be his gross earnings less the deductions to which sub-paragraph (3) applies.

(1A) In this paragraph and paragraph 8 a person's "gross earnings" are his taxable profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.◄

►¹(2) The non-resident parent shall provide to the Secretary of State on demand a copy of—

- (a) any tax calculation notice issued to him by Her Majesty's Revenue and Customs; and
- (b) any revised tax calculation notice issued to him by Her Majesty's Revenue and Customs.◄

(3) This paragraph applies to the following deductions—

- (a) any income tax relating to the gross earnings from the self-employment determined in accordance with sub-paragraph (4);
- (b) any National Insurance contributions relating to the gross earnings from the self-employment determined in accordance with sub-paragraph (5); and
- (c) any premiums paid by the non-resident parent in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or a charge secured upon the parent's home, 75 per centum of the contributions payable.

(4) For the purpose of sub-paragraph (3)(a), the income tax to be deducted from the gross earnings shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of gross earnings ►²calculated as if it were equivalent to any personal allowance which would be◄ applicable to the earner by virtue of the provisions of Chapter I of Part VII of the Income and Corporation Taxes Act 1988 (personal relief) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the gross earnings remaining following the application of head (a) (the "remaining earnings");

²Words substituted in para. 7(4)(a) by reg. 6(5) of S.I. 2005/785 as from 16.3.05.

- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings related to a period greater or less than one year; and
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the gross earnings bears to the period of one year.

(5) For the purposes of sub-paragraph (3)(b), the amount to be deducted in respect of National Insurance contributions shall be the total of—

- (a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, (3) of the Contributions and Benefits Act or under section 11(1) or (3) of the Contributions and Benefits (Northern Ireland) Act; and
- (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act, or under section 15(2) of the Contributions and Benefits (Northern Ireland) Act,

at the rates applicable at the effective date.

(6) The net weekly income of a self-employed earner may only be determined in accordance with this paragraph where the earnings concerned relate to a period which terminated not more than 24 months prior to the relevant week.

▶¹◀

(8) Any request by the Secretary of State in accordance with sub-paragraph (2) for the provision of information shall set out the possible consequences of failure to provide such information, including details of the offences provided for in section 14A of the Act (a) for failing to provide, or providing false, information.

¹Sub-para. (7) and words in para. 8(b) and (c) omitted by reg. 5(2)(e) & (3) of S.I. 2007/1979 as from 1.8.07.

Figures calculated using gross receipts less deductions

8.—(1) Where—

- (a) the conditions of paragraph 7(6) are not satisfied; or
- (b) the Secretary of State accepts that it is not reasonably practicable for the self-employed earner to provide information relating to his gross earnings from self-employment in the forms submitted to, or as issued or revised by, the Inland Revenue; ▶¹◀

net income means in the case of employment as a self-employed earner his earnings calculated by reference to the gross receipts ▶²in respect of employment which are of a type which would be taken into account under paragraph 7(1)◀ less the deductions provided for in sub-paragraph (2).

²Words in para. 8(1) substituted by reg. 7(2) of S.I. 2002/1204 as from 30.4.02.

(2) The deductions to be taken from the gross receipts to calculate net earnings for the purposes of this paragraph are—

- (a) any expenses which are reasonably incurred and are wholly and exclusively defrayed for the purposes of the earner's business in the period by reference to which his earnings are determined under paragraph 9(2) or (3);
- (b) any value added tax paid in the period by reference to which his earnings are determined in excess of value added tax received in that period;
- (c) any amount in respect of income tax determined in accordance with sub-paragraph (4);
- (d) any amount of National Insurance contributions determined in accordance with sub-paragraph (4); and

(a) Section 14A is inserted by section 13 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

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(e) any premium paid by the non-resident parent in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or a charge secured upon the parent's home, 75 per centum of contributions payable.

(3) For the purposes of sub-paragraph (2)(a)–

(a) such expenses include–

(i) repayment of capital on any loan used for the replacement, in the course of business, of equipment or machinery, or the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;

(ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and

(iii) any payment of interest on a loan taken out for the purposes of the business;

(b) such expenses do not include–

▶¹◀

(ii) any capital expenditure;

▶¹◀

(vi) any expenses incurred in providing business entertainment; or

▶¹◀

¹Sub-paras. (3)(b)(i), (iii)-(v) & (vii) omitted by reg. 5(3)(b) of S.I. 2007/1979 as from 1.8.07.

(4) For the purposes of sub-paragraph (2)(c) and (d), the amounts in respect of income tax and National Insurance contributions to be deducted from the gross receipts shall be determined in accordance with paragraph 7(4) and (5) of this Schedule as if in paragraph 7(4) references to gross earnings were references to taxable earnings and in this sub-paragraph “taxable earnings” means the gross receipts of the earner less the deductions mentioned in sub-paragraph (2)(a) and (b).

Rules for calculation under paragraph 8

9.—(1) This paragraph applies only where the net income of a self-employed earner is calculated or estimated under paragraph 8 of this Schedule.

(2) Where–

(a) a non-resident parent has been a self-employed earner for 52 weeks or more, including the relevant week, the amount of his net weekly income shall be determined by reference to the average of the earnings which he has received in the 52 weeks ending with the relevant week; or

(b) a non-resident parent has been a self-employed earner for a period of less than 52 weeks including the relevant week, the amount of his net weekly income shall be determined by reference to the average of the earnings which he has received during that period.

(3) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the Secretary of State, does not accurately reflect the normal weekly income of the non-resident parent in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of the non-resident parent to be determined more accurately and for this purpose the Secretary of State shall have regard to–

(a) the earnings from self-employment received, or due to be received, by him; and

(b) the duration and pattern, or the expected duration and pattern, of any self-employment of that non-resident parent.

(4) ▶²◀

²Para. 9(4) omitted by reg. 8(4)(b) of S.I. 2003/328 as from 6.4.03.

Income from board or lodging

10. In a case where a non-resident parent is a self-employed earner who provides board and lodging, his earnings shall include payments received for that provision where those payments are the only or main source of income of that earner.

PART IV
TAX CREDITS

▶¹Working tax credit◀

11.—(1) Subject to ▶¹sub-paragraph (2)◀, payments by way of ▶¹working tax credit◀ ▶¹◀, shall be treated as the income of the non-resident parent where he has qualified for them by his engagement in, and normal engagement in, remunerative work, at the rate payable at the effective date.

(2) Where ▶¹working tax credit◀ is payable and the amount which is payable has been calculated by reference to ▶¹the earnings◀ of the non-resident parent and another person—

- (a) where during the period which is used by the Inland Revenue to calculate his income ▶¹the earnings◀ of that parent exceed those of the other person, the amount payable by way of ▶¹working tax credit◀ shall be treated as the income of that parent;
- (b) where during that period ▶¹the earnings◀ of that parent equal those of the other person, half of the amount payable by way of ▶¹working tax credit◀ shall be treated as the income of that parent; and
- (c) where during that period ▶¹the earnings◀ of that parent are less than those of that other person, the amount payable by way of ▶¹working tax credit◀ shall not be treated as the income of that parent.

▶¹(2A) For the purposes of this paragraph, “earnings” means the employment income and the income from self-employment of the non-resident parent and the other person referred to in sub-paragraph (2), as determined for the purposes of their entitlement to working tax credit.◀

(3) ▶¹◀

¹Words substituted in heading to para. 11, sub-para. (1), (2), (2)(a), (b) & (c); words omitted in sub-para. (1); sub-para. (2A) inserted & sub-para. (3) omitted by reg. 8(4)(c) of S.I. 2003/328 as from 6.4.03.

CHILD SUPPORT (MAINTENANCE CALCULATIONS AND SPECIAL CASES) REGULATIONS 2000

Employment Credits

12. Payments made by way of employment credits under section 2(1) of the Employment and Training Act 1973 to a non-resident parent who is participating in a scheme arranged under section 2(2) of the Employment and Training Act 1973 and known as the New Deal 50 plus shall be treated as the income of the non-resident parent, at the rate payable at the effective date.

¹Para. 13 omitted & 13A inserted by reg. 8(4)(d) & (e) of S.I. 2003/328 as from 6.4.03.

13. ►¹◄

►¹*Child tax credit*

13A. Payments made by way of the child tax credit to a non-resident parent or his partner at the rate payable at the effective date. ◄

PART V

OTHER INCOME

Amount

14. The amount of other income to be taken into account in calculating or estimating net weekly income shall be the aggregate of the payments to which paragraph 15

Regulation 3 amends the Child Support (Maintenance Assessment Procedure) Regulations 1992, which are old scheme regulations. Paragraph (2) inserts definitions of “family” and “partner” into regulation 1(2) of those Regulations. Paragraph (3) makes a consequential amendment to regulation 8(3) of those Regulations. Paragraph (4) makes a consequential amendment to regulation 20(3) of those Regulations. Paragraph (5) inserts new paragraphs (21) and (22) into regulation 23 of those Regulations. That paragraph (21) makes provision for the effective date of a decision where a person with care has ceased to be the person with care in relation to a qualifying child in respect of whom the maintenance assessment was made, being the date that person so ceased to be the person with care in relation to that child and that paragraph (22) disapplies the provisions of regulation 21 of those Regulations where a superseding decision is made and the circumstances set out in regulation 23(19) and (21) of those Regulations apply.

Regulation 4 amends the Child Support (Maintenance Assessments and Special Cases) Regulations 1992, which are old scheme regulations. Paragraph (2) makes clarifying amendments. Paragraph (3)(a) inserts a new paragraph 18A of Schedule 2 to those Regulations providing for a new disregarded amount where a payment is made in respect of a parent under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004. Paragraph (3)(b) makes a consequential amendment. Paragraph (3)(c) extends the disregard in paragraph 25 of Schedule 2 to those Regulations to apply to payments made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 and sub-paragraph (d) inserts a new paragraph 25A for the disregard of payments made under section 14F of the Children Act 1989 where a special guardianship order has been made. Paragraph (4) adds the Armed Forces (Pensions and Compensation) Act 2004 to the list of enactments under which awards made in respect of disablement are cases where child support maintenance is not to be payable.

Regulation 5 amends the Child Support (Maintenance Calculation Procedure) Regulations 2000, which are new scheme regulations, to make a clarifying amendment.

Regulation 6 amends the Child Support (Maintenance Calculations and Special Cases) Regulations 2000, which are new scheme regulations. Other than paragraph (4) all the amendments made by this regulation either mirror those made to the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 or make clarifying or consequential amendments. Paragraph (4) amends regulation 11(1) of those Regulations extending that special case where the circumstances are that an application for child support maintenance has been made (or treated as made) and the non-resident parent in respect of whom the application was made is liable for payments of maintenance for a different child under the terms of an order of a court outside Great Britain, or under the legislation of a jurisdiction outside the United Kingdom.

Regulation 7 amends the Child Support (Transitional Provisions) Regulations 2000 which make provision for the conversion of cases from the old to the new scheme. Paragraph (2) makes a clarifying amendment and paragraph (3) amends regulation 27 of those Regulations making provision for the amount payable where there is a “subsequent decision” made during the transitional period and the consequence of that decision is that there is only one person with care in relation to the non-resident parent where previously there had been more than one.

Regulation 8 amends the Child Support (Variations) Regulations 2000 (“the Variations Regulations”), which are new scheme regulations. Paragraph (3) substitutes regulation 11(3) of those Regulations to make provision to take into account financial assistance paid in respect of the long-term illness or disability of a relevant other child or disability living allowance paid on behalf of that child, to a member of the non-resident parent’s household where there is an application for a variation for special expenses for that relevant other child. Paragraph (5) extends the ground in regulation 19 of those Regulations for a variation for income not taken into account to a case where the non-resident parent has the ability to control the amount of income he receives from a company or business and the Secretary of State is satisfied he is receiving income which would not otherwise fall to be taken into account under the Child Support (Maintenance Calculations and Special Cases) Regulations 2000.

**CHILD SUPPORT (MISCELLANEOUS AMENDMENTS)
REGULATIONS 2005**

Paragraph (5)(b) makes provision for a threshold for a variation in relation to each specified case under regulation 19(1) and (1A) of those Variations Regulations, or an aggregated amount where both cases apply. Paragraph (5)(c) makes a consequential amendment to, and omits words from, regulation 19(4) of those Regulations. Paragraph (5)(d) sets out the amount of income to be taken into account where a variation is made under regulation 19(1A) of those Regulations. Paragraphs (2), (4) and (6) make consequential amendments.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.

2006 No. 1520**FAMILY LAW****The Child Support (Miscellaneous Amendments)
Regulations 2006***Made - - - - 13th June 2006**Laid before Parliament 16th June 2006**Coming into force in accordance with regulations 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred on him by sections 14(1), 16(4), 29(2) and (3), 32, 34, 40B(3), 52(4) and 54 of, and paragraph 11 of Part 2 of Schedule 1 to, the Child Support Act 1991(a):

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations 2006 and, subject to paragraph (2), come into force on 12th July 2006.

(2) Where, in relation to a particular case, paragraph 11(16) of Schedule 3 to the Child Support, Pensions and Social Security Act 2000(b) has not come into force before 12th July 2006, regulation 3(3) shall come into force for the purposes of that case on the day on which that paragraph comes into force.

[Regulation 2 amends regulation 2 and 3 of S.I. 1992/1812.]

[Regulation 3 amends regulations 3, 11, 26 and 28 of S.I. 1992/1989.]

[Regulation 4 amends regulation 5A of S.I. 1999/991.]

[Regulation 5 inserts regulation 29A into S.I. 2001/157.]

[Regulation 6 amends regulations 1 and 6 of S.I. 2001/162.]

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

Philip Hunt

Parliamentary Under Secretary of State,
Department for Work and Pensions

13th June 2006

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- (a) 1991 c. 48. Section 16 was substituted by section 40 of the Social Security Act 1998 (c. 14). Section 29(2) and (3) and paragraph 11 of Part 2 of Schedule 1 were amended by section 1(2)(a) and (b) of the Child Support, Pensions and Social Security Act 2000 (c. 19); section 14(1) was amended by section 12 of, and paragraph 11(7) of Schedule 3 to, that Act; section 32 was amended by paragraph 16 of Schedule 3 to that Act and section 40B was inserted by section 16(3) of that Act. Section 54 is cited for the meaning given to the word “prescribed”.
- (b) 2000 c. 19. See article 3 of S.I. 2003/192 for the commencement of paragraph 11(16) of Schedule 3 to that Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to regulations relating to child support.

The powers exercised to make these Regulations are those contained in the Child Support Act 1991 (“the 1991 Act”), as amended by the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”). Some of the amendments made by the 2000 Act are only in force for the purposes of specified categories of case (see the Child Support, Pensions and Social Security Act 2000 (Commencement No.12) Order 2003) (“the new scheme”). In all other cases the 1991 Act prior to those amendments continues to apply (“the old scheme”).

Regulation 1 deals with citation and commencement. The Regulations come into force on 12th July 2006, save that regulation 3(3) (which relates to deduction from earnings orders) only comes into force for cases under the new scheme.

Regulation 2 amends the Child Support (Information, Evidence and Disclosure) Regulations 1992 (S.I. 1992/1812) by making provision for credit reference agencies to be required to furnish information to the Secretary of State.

Regulation 3 makes a number of amendments to the Child Support (Collection and Enforcement) Regulations 1992 (S.I.1992/1989). First, it extends the range of arrangements for collection of child support by adding payment by credit card and voluntary deduction from earnings arrangements (paragraph (2)). Secondly, it provides a basis for calculating the protected earnings proportion in relation to a deduction from earnings order which relates only to arrears of child support maintenance (paragraph (3)). Thirdly, it extends to Scotland the provision for determining the costs in relation to a disqualification from driving order (paragraph 4). Lastly, it removes the 6 year limitation period for an application for a liability order, but only in relation to amounts that became due after 12th July 2000 (that is amounts which were not already time barred at the commencement of these Regulations) (paragraph (5)).

Regulation 4 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991) by revoking the provision which specifies an effective date in a case where a default maintenance decision is revised as if it were a maintenance calculation under section 11 of the Act.

Regulation 5 amends the Child Support (Maintenance Calculation Procedure) Regulations 2000 (S.I. 2001/157) by providing for an interim effective date for the initial calculation of child support maintenance in cases where the available information does not cover the whole of the relevant period.

Regulation 6 amends the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations 2000 (S.I. 2001/162) in two respects. First, it amends the commencement provisions so as to bring fully into force (that is for both old and new scheme cases) the amendments in those Regulations which make provision for collection of child support maintenance by debit card (paragraph (2)). Secondly, it amends the savings provision in regulation 6 so that, in cases which have been converted from the old scheme to the new scheme, all arrears of child support maintenance, whenever they accrued, are treated the same for collection and enforcement purposes (paragraph (3)).

These Regulations do not impose any costs on business, charities or the voluntary sector.

2007 No. 1979**FAMILY LAW****The Child Support (Miscellaneous Amendments)
Regulations 2007***Made - - - - 11th July 2007**Coming into force - 1st August 2007*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 14(1)(a), 32(1), 34(1), 35(7) and 52(4) of, and paragraphs 5(1), 5(2) and 10(1) of Schedule 1(b) to, the Child Support Act 1991(c).

In accordance with section 52(2)(d) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations 2007 and come into force on 1st August 2007.

[Regulation 2 amends regulations 22, 27, 28, 31 and 33 of S.I. 1992/1989.]

[Regulation 3 amends regulations 1 and 3 of S.I. 1992/1812.]

[Regulation 4 makes various amendments to Schedule 1 of S.I. 1992/1815.]

[Regulation 5 makes various amendments to part 3 of Schedule to S.I. 2001/155.]

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- (a) Section 14(1) of the Child Support Act 1991 was amended by section 12 of, and paragraph 11(7) of Schedule 3 to, the Child Support, Pensions and Social Security Act 2000 (c. 19). These amendments were commenced in relation to certain cases only on 3rd March 2003 (see S.I. 2003/192). The power is exercised in these regulations both in its amended and unamended form.
- (b) Section 1 of, and Schedule 1 to, the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”) substituted a new Part 1 of Schedule 1 to the Child Support Act 1991. These provisions were commenced in relation to certain cases only on 3rd March 2003 (see S.I. 2003/192). Paragraphs 5(1) and 5(2) of Schedule 1 to the Child Support Act 1991 relate only to cases for which the amendments in the 2000 Act have not been commenced. Regulations made under these provisions are subject to affirmative resolution procedure (see footnote (d) below). Paragraph 10(1) relates to cases for which the amendments in the 2000 Act have been commenced.
- (c) 1991 c. 48.
- (d) Section 25 of the Child Support, Pensions and Social Security Act 2000 substituted a new subsection (2) in section 52 of the Child Support Act 1991. This provision was commenced for regulation-making purposes on 10th November 2000 (see S.I. 2000/2994) and in relation to certain cases only on 3rd March 2003 (see S.I. 2003/192). In relation to those cases for which this provision has not been commenced, section 52(2) requires that any statutory instrument containing regulations made under Part 1 of Schedule 1 to the 1991 Act be subject to the affirmative resolution procedure.

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

11th July 2007

Bill McKenzie
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to:

1. the Child Support (Collection and Enforcement) Regulations 1992 (S.I. 1992/1989);
2. the Child Support (Information, Evidence and Disclosure) Regulations 1992 (S.I. 1992/1812);
3. the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (S.I. 1992/1815); and
4. the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (S.I. 2001/155).

The powers exercised to make these Regulations are those contained in the Child Support Act 1991 (“the 1991 Act”). Some of those powers are conferred by provisions of the 1991 Act prior to the amendments made to that Act by the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”), which amendments are not fully in force, and relate to the child support scheme which was in force prior to 3rd March 2003 and which remains in force for the purposes of certain cases (“old scheme cases”). This includes powers contained in Part 1 of Schedule 1 to the 1991 Act which, by virtue of section 52(2) of the 1991 Act for old scheme cases are subject to affirmative resolution procedure. Other powers are conferred by provisions of the 1991 Act as amended by the 2000 Act, which relate to the child support scheme provided for by those amendments and which came into force for the purposes of specified categories of cases on 3rd March 2003 (see the Child Support, Pensions and Social Security Act 2000 (Commencement No 12) Order 2003 S.I. 2003/192) (“new scheme cases”). Section 14(1) is exercised in these Regulations in both its unamended form for old scheme cases (in regulations 3 and 4) and as amended by the 2000 Act for new scheme cases (in regulations 3 and 5). The amendments to regulation 3 apply equally to old and new scheme cases.

Regulation 2 amends the Child Support (Collection and Enforcement) Regulations 1992 by removing references to residence as the basis for jurisdiction in relation to liability orders and deduction from earnings orders. This reflects changes to courts’ legislation. It also ensures that rights of appeal are not limited to those who are UK resident and extends periods for appeal and periods of notice where the liable person is resident outside the UK.

Regulation 3 amends the definition of taxable profits in the Child Support (Information, Evidence and Disclosure) Regulations 1992 to bring it into line with the amendments in regulations 4 and 5.

Regulation 4 amends the Child Support (Maintenance Assessment and Special Cases) Regulations 1992 which apply to old scheme cases. It provides a new definition of taxable profits on which the maintenance assessment of a self-employed earner will be based, bringing it into line with the definition for income tax purposes. A self-employed earner’s taxable profits will be calculated for child support purposes as they would be for tax purposes – meaning that capital allowances will be deducted from, and balancing charges applied to, gross profits in line with tax legislation. The figure will in general be derived from information supplied by Her Majesty’s Revenue and Customs. Where tax information is not available, taxable profits are calculated on a different basis as set out in the amended Regulations. Regulation 5 makes similar amendments to the Child Support (Maintenance Calculation and Special Cases) Regulations 2000 for new scheme cases.

A full regulatory impact assessment has not been produced for this instrument as it has no effect on the costs of business, charities or voluntary bodies.

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