

Department for Work and Pensions

ADJUDICATION AND CONSTITUTIONAL ISSUES DIVISION

The Law Relating to Child Support

Supplement 42 – August 2011

1. Supplements to The Law Relating to Child Support are issued at regular intervals.
2. This supplement [42] incorporates amendments set out in S.I.s 2011/1464

as well as other miscellaneous amendments.
3. These supplements are now issued in PDF format only.
4. The amended pages have been reprinted in full. The supplement number is printed at the bottom of each replacement page. This supplement contains an update of the page check list at the back of the volume.
5. Due to space constraints, DMA 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 2 supplements have amended the following volumes:

Supplement No. 41 [December 2011]
Supplement No. 40 [May 2010]
8. While every effort is made to ensure the accuracy of this work, the DMA Publications team would be happy to hear from anyone who spots errors. Please contact:

DMA Customer Support Services - Publications Team: 0113 232 4916 or email:
DMALEEDS.CUSTOMERSUPPORTSERVICES@DWP.GSI.GOV.UK

The Law Relating to Social Security is available on the DWP website at
<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

Remove

23 – 24(-40) (1 page)
43 – 44(-300) (1 page)
4607 – 4608 (1 page)
4613 – 4614 (1 page)
4621 – 4622 (1 page)
4625 – 4630 (3 pages)
4729 – 4730 (1 page)
4733 – 4734 (-4736) (1 page)
7547 – 7556 (-7568) (3 pages)
8775 – 8776 (1 page)
8949 – 8950 (-8970) (1 page)
9891 – 9992 (2 pages)

Insert

23 – 24(-40) (1 page)
43 – 44(-300) (1 page)
4607 – 4608 (1 page)
4613 – 4614 (1 page)
4621 – 4622 (1 page)
4625 – 4630 (3 pages)
4729 – 4730 (1 page)
4733 – 4734 (-4736) (1 page)
7547 – 7558 (-7568) (4 pages)
8775 – 8776 (1 page)
8949 – 8952 (-8970) (2 pages)
9891 – 9892 (- 9992) (1 page)

ALPHABETICAL LIST OF STATUTORY INSTRUMENTS

<i>S.I. No.</i>	<i>Title</i>	<i>Page</i>
1994/227	The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations 1994	8827
1995/3261	The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995	8837
1996/1945	The Child Support (Miscellaneous Amendments) Regulations 1996	8849
1996/3196	The Child Support (Miscellaneous Amendments) (No.2) Regulations 1996	8859
1998/58	The Child Support (Miscellaneous Amendments) Regulations 1998	8871
1999/977	The Child Support (Miscellaneous Amendments) Regulations 1999	8883
2003/2779	The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2003	8907
2004/2415	The Child Support (Miscellaneous Amendments) Regulations 2004	8911
2005/785	The Child Support (Miscellaneous Amendments) Regulations 2005	8915
2006/1520	The Child Support (Miscellaneous Amendments) Regulations 2006	8931
2007/1979	The Child Support (Miscellaneous Amendments) Regulations 2007	8933
2008/536	The Child Support (Miscellaneous Amendments) Regulations 2008	8937
2008/2544	The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2008	8939
2009/396	The Child Support (Miscellaneous Amendments) Regulations 2009	8943
2009/2909	The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2009	8947
2011/1464	The Child Support (Miscellaneous Amendments) Regulations 2011	8951
2009/736	The Child Support (Miscellaneous and Consequential Amendments) Regulations 2009	8971
1993/584	The Child Support (Northern Ireland Reciprocal Arrangements) Regulations 1993	9001
2000/3174	The Child Support (Temporary Compensation Payment Scheme) Regulations 2000	9101
2002/1854	The Child Support (Temporary Compensation Payment Scheme) Regulations 2002	9121
2000/3186	The Child Support (Transitional Provisions) Regulations 2000	9201
2003/347	The Child Support (Transitional Provision) (Miscellaneous Amendments) Regulations 2003	9261
2001/156	The Child Support (Variations) Regulations 2000	9321
2000/3177	The Child Support (Voluntary Payments) Regulations 2000	9401

ALPHABETICAL LIST OF STATUTORY INSTRUMENTS

<i>S.I. No.</i>	<i>Title</i>	<i>Page</i>
1993/620	The Child Maintenance (Written Agreements) Order 1993	9851
1997/2943	The Child Support (Written Agreements) (Scotland) Order 1997	9891

CHRONOLOGICAL LIST OF STATUTORY INSTRUMENTS

<i>Year and Number</i>	<i>Title</i>	<i>Page</i>
2005 785	The Child Support (Miscellaneous Amendments) Regulations 2005	8915
2006 1520	The Child Support (Miscellaneous Amendments) Regulations 2006	8931
1692	The Contracting Out (Functions Relating to Child Support) Order 2006	6251
2007 1979	The Child Support (Miscellaneous Amendments) Regulations 2007	8933
2008 536	The Child Support (Miscellaneous Amendments) Regulations 2008	8937
1476	The Child Maintenance and Other Payments Act 2008 (Commencement) Order 2008	4161
2033	The Child Maintenance and Other Payments Act 2008 (Commencement No. 2) Order 2008	4165
2543	The Child Support (Consequential Provisions) Regulations 2008	4541
2544	The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2008	8939
2545	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 14) Order 2008	4149
2548	The Child Maintenance and Other Payments Act 2008 (Commencement No. 3 and Transitional and Savings Provisions) Order 2008	4167
2551	The Child Support Information Regulations 2008	6951
2656	The Child Support (Consequential Provisions) (No. 2) Regulations 2008	4543
2675	The Child Maintenance and Other Payments Act 2008 (Commencement No. 4 and Transitional Provision) Order 2008	4171
2009 396	The Child Support (Miscellaneous Amendments) Regulations 2009	8943
736	The Child Support (Miscellaneous and Consequential Amendments) Regulations 2009	8971
1314	The Child Maintenance and Other Payments Act 2008 (Commencement No. 5) Order 2009	4173
1815	The Child Support Collection and Enforcement (Deduction Orders) Amendment Regulations 2009	3401
2909	The Child Support (Miscellaneous Amendments) (No. 2) Regulations 2009	8947
3072	The Child Maintenance and Other Payments Act 2008 (Commencement No. 6) Order 2009	4175
3151	The Child Support (Management of Payments and Arrears) Regulations 2009	8801
2010 19	The Social Security (Contributions Credits for Parents and Carers) Amendment Regulations 2009	4543
697	The Child Maintenance and Other Payments Act 2008 (Commencement No. 7) Order 2010	4177
2011 1464	The Child Support (Miscellaneous Amendments) Regulations 2011	8951

Reg. 1

▶¹“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act;◀

“the Income Support Regulations” means the Income Support (General) Regulations 1987(a);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(b);

▶²“a joint-claim couple” has the same meaning as in section 1(4) of the Jobseekers Act 1995;

“a joint-claim jobseekers allowance” has the same meaning as in section 1(4) of the Jobseekers Act 1995;◀

▶³◀

▶⁴“limited capability for work” has the same meaning as in section 1(4) of the Welfare Reform Act;◀

▶⁴◀

▶⁵“the Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations 2000(c);

“the Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(d);◀

▶³◀

▶⁶◀

▶⁷“official error” means an error made by—

- (a) an officer of the Department for Work and Pensions ▶⁸, the Commission◀ or the Board acting as such which no person outside the Department ▶⁸, the Commission◀ or the Inland Revenue caused or to which no person outside the Department ▶⁸, the Commission◀ or the Inland Revenue materially contributed;

- (b) a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of ▶⁹the Upper Tribunal◀ or the court;◀

▶³◀

▶⁷“partner” means—

- (a) where a person is a member of a married couple or an unmarried couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of his household, any such member;◀

“party to the proceedings” means the Secretary of State ▶⁸or where the proceedings relate to child support, the Commission◀ [▶¹⁰or, as the case may be, the Board or an officer of the Board◀] and any other person—

- (a) who is one of the principal parties for the purposes of sections 13 and 14;

¹Defns. of “income-related ESA” & “limited capability for work” inserted by reg. 30(d) & (e) of S.I. 2008/1554 as from 27.10.08.

²Defns. of “a joint-claim couple” & “a joint-claim jobseeker’s allowance” inserted by reg. 4(a) of S.I. 2001/518 as from 19.3.01.

³Defns. of “legally qualified panel member”, “medically qualified panel member”, “out of jurisdiction appeal”, “panel”, “panel member”, “panel member with...” & “president” omitted by para. 96(e) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

⁴Defn. of “the breach of Community Order Regulations” omitted by reg. 4(2) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

⁵Defns. of “the Maintenance Calculation Procedure regulations” and “the Maintenance Calculations and Special Cases regulations” inserted by reg. 2(b) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

⁶Defn. of “misconceived appeal” omitted by reg. 2(2) of S.I. 2004/3368 as from 21.12.04.

⁷Defn. of “official error” substituted & defn. “partner” inserted by reg. 2 of S.I. 2002/1379 as from 20.5.02.

⁸Words inserted in defns. of “official error” & “party to the proceedings” by regs. 4(3) & (4) of S.I. 2008/2656 as from 1.11.08.

⁹Words in defn. of “official error”, substituted by para. 96(b) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

¹⁰Words in square brackets inserted in defn. of “party to the proceedings” for tax credits purposes only by reg. 4(b) of S.I. 1999/2570 as from 5.10.99.

(a) S.I. 1987/1967.

(b) S.I. 1996/207.

(c) S.I. 2000/3185.

(d) S.I. 2000/1596.

Reg. 1

¹Words substituted in defns. of “party to the proceedings” & “referral” & defns. of “panel”, “panel member”, “panel member with ...” & “president” omitted by para. 96(c), (d) & (e)(vi)-(ix) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

²Words deleted from para. (b) of defn. of “party to the proceedings”, words substituted in defn. of “referral” & defn. “relevant person” inserted by reg. 2(c-e) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

³Words inserted in defn. of “party to the proceedings” by reg. 15(2)(a) of S.I. 2003/1886 as from 12.4.04.

⁴Defn. of “relevant other child” inserted by reg. 2(2) of S.I. 2011/1464 as from 7.7.11.

⁵Words in defn. of “relevant person” omitted by reg. 4(2) of S.I. 2008/2543 as from 27.10.08.

⁶Defn. of “relevant credit” inserted by reg. 14(c) of S.I. 2000/1596 as from 19.6.00.

⁷Defns. “state pension credit”, “State Pension Credit Act” & “State Pension Credit Regulations” were inserted by reg. 16(c) of S.I. 2002/3019 as from 7.4.03.

(b) who has a right of appeal to ¹the First-tier Tribunal ◀ under section 11(2) of the 1997 Act(a), section 20 of the Child Support Act ²◀ ³, section 2B(6) of the Administration Act(b)◀ or section 12(2);

¹◀

“referral” means a referral of an application for a ²variation◀ to ¹the First-tier Tribunal◀ under section 28D(1)(b) of the Child Support Act(c).

⁴“relevant other child” is to be interpreted by relevance to paragraph 10C(2) of Schedule 1 to the Child Support Act;◀

²except where otherwise provided “relevant person” means—

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

in respect of whom a maintenance calculation has been applied for ⁵◀ or is or has been in force;◀

⁶“relevant credit” means a credit of contributions or earnings resulting from a decision in accordance with regulations made under section 22(5) of the Contributions and Benefits Act;◀

⁷“state pension credit” means the benefit payable under the State Pension Credit Act;

“State Pension Credit Act” means the State Pension Credit Act 2002(d);

“State Pension Credit Regulations” means the State Pension Credit Regulations 2002(e);◀

(a) Section 11(2) is amended by paragraph 150(2) of Schedule 7 to the Social Security Act 1998.

(b) 1992 c. 5; section 2B was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by section 53 of, and paragraphs 8 and 9 of Schedule 7 to, and section 54 of, and Schedule 8 to, the Employment Act 2002 (c. 22).

(c) Section 28D was inserted by section 4 of the Child Support Act 1995 (c. 34).

(d) 2002 c. 16.

(e) S.I. 2002/1792.

¹(5B) A decision by the Secretary of State under section 8 or 10 awarding incapacity benefit may be revised at any time if—

- (a) it incorporates a determination that the condition in regulation 28(2)(b) of the Social Security (Incapacity for Work) (General) Regulations 1995(a) (conditions for treating a person as incapable of work until the personal capability assessment is carried out) is satisfied;
- (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the further claim was first determined; and
- (c) there is a period before the award which falls to be decided. ◀

²(5C) A decision of the Secretary of State under section 10 made in consequence of a failure determination may be revised at any time if it contained an error to which the claimant did not materially contribute.

(5D) ³◀◀

⁴(5E) A decision under section 8 or 10 awarding an employment and support allowance may be revised if—

- (a) the decision of the Secretary of State awarding an employment and support allowance was made on the basis that the claimant had made and was pursuing an appeal against a decision of the Secretary of State that the claimant did not have limited capability for work (“the original decision”); and
- (b) the appeal to the First-tier Tribunal in relation to the original decision is successful.

(5F) A decision under section 8 or 10 awarding an employment and support allowance may be revised if—

- (a) the person’s current period of limited capability for work is treated as a continuation of another such period under regulation 145(1) and (2) of the Employment and Support Allowance Regulations; and
- (b) regulation 7(1)(b) of those Regulations applies. ◀

(6) A decision of the Secretary of State under section 8 or 10 that a jobseeker’s allowance is not payable to a claimant for any period in accordance with ⁵regulation 27A of the Jobseeker’s Allowance Regulations or ◀ section 19 ⁶or 20A ◀ of the Jobseekers Act ⁷, or with regulations made under section 17A of that Act ◀ may be revised at any time by the Secretary of State.

⁸(6A) A relevant decision within the meaning of section 2B(2) ⁹or 2A ◀ of the Administration Act (b) may be revised at any time if it contains an error. ◀

¹⁰(7) Where—

- (a) the Secretary of State or an officer of the Board makes a decision under section 8 or 10 awarding a relevant benefit to a claimant (“the original award”); and
- (b) an award of another relevant benefit or of an increase in the rate of another relevant benefit is made to the claimant or a member of his family for a period which includes the date on which the original award took effect,

the Secretary of State or an officer of the Board, as the case may require, may revise the original award. ◀

¹¹(7ZA) Where—

- (a) the Secretary of State makes a decision under section 8 or 10 awarding income support, ¹²income-based Jobseeker’s Allowance, ◀ ⁴state pension credit or an income-related employment and support allowance ◀ to a claimant (“the original award”);
- (b) the claimant has a non-dependant within the meaning of regulation 3 of the Income Support Regulations ¹², regulation 2 of the Jobseeker’s Allowance Regulations ◀ ²or regulation 71 of the Employment and Support Allowance Regulations ◀ or a person residing with him within the meaning of paragraph

¹Reg. 3(5B) inserted by reg. 3(5) of S.I. 2007/2470 as from 27.9.07.

²Para. (5C) & (5D) inserted & words added & substituted in para. (7ZA) in reg. 3 by reg. 31(4) & (5), of S.I. 2008/1554 as from 27.10.08.

³Reg. 3(5D) omitted by reg. 3(2)(a) of S.I. 2009/1490 as from 13.7.09.

⁴Paras. (5E) & (5F) inserted in reg. 3 by reg. 7(2) of S.I. 2010/840 as from 28.6.10.

⁵Words inserted in reg. 3(6) by reg. 3(2) of S.I. 2010/509 as from 6.4.10.

⁶Words inserted in reg. 3(6) by reg. 5(a) of S.I. 2000/1982 as from 19.3.01.

⁷Words inserted in reg. 3(6) by reg. 18(a) of S.I. 2011/688 as from 25.4.11.

⁸Para. (6A) inserted in reg. 3 by Sch. 6, para. 3(a) of S.I. 2000/897 as from 3.4.00.

⁹Words in reg. 3(6A) inserted by reg. 15(3) of S.I. 2003/1886 as from 12.4.04.

¹⁰Para. (7) substituted in reg. 3 by reg. 4(2) of S.I. 2002/428 as from 2.4.02.

¹¹Para (7ZA) inserted in reg. 3 by reg. 2(a) of S.I. 2005/337 as from 18.3.05.

¹²Words inserted in reg. 3(7ZA)(a)-(b) by reg. 3(2)(b) of S.I. 2009/1490 as from 13.7.09.

(a) S.I. 1995/311. Regulation 28(2)(b) was amended by S.I. 1995/987 and S.I. 1996/3207.

(b) Section 2B was inserted by section 57 of the Welfare Reform Act 1999 (c. 30).

Reg. 3

1(1)(a)(ii), (b)(ii) or (c)(iii) of Schedule 1 to the State Pension Credit Regulations (“the non-dependant”);

(c) but for the non-dependant—

(i) a severe disability premium would be applicable to the claimant under regulation 17(1)(d) of the Income Support Regulations ¹, regulation 83(e) or 86A(c) of the Jobseeker’s Allowance Regulations² or regulation 67 of the Employment and Support Allowance Regulations³; or

(ii) an additional amount would be applicable to the claimant as a severe disabled person under regulation 6(4) of the State Pension Credit Regulations; and

(d) after the original award the non-dependant is awarded benefit which—

(i) is for a period which includes the date on which the original award took effect; and

(ii) is such that a severe disability premium becomes applicable to the claimant under paragraph 13(3)(a) of Schedule 2 to the Income Support Regulations ¹, paragraph 15(4)(a) or 20I(3)(a) of Schedule 1 to the Jobseeker’s Allowance Regulations², paragraph 6(4)(a) of Schedule 4 to the Employment and Support Allowance Regulations³ or an additional amount for severe disability becomes applicable to him under paragraph 2(2)(a) of Schedule 1 to the State Pension Credit Regulations,

¹Words inserted in para. 3(7ZA)(c) & (d)(ii) & reg. 3(7CC) inserted by reg. 3(2)(b) & (c) of S.I. 2009/1490 as from 13.7.09.

²Words inserted in reg. 3(7ZA)(c)(i) & (d)(ii) by reg. 31(5)(c) & (d) of S.I. 2008/1554 as from 27.10.08.

the Secretary of State may revise the original award⁴

³Para. (7A) inserted in reg. 3 by reg. 3(d) of S.I. 2002/1379 as from 20.5.02.

³(7A) Where a decision as to a claimant’s entitlement to a disablement pension under section 103 of the Contributions and Benefits Act is revised by the Secretary of State, or changed on appeal, a decision of the Secretary of State as to the claimant’s entitlement to reduced earnings allowance under paragraph 11 or 12 of Schedule 7 to that Act may be revised at any time provided that the revised decision is more advantageous to the claimant than the original decision.⁵

⁴Para (7B) & (7C) added in reg. 3 by reg. 2(2)(b) of S.I. 2005/337 as from 18.3.05.

⁴(7B) A decision under regulation 22A(a) of the Income Support Regulations (reduced in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work) may be revised if the appeal is successful ⁵or lapses⁶.

⁵Words inserted & substituted in para. (7B) & (7C) by reg. 5(2)(a) & (b) of S.I. 2006/832 as from 10.4.06.

(7C) Where a person’s entitlement to income support is terminated because of a determination that he is not incapable of work ⁵the decision which embodies that determination is revised or⁶ and he subsequently appeals the decision ⁵which embodies⁶ that determination and is entitled to income support under regulation 22A of the Income Support Regulations, the decision to terminate entitlement may be revised.⁶

¹(7CC) Where—

(a) a person’s entitlement to income support is terminated because of a determination that the person is not incapable of work;

(b) the person subsequently claims and is awarded jobseeker’s allowance; and

(c) the decision which embodies the determination that the person is not incapable of work is revised or successfully appealed,

the Secretary of State may revise the decisions to terminate income support entitlement and to award jobseeker’s allowance.⁶

⁶Para. (7D) & (7E) added to reg. 3 by reg. 9(3) of S.I. 2005/2677 as from 6.4.06.

⁶(7D) Where—

(a) a person elects for an increase of—

(i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act^(b) (pension increase or lump sum where entitlement to retirement pension is deferred);

(a) Regulation 22A was inserted by S.I. 1996/206 and was amended by S.I. 1999/2422 and 3109, 2000/590 and 2001/3767.

(b) Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the Pensions Act 2004 (c. 35).

CHAPTER II

SUPERSESSIONS

Supersession of decisions

6.—(1) Subject to the following provisions of this regulation, for the purposes of section 10, the cases and circumstances in which a decision may be superseded under that section are set out in paragraphs (2) to (4).

(2) A decision under section 10 may be made on the Secretary of State's [¹or the Board's◀] own initiative or on an application made for the purpose on the basis that the decision to be superseded—

(a) is one in respect of which—

(i) ²◀

(ii) it is anticipated that a relevant change of circumstances will occur;

(b) is a decision of the Secretary of State [¹or the Board or an officer of the Board◀] other than a decision to which sub-paragraph (d) refers and—

(i) the decision was erroneous in point of law, or it was made in ignorance of, or was based upon a mistake as to, some material fact; and

(ii) an application for a supersession was received by the Secretary of State [¹or the Board◀], or the decision by the Secretary of State [¹or the Board◀] to act on his [¹or their◀] own initiative was taken, more than one month after the date of notification of the decision which is to be superseded or after the expiry of such longer period of time as may have been allowed under regulation 4;

³(c) is a decision of ⁴the First-tier Tribunal or of the Upper Tribunal◀—

(i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or

(ii) that was made in accordance with section 26(4)(b), in a case where section 26(5) applies;◀

(d) is a decision which is specified in Schedule 2 to the Act or is prescribed in regulation 27 (decisions against which no appeal lies); ³◀

⁵(e) is a decision where—

(i) the claimant has been awarded entitlement to a relevant benefit; and

(ii) ⁶subsequent to the first day of the period to which that entitlement relates◀, the claimant or a member of his family becomes entitled to, ⁶◀ another relevant benefit or an increase in the rate of another relevant benefit;◀

⁷(ee) is an original award within the meaning of regulation 3(7AZ) and sub-paragraphs (a) to (c) and (d)(ii) of regulation 3(7ZA) apply but not sub-paragraph (d)(i);◀

⁸(f) is a decision that a jobseeker's allowance is payable to a claimant where that allowance ceases to be payable by virtue of ⁹regulation 27A of the Jobseeker's Allowance Regulations or◀ section 19(1) of the Jobseekers Act ¹⁰or ceases to be payable or is reduced by virtue of section 20A(5) of that Act◀;◀

¹¹(fa) is a decision that a jobseeker's allowance is payable to a claimant where that allowance ceases to be payable or is reduced by virtue of regulations made under section 17A of the Jobseekers Act;◀

¹²(g) is an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision) and where, since the decision was made, the Secretary of State has received medical evidence following an examination in accordance with regulation 8 of the Social

¹Words in square brackets inserted in reg. 6(2) for tax credits purposes only by reg. 9(2) of S.I. 1999/2570 as from 5.10.99.

²Words omitted in reg. 6(2)(i) by reg. 4(4) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

³Para. (2)(c) substituted & words in para. (2)(d) omitted by reg. 3(3) of S.I. 2003/1050 as from 5.5.03.

⁴Words substituted in reg. 6(2)(c) by para. 101(a) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

⁵Para. (e) substituted in reg. 6(2) by reg. 16 of S.I. 2000/1596 as from 19.6.00.

⁶Words in reg. 6(2)(e) (ii) substituted & deleted by reg. 4(3) of S.I. 2002/428 as from 2.4.02.

⁷Reg. 6(2)(ee) added by reg. 2(4)(b) of S.I. 2005/337 as from 18.3.05.

⁸Sub-para. (f) of reg. 6 substituted by reg. 7(a) of S.I. 1999/2677 as from 18.10.99.

⁹Words inserted in reg. 6(2)(f) by reg. 3(3) of S.I. 2010/509 as from 6.4.10.

¹⁰Words inserted in reg. 6(2)(f) by reg. 5(b) of S.I. 2000/1982 as from 19.3.01.

¹¹Reg. 6(2)(fa) inserted by reg. 18(b) of S.I. 2011/688 as from 25.4.11.

¹²Sub-para. (g) inserted by reg. 3 of S.I. 1999/1623 as from 5.7.99.

Reg. 6

¹Words substituted in reg. 6(2)(g) by reg. 3(3)(a) of S.I. 2008/2667 as from 30.10.08.

²Word “and” omitted from reg. 6(2)(g) by reg. 3(3)(d) of S.I. 2003/1050 as from 5.5.03.

³Para. (h) added to reg. 6(2) by Sch. 6, para. 4 of S.I. 2000/897 as from 3.4.00.

⁴Words substituted & inserted in reg. 6(2)(h) by reg. 2 of S.I. 2010/563 as from 6.4.10.

⁵Words in reg. 6(2)(h)(ii) inserted by reg. 15(4) of S.I. 2003/1886 as from 12.4.04.

⁶Words substituted in reg. 6(2)(h)(ii) by reg. 24(3) of S.I. 2004/959 from 26.4.04.

⁷Sub-para. (i) omitted from reg. 6(2) by reg. 4(4) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

⁸Sub-para. (j) & (k) inserted into reg. 6(2) by reg. 8(b) of S.I. 2002/490 as from 1.4.02.

⁹Words in reg. 6(2)(j) inserted & substituted by reg. 3(3) of S.I. 2010/1160 as from 1.4.10.

¹⁰Sub-para. (l) inserted in reg. 6(2) by reg. 17(a) of S.I. 2002/3019 as from 7.4.03.

¹¹Sub-para. (m) inserted in reg. 6(2) by reg. 5(2) of S.I. 2003/2274 as from 6.10.03.

¹²Sub-para. (n) added to reg. 6(2) by reg. 2(4) (c) of S.I. 2005/337 as from 18.3.05.

¹³Words in sub-para. (n) substituted by para. 101(b) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

¹⁴Sub-para. (o) added to reg. 6(2) by reg. 9(4) of S.I. 2005/2677 as from 6.4.06.

Security (Incapacity for Work) (General) Regulations 1995(a) from a ¹Health Care professional◀ referred to in paragraph (1) of that regulation◀; ²◀³and

- (h) is one in respect of a person who—
- (i) is subsequently the subject of a separate decision or determination as to whether or not he took part in a work-focused interview;
- (ii) had been held not to have taken part in a work-focused interview, but who had, subsequent to the decision to be superseded, attained ⁴pensionable age◀ or ceased to reside in an area in which there is a requirement to take part in a work-focused interview◀◀⁵or, in the case of a partner who was required to take part in a work-focused interview ⁶in accordance with regulations made under section 2AA of the Administration Act, ceased to be a partner for the purposes of those regulations or is no longer a partner to whom the requirement to take part in a work focused interview under those regulations applies ⁴(and in this head “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(b), save that a man born before 6th April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age)◀◀◀.
- (i) ⁷◀
- ⁸(j) is a decision of the Secretary of State that a sanctionable benefit is payable to a claimant where that benefit ceases to be payable or falls to be reduced under section ⁹6B,◀ 7 or 9 of the Social Security Fraud Act 2001 and for this purpose “sanctionable benefit” has the ⁹meaning given in section 6A◀ of that Act;
- (k) is a decision of the Secretary of State that a joint-claim jobseeker’s allowance is payable where that allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001;◀
- ¹⁰(l) is a relevant decision for the purposes of section 6 of the State Pension Credit Act and—
- (i) on making that decision, the Secretary of State specified a period as the assessed income period; and
- (ii) that period has ended or is about to end.◀
- ¹¹(m) is a relevant decision for the purposes of section 6 of the State Pension Credit Act in a case where—
- (i) the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations has not been provided in accordance with the time limits set out in regulation 32(6)(c) of those Regulations;
- (ii) the Secretary of State was prevented from specifying a new assessed income period under regulation 10(1) of the State Pension Credit Regulations; and
- (iii) the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations has since been provided.◀
- ¹²(n) is a decision by ¹³the First-tier Tribunal◀ confirming a decision by the Secretary of State terminating a claimant’s entitlement to income support because he no longer falls within the category of person specified in paragraph 7 of Schedule 1B to the Income Support Regulations (persons incapable of work) and a further ¹³decision of the First-tier Tribunal◀ subsequently determines that he is incapable of work.◀
- ¹⁴(o) is a decision that a person is entitled to state pension credit and—
- (i) the person or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
- (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act(c);
- (bb) paragraph 1 of Schedule 5A to that Act(d); or, as the case may be,

(a) S.I. 1995/311; relevant amending instruments are S.I. 1995/987, 1996/3207 and 1997/1009.

(b) 1995 c. 26.

(c) Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the Pensions Act 2004 (c. 35).

(d) Schedule 5A is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.

(2) In paragraph (1) “superseding decision” means a decision which would supersede the decision subject to the application made under regulation 6A(3) but for the application of this regulation.

¹(3) Where the application for a supersession is made on more than one ground, if those grounds which do not relate to the net income of the non-resident parent lead to a superseding decision this regulation shall not apply to the ground relating to the net income of that parent.◀

(4) This regulation shall not apply to a decision under regulation 6A(3) where—

- (a) the superseding decision is made in consequence of the determination of an application made under section 28G of the Child Support Act;
- (b) the superseding decision affects a variation ground in a decision made under section 11 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act;
- (c) the decision being superseded was made under section 12(2) of the Child Support Act, or was a decision under section 17 of that Act superseding an interim maintenance decision, whether as originally made or as revised under section 16 of that Act;
- (d) ²◀
- (e) the superseding decision takes effect from the dates prescribed in regulation ²paragraph 4 of Schedule 3D◀◀³; or
- (f) a decision is superseded and in relation to that superseding decision a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Act applies.◀

⁴(5) Where an application has been made to which paragraph (1) applied (“application A”) and a further application (“application B”) is made for a supersession on a ground other than one relating to the net income of the non-resident parent, the Secretary of State may make a superseding decision on the basis that application A was made at the same time as application B.◀

Date from which a decision superseded under section 10 takes effect

7.— ⁵(1) This regulation—

- ⁶(a) is, except for ⁷paragraphs (2)(b), ⁸(bb)◀ ⁹or (be),◀ (29) and (30)◀ and (29), subject to Schedule 3A ⁹, 3B and 3C◀; and◀
- (b) contains exceptions to the provisions of section 10(5) as to the date from which a decision under section 10 which supersedes an earlier decision is to take effect.◀

(2) Where a decision under section 10 is made on the ground that there has been, or it is anticipated that there will be, a relevant change of circumstances since the decision ⁷had effect◀ ¹⁰, or, in the case of an advance award, since the decision was made◀ the decision under section 10 shall take effect—

- ⁵(a) from the date the change occurred or, where the change does not have effect until a later date, from the first date on which such effect occurs where—
 - (i) the decision is advantageous to the claimant; and
 - (ii) the change was notified to an appropriate office within one month of the change occurring or within such longer period as may be allowed under regulation 8 for the claimant’s failure to notify the change on an earlier date;◀
- (b) where the decision is advantageous to the claimant and the change was notified to an appropriate office more than one month after the change occurred or after the expiry of any such longer period as may have been allowed under regulation 8—
 - (i) in the case of a claimant who is in receipt of income support ¹¹, jobseeker’s allowance ⁹, state pension credit or an employment and support allowance◀◀ and benefit is paid in arrears, from the beginning of the benefit week in which the notification was made;
 - (ii) in the case of a claimant who is in receipt of income support ¹¹jobseeker’s allowance or state pension credit◀ and benefit is paid in advance and the

¹Para. (3) of reg. 6B substituted by reg. 2(2)(a) of S.I. 2004/2415 as from 16.9.04. See reg. 1(2)(b) ibid at page 8911 for exceptions to this.

²Para. (4)(d) omitted and words substituted in para. (4)(e) by reg. 4(5)(c) and (d) of S.I. 2009/396 as from 6.4.09.

³Reg. 6(4)(f) inserted by reg. 2(3)(b) of S.I. 2011/1464 as from 4.7.11.

⁴Para. (5) inserted into reg. 6B by reg. 2(2)(b) of S.I. 2004/2415 as from 16.9.04. See reg. 1(2)(b) ibid at page 8911 for exceptions to this.

⁵Regs. 7(1) & (2)(a) substituted by para. 1 of Sch. 19 to S.I. 1999/3178 as from 29.11.99.

⁶Sub-para. (a) substituted in reg. 7(1) by reg. 18(a) of S.I. 2002/3019 as from 7.4.03.

⁷Words substituted in reg. 7(1)(a) & (2) by reg. 3(5)(a) & (b) of S.I. 2003/1050 as from 5.5.03.

⁸Words inserted in reg. 7(1)(a) by reg. 3(4)(a) of S.I. 2008/2667 as from 30.10.08.

⁹Words inserted & substituted in reg. 7(1)(a) & (2)(b) by reg. 33(2)-(3) of S.I. 2008/1554 as from 27.10.08.

¹⁰Words in reg. 7(2) added by reg. 2(5)(a) of S.I. 2005/337 as from 18.3.05.

¹¹Words substituted in reg. 7(2)(b)(i) & (ii) by reg. 18(b) of S.I. 2002/3019 as from 7.4.03.

Reg. 7

date of notification is the first day of a benefit week from that date and otherwise, from the beginning of the benefit week following the week in which the notification was made; or

(iii) in any other case, the date of notification of the relevant change of circumstances; or

¹Sub-paras. (bb) & (bc) substituted & reg. 7(2A) omitted by reg. 3(4)(b) & (d) of S.I. 2008/2667 as from 30.10.08.

¹(bb) where the decision is advantageous to the claimant and is made on the Secretary of State's own initiative—

(i) except where paragraph (ii) applies, from the beginning of the benefit week in which the Secretary of State commenced action with a view to supersession; or

(ii) in the case of a claimant who is in receipt of income support, jobseeker's allowance or state pension credit where benefit is paid in advance and the Secretary of State commenced action with a view to supersession on a day which was not the first day of the benefit week, from the beginning of the benefit week following the week in which the Secretary of State commenced such action;

(bc) where—

(i) the claimant is a disabled person or a disabled person's partner;

(ii) the decision is advantageous to the claimant; and

(iii) the decision is made in connection with the cessation of payment of a carer's allowance relating to that disabled person,

the day after the last day for which carer's allowance was paid to a person other than the claimant or the claimant's partner; ◀

²Sub-para. (2)(bd) omitted by reg. 2(b) of S.I. 2008/1042 as from 19.5.08.

(bd) ²◀

³(be) in the case of a claimant who is in receipt of an employment and support allowance and the claimant makes an application which contains an express statement that he is terminally ill within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations, from the date the claimant became terminally ill; ◀

³Reg. 7(2)(be) inserted & para. (3) substituted by reg. 33(3)(b) & (4) of S.I. 2008/1554 as from 27.10.08.

(c) where the decision is not advantageous to the claimant—

(i) ⁴◀

⁴Head (i) omitted in reg. 7(2)(c) by para. 1(b)(ii) of Sch. 19 to S.I. 1999/3178 as from 29.11.99.

⁵(ii) in the case of a disability benefit decision, or an incapacity benefit decision where there has been an incapacity determination ⁶or an employment and support allowance decision where there has been a limited capability for work determination ◀ (whether before or after the decision), where the Secretary of State is satisfied that in relation to a disability determination embodied in or necessary to the disability benefit decision, or the incapacity determination ⁶or an employment and support allowance decision where there has been a limited capability for work determination ◀, the claimant or payee failed to notify an appropriate office of a change of circumstances which regulations under the Administration Act required him to notify, and the claimant or payee, as the case may be, knew or could reasonably have been expected to know that the change of circumstances should have been notified,

⁵Head (ii) substituted in reg. 7 by reg. 4 of S.I. 1999/1623 as from 5.7.99.

(aa) from the date on which the claimant or payee, as the case may be, ought to have notified the change of circumstances, or

⁶Words inserted in reg. 7(2)(c)(ii) by reg. 3(3) of S.I. 2009/1490 as from 13.7.09.

(bb) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified, or

⁷Heads (iv) & (v) added and (iii) omitted in reg. 7(2)(c) by reg. 5(3)(a) (i) & (ii) of S.I. 2006/832 as from 10.4.06.

(iii) ⁷◀◀

⁷(iv) in the case of a disability benefit decision, where the change of circumstances is not in relation to the disability determination embodied in or necessary to the disability benefit decision, from the date of the change; or

(v) in any other case, except in the case of a decision which supersedes a disability benefit decision, from the date of the change. ◀

(2A) ¹◀

³(3) For the purposes of paragraphs (2) and (8) "benefit week" has the same meaning, as the case may be, as in—

- (a) regulation 2(1) of the Income Support Regulations;
- (b) regulation 1(3) of the Jobseeker's Allowance Regulations;
- (c) regulation 1(2) of the State Pension Credit Regulations; or
- (d) regulation 2(1) of the Employment and Support Allowance Regulations.◀

(4) In paragraph (2) a decision which is to the advantage of the claimant includes a decision specified in regulation 30(2)(a) to (f).

¹(5) Where the Secretary of State supersedes a decision made by ²the First-tier Tribunal or the Upper Tribunal◀ on the grounds specified in regulation 6(2)(c) ³(i)◀ (ignorance of, or mistake as to, a material fact), the decision under section 10 shall take effect, in a case where, as a result of that ignorance of or mistake as to material fact, the decision to be superseded was more advantageous to the claimant than it would otherwise have been and which either—

- (a) does not relate to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination; or
- (b) relates to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination, and the Secretary of State is satisfied that at the time the decision was made the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision,

¹Para. (5) of reg. 7 substituted by reg. 17 (c) of S.I. 2000/1596 as from 19.6.00.

²Words substituted in reg. 7(5) by para. 104(a) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

³Word inserted in para. 5 of reg. 7 by reg. 3(5)(c) of S.I. 2003/1050 as from 5.5.03.

from the date on which the decision of ²the First-tier Tribunal or the Upper Tribunal◀ took, or was to take, effect.◀

(6) Any decision made under section 10 in consequence of a decision which is a relevant determination for the purposes of section 27 shall take effect as from the date of the relevant determination.

⁴(6A) Where—

- (a) there is a decision which is a relevant determination for the purposes of section 27 and the Secretary of State makes a benefit decision of the kind specified in section 27(1)(b);
- (b) there is an appeal against the determination;
- (c) after the benefit decision payment is suspended in accordance with regulation 16(1) and (3)(b)(ii); and
- (d) on appeal a court, within the meaning of section 27, reverses the determination in whole or in part,

⁴Para. (6A) and words in para. (7) added to reg. 7 by reg. 2(5)(b) & (c) of S.I. 2005/337 as from 18.3.05.

a consequential decision by the Secretary of State under section 10 which supersedes his earlier decision under sub-paragraph (a) shall take effect from the date on which the earlier decision took effect.◀

⁵(7) A decision which is superseded in accordance with regulation 6(2)(e) or (ee) shall be superseded—

- (a) subject to sub-paragraph (b), from the date on which entitlement arises to the other relevant benefit referred to in regulation 6(2)(e)(ii) or (ee) or to an increase in the rate of that other relevant benefit; or
- (b) where the claimant or his partner—
 - (i) is not a severely disabled person for the purposes of section 135(5) of the Contributions and Benefits Act (the applicable amount) or section 2(7) of the State Pension Credit Act (guarantee credit) ⁶or paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations;◀
 - (ii) by virtue of his having—
 - (aa) a non-dependant as defined by regulation 3 of the Income Support Regulations ⁶or regulation 71 of the Employment and Support Allowance Regulations◀; or
 - (bb) a person residing with him for the purposes of paragraph 1 of Schedule 1 to the State Pension Credit Regulations whose presence may not be ignored in accordance with paragraph 2 of that Schedule,

⁵Para. (7) of reg. 7 substituted by reg. 5(3)(b) of S.I. 2006/832 as from 10.4.06.

⁶Words inserted in para. (7)(b) of reg. 7 by reg. 33(5)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

at the date the superseded decision would, but for this sub-paragraph, have had effect,

Reg. 7

from the date on which the claimant or his partner ceased to have a non-dependant or person residing with him or from the date on which the presence of that person was first ignored.◀

¹Sub-para. (8) added to reg. 7 by reg. 8 of S.I. 1999/2677 as from 18.10.99.

²Words inserted in reg. 7(8) by reg. 3(4) of S.I. 2010/509 as from 6.4.10.

³Words inserted in regs. 7(8)(a) & (b) by reg. 5(c) of S.I. 2000/1982 as from 19.3.01.

⁴Reg. 7(8ZA) inserted by reg. 18(c) of S.I. 2011/688 as from 25.4.11.

⁵Reg. 7(8ZB) inserted by reg. 17(a) of S.I. 2011/917 as from 20.5.11.

⁶Reg. 7(8A) inserted and words in (9)(b) & (c) substituted by reg. 3(4)(e) & (f) of S.I. 2008/2667 as from 30.10.08.

⁷Para. 9 substituted by reg. 2 of S.I. 2000/119 as from 17.2.00.

⁸Para. (9)(a) of reg. 7 substituted by reg. 3(5)(d) of S.I. 2003/1050 as from 5.5.03.

¹(8) A decision to which regulation 6(2)(f) applies shall take effect—

²(za) where regulation 27A of the Jobseeker's Allowance Regulations applies, as from the beginning of the period specified in regulation 27B of those Regulations;◀

(a) where section 19(2) ³or 20A(3)◀ of the Jobseekers Act applies, as from the beginning of the period specified in regulation 69 of the Jobseeker's Allowance Regulations; or

(b) where section 19(3) ³or 20A(4)◀ of the Jobseekers Act applies, as from the beginning of the period determined in accordance with that subsection.◀

⁴(8ZA) A decision to which regulation 6(2)(fa) applies shall take effect on the day specified in regulation 8(6)(a) or (b) of the Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011.◀

⁵(8ZB) A decision to which regulation 6(2)(fa) applies shall take effect on the day specified in regulation in regulation 8(9)(a) or (b) of the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011.◀

⁶(8A) Where a decision is superseded in accordance with regulation 6(2)(s), the superseding decision shall take effect from the date on which the late or unpaid contribution is treated as paid.◀

⁷(9) A decision relating to attendance allowance or disability living allowance which is advantageous to the claimant and which is made under section 10 on the basis of a relevant change of circumstances shall take effect from—

⁸(a) where the decision is made on the Secretary of State's own initiative—

(i) the date on which the Secretary of State commenced action with a view to supersession; or

(ii) subject to paragraph (30), in a case where the relevant circumstances are that there has been a change in the legislation in relation to attendance allowance or disability living allowance, the date on which that change in the legislation had effect;◀

(b) where—

(i) the change is relevant to the question of entitlement to a particular rate of benefit; and

(ii) the claimant notifies the change before a date one month after he satisfied the conditions of entitlement to that rate or within such longer period as may be allowed under regulation 8,

the ¹date on which◀ he satisfied those conditions;

(c) where—

(i) the change is relevant to the question of whether benefit is payable; and

(ii) the claimant notifies the change before a date one month after the change or within such longer period as may be allowed under regulation 8,

the ¹date on which◀ the change occurred; or

(d) in any other case, the date of the application for the superseding decision.◀

(10) A decision as to an award of incapacity benefit, which is made under section 10 because section 30B(4) of the Contributions and Benefits Act applies to the claimant, shall take effect as from the date on which he became entitled to the highest rate of the care component of disability living allowance.

(11) A decision as to an award of incapacity benefit or severe disablement allowance, which is made under section 10 because the claimant is to be treated as incapable of work under regulation 10 of the Social Security (Incapacity for Work) (General) Regulations 1995(a) (certain persons with a severe condition to be treated as incapable of work), shall take effect as from the date he is to be treated as incapable of work.

(a) S.I. 1995/311; relevant amending instruments are S.I. 1995/987, S.I. 1996/3207 and S.I. 1997/1009.

(12) Where this paragraph applies, a decision under section 10 may be made so as to take effect as from such date not more than eight weeks before—

- (a) the application for supersession; or
- (b) where no application is made, the date on which the decision under section 10 is made,

as is reasonable in the particular circumstances of the case.

(13) Paragraph (12) applies where—

- (a) the effect of a decision under section 10 is that there is to be included in a claimant's applicable amount an amount in respect of a loan which qualifies under—
 - (i) paragraph 15 or 16 of Schedule 3 to the Income Support Regulations; or
 - (ii) paragraph 14 or 15 of Schedule 2 to the Jobseeker's Allowance Regulations; ¹or
 - (iii) paragraph 11 or 12 of Schedule II to the State Pension Credit Regulations; ²or◀◀
 - ²(iv) paragraph 16 or 17 of Schedule 6 to the Employment and Support Allowance Regulations; and◀
- (b) that decision could not have been made earlier because information necessary to make that decision, requested otherwise than in accordance with paragraph 10(3)(b) of Schedule 9A to the Claims and Payments Regulations^(a) (annual requests for information), had not been supplied to the Secretary of State by the lender.

¹Words substituted & head (iii) inserted in reg. 7(13)(a) by reg. 18(d) of S.I. 2002/3019 as from 7.4.03.

²Word substituted in para. (13)(a)(iii) and sub-para. (iv) inserted by reg. 33(6)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

(14) Subject to paragraph (23), where a claimant is in receipt of income support and his applicable amount includes an amount determined in accordance with Schedule 3 to the Income Support Regulations (housing costs), and there is a reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 15 or 16 of that Schedule, a decision made under section 10 shall take effect—

- (a) on the first anniversary of the date on which the claimant's housing costs were first met under that Schedule; or
- (b) where the reduction in eligible capital occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(15) Where a claimant is in receipt of income support and payments made to that claimant which fall within paragraph 29 or 30(1)(a) to (c) of Schedule 9 to the Income Support Regulations have been disregarded in relation to any decision under section 8 or 10 and there is a change in the amount of interest payable—

- (a) on a loan qualifying under paragraph 15 or 16 of Schedule 3 to those Regulations to which those payments relate; or
- (b) on a loan not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

a decision under section 10 which is made as a result of that change in the amount of interest payable shall take effect on whichever of the dates referred to in paragraph (16) is appropriate in the claimant's case.

(16) The date on which a decision under section 10 takes effect for the purposes of paragraph (15) is—

- (a) the date on which the claimant's housing costs are first met under paragraph 6(1)(a), 8(1)(a) or 9(2)(a) of Schedule 3 to the Income Support Regulations; or
- (b) where the change in the amount of interest payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(17) In paragraph (16), "standard rate" has the same meaning as it has in paragraph 1(2) of Schedule 3 to the Income Support Regulations.

(a) Schedule 9A was inserted by S.I. 1992/1026.

Reg. 7

¹Para. (17A) inserted in reg. 7 by reg. 18(e) of S.I. 2002/3019 as from 7.4.03.

²Paras (17B) & (17C) of reg. 7 substituted by reg. 2(a) of S.I. 2004/647 as from 5.4.04.

³Words substituted in reg. 7(17B)(d)(ii) by reg. 4 of S.I. 2004/2327 as from 4.6.05.

⁴Regs. 7(17D)-(17H) inserted by reg. 33(7) of S.I. 2008/1554 as from 27.10.08.

¹(17A) For the purposes of state pension credit—

(a) paragraph (14) shall apply as if the reference to—

- (i) “income support and his applicable amount” was a reference to “state pension credit and his appropriate minimum guarantee”;
- (ii) “Schedule 3 to the Income Support Regulations” was a reference to “Schedule II to the State Pension Credit Regulations”; and
- (iii) “paragraph 15 to 16” was a reference to “paragraph 11 or 12”;

(b) paragraph (15) to (17) shall not apply.◀

²(17B) Paragraph (17C) applies where—

- (a) a claimant is awarded state pension credit;
- (b) the claimant or his partner is aged 65 or over;
- (c) his appropriate minimum guarantee (as defined by the State Pension Credit Act) includes housing costs determined in accordance with Schedule II to the State Pension Credit Regulations; and
- (d) after the date from which sub-paragraph (c) applies—
 - (i) a non-dependant (as defined in that Schedule) begins to reside with the claimant; or
 - (ii) ³there has been a change of circumstances in respect of a non-dependant and this reduces◀ the applicable amount of the claimant’s housing costs.

17(C) In the circumstances specified in paragraph (17B) a decision made under section 10 shall take effect—

- (a) where there is more than one change of the kind specified in paragraph (17B)(d) in respect of the same non-dependant within the same 26 week period, 26 weeks after the date on which the first such change occurred; and
- (b) in any other circumstances, 26 weeks after the date on which a change specified in paragraph (17B)(d) occurred.◀

⁴(17D) Except in a case where paragraph (23) applies, where a claimant is in receipt of an employment and support allowance and his applicable amount includes an amount determined in accordance with Schedule 6 to the Employment and Support Allowance Regulations (housing costs), and there is a reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 16 or 17 of that Schedule, a decision made under section 10 shall take effect—

- (a) on the first anniversary of the date on which the claimant’s housing costs were first met under that Schedule; or
- (b) where the reduction in eligible capital occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(17E) Where a claimant is in receipt of an employment and support allowance and payments made to that claimant which fall within paragraph 31 or 32(1)(a) to (c) of Schedule 8 to the Employment and Support Allowance Regulations have been disregarded in relation to any decision under section 8 or 10 and there is a change in the amount of interest payable—

- (a) on a loan qualifying under paragraph 16 or 17 of Schedule 6 to those Regulations to which those payments relate; or
- (b) on a loan not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

a decision under section 10 which is made as a result of that change in the amount of interest payable shall take effect on whichever of the dates referred to in paragraph (17F) is appropriate in the claimant’s case.

(17F) The date on which a decision under section 10 takes effect for the purposes of paragraph (17E) is—

- (a) the date on which the claimant’s housing costs are first met under paragraph 8(1)(a), 9(1)(a) or 10(2)(a) of Schedule 6 to the Employment and Support Allowance Regulations; or
- (b) where the change in the amount of interest payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

¹SCHEDULE 3B

DATE ON WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT
WHERE CLAIMANT ENTITLED TO STATE PENSION CREDIT

¹Sch. 3B inserted by reg. 22 of S.I. 2002/3019 as from 7.4.03.

1. Where the amount of state pension credit payable under an award is changed by a superseding decision made on the ground that there has been a relevant change of circumstances, that superseding decision shall take effect from the following days—

(a) for the purpose only of determining the day on which an assessed income period begins under section 9 of the State Pension Credit Act, from the day following the day on which the last previous assessed income period ended; and

²(b) except as provided in the following paragraphs—

(i) where state pension credit is paid in advance, from the day that change occurs or is expected to occur if either of those days is the first day of a benefit week but if it is not from the next following such day;

(ii) where state pension credit is paid in arrears, from the first day of the benefit week in which that change occurs or is expected to occur.◀

²In Sch. 3B, para. 1(b) & words in paras. 2 & 7 substituted, para. 8A substitutes paras. 9 & 10 by reg. 8(a)-(d) of S.I. 2011/674 as from 11.4.11.

2. Subject to paragraph 3, where the relevant change is that the claimant's income (other than deemed income from capital) has changed ²or that the claimant becomes entitled to disability living allowance (middle or higher rate care component) or to attendance allowance◀, the superseding decision shall take effect on the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, on the first day of the next following benefit week.

3. Paragraph 2 shall not apply where the only relevant change is that working tax credit under the Tax Credits Act 2002(a) becomes payable or becomes payable at a higher rate.

4. A superseding decision shall take effect from the day the change of circumstances occurs or is expected to occur if—

(a) the person ceases to be or becomes a prisoner, and for this purpose “prisoner” has the same meaning as in regulation 1(2) of the State Pension Credit Regulations; or

(b) whilst entitled to state pension credit a claimant is awarded another social security benefit and in consequence of that award his benefit week changes or is expected to change.

³5. In a case where the relevant circumstance is that the claimant ceased to be a patient, if he becomes a patient again in the same benefit week, the superseding decision in respect of ceasing to be a patient shall take effect from the first day of the week in which the change occurred.◀

³Para. 5 substituted by reg. 5(4) of S.I. 2003/2274 as from 6.10.03.

6. In paragraph 5, “patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the ⁴Social Security (Hospital In-Patients) Regulations 2005(b).◀

⁴Words substituted in para. 6 of Sch. 3B by reg. 3(9) of S.I. 2007/2470 as from 24.9.07.

⁵7. ⁶Subject to ²paragraph 8A◀, where◀ an amount of state pension credit payable under an award is changed by a superseding decision specified in paragraph 8 the superseding decision shall take effect from the day specified in paragraph 1(b).

⁵Paras. 7 & 8 added to Sch. 3B by reg. 5(4) of S.I. 2006/832 as from 10.4.06.

8. The following are superseding decisions for the purposes of paragraph 7—

(a) a decision which supersedes a decision specified in regulation 6(2)(b) to (ee) and (m); and

(b) a superseding decision which would, but for paragraphs 2 and 7, take effect from a date specified in regulation 7(5) to (7), (12) to (16) and (29C).◀

⁶Words substituted in para. 7 and para. 11 inserted in Sch. 3B by reg. 4(4)(a) & (b) of S.I. 2010/510. See reg. 1 to this S.I. for relevant effective date.

²8A. Where the relevant change of circumstances is the death of the claimant, the superseding decision shall take effect on the first day of the benefit week next following the date of death.◀

²9.–10.◀

⁶11. In this Schedule, “benefit week” means—

(a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant's case, that benefit is payable;

(a) 2002 c. 21.

(b) S.I. 2005/3360.

- (b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant's case, that benefit is payable.◀

¹Sch. 3C inserted by reg. 43 of S.I. 2008/1554 as from 27.10.03.

¹SCHEDULE 3C

DATE FROM WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT WHERE CLAIMANT ENTITLED TO EMPLOYMENT AND SUPPORT ALLOWANCE

1. Subject to paragraphs 2 to 7, where the amount of an employment and support allowance payable under an award is changed by a superseding decision made on the ground of a change of circumstances, that superseding decision shall take effect from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur.

2. In the cases set out in paragraph 3, the superseding decision shall take effect from the day on which the relevant change of circumstances occurs or is expected to occur.

3. The cases referred to in paragraph 2 are where—

- (a) entitlement ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of paragraph 6(1)(a) of Schedule 1 to the Welfare Reform Act;
- (b) a child or young person referred to in regulation 156(6)(d) or (h) of the Employment and Support Allowance Regulations (child in care of local authority or detained in custody) lives, or is expected to live, with the claimant for part only of the benefit week;
- (c) a person referred to in paragraph 12 of Schedule 5 to the Employment and Support Allowance Regulations—
 - (i) ceases, or is expected to cease, to be a patient; or
 - (ii) a member of the person's family ceases, or is expected to cease, to be a patient,

in either case for a period of less than a week;

- (d) a person referred to in paragraph 3 of Schedule 5 to the Employment and Support Allowance Regulations—
 - (i) ceases to be a prisoner; or
 - (ii) becomes a prisoner;
- (e) during the currency of the claim a claimant makes a claim for a relevant social security benefit—
 - (i) the result of which is that his benefit week changes; or
 - (ii) in accordance with regulation 13 of the Claims and Payments Regulations and an award of that benefit on the relevant day for the purposes of that regulation means that his benefit week is expected to change.

4. A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 93 of the Employment and Support Allowance Regulations (date on which income is treated as paid) shall take effect from the day on which that payment is treated as paid.

5. Where—

- (a) it is decided upon supersession on the ground of a relevant change of circumstances or change specified in paragraphs 9 and 10 that the amount of an employment and support allowance is, or is to be, reduced; and
- (b) the Secretary of State certifies that it is impracticable for a superseding decision to take effect from the day prescribed in paragraph 9 or the preceding paragraphs of this Schedule (other than where paragraph 3(e) or 4 applies),

that superseding decision shall take effect—

- (i) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made; or

¹SCHEDULE 3D

¹Sch. 3D inserted by
reg. 4(16) of S.I. 2009/
396 as from 6.4.09.

EFFECTIVE DATES FOR SUPERSESSION OF CHILD SUPPORT
DECISIONS

1. This Schedule sets out the exceptions to the general rule in section 17(4) of the Child Support Act (that is the rule that a supersession decision takes effect from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which an application for a supersession is made).

Expected change

2. Where the ground for the supersession decision is that a relevant change of circumstances is expected to occur or that a ground for a variation is expected to occur, the decision takes effect from the beginning of the maintenance period in which that change or that ground is expected to occur.

Decision backdated to when the change occurred

3. Where the ground for the supersession decision is that a relevant change of circumstances of the following kind has occurred, the decision takes effect from the beginning of the maintenance period in which the change occurred—

- (a) a qualifying child dies or ceases to be a qualifying child;
- ²(aa) a relevant other child dies or ceases to be a relevant other child; ◀
- (b) the person with care ceases to be a person with care in relation to a qualifying child;
- (c) the person with care, the non-resident parent or a qualifying child ceases to be habitually resident in the United Kingdom; ²◀
- (d) paragraph 4(2) of Schedule 1 to the Child Support Act (flat rate for a non-resident parent whose partner is a non-resident parent) begins or ceases to apply. ²; or
- (e) the non-resident parent begins or ceases to receive a benefit mentioned in regulation 4(1) of the Maintenance Calculations and Special Cases Regulations (flat rate) or begins or ceases to be a person who receives, or whose partner receives, a benefit referred to in regulation 4(2) of those Regulations. ◀

²Sch. 3D paras. 3(aa),
(e) & 3A inserted,
words in para. 3(c) &
para. 4 deleted by reg.
2(4)(a)-(c) of S.I. 2011/
1464 as from 4.7.11.

²3A. In paragraph 3, the relevance to the day on which a person begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be. ◀

Non-resident parent or partner on or off benefit

4. ²◀

New qualifying child

5. Paragraphs 6 and 7 apply where the ground for the supersession is that there is a new qualifying child in relation to the non-resident parent.

- 6. Where there is a new qualifying child in relation to the same person with care—
 - (a) if the application is made by the non-resident parent, the decision takes effect from the beginning of the maintenance period in which the application is made; and
 - (b) if the application is made by the person with care the decision takes effect from the beginning of the maintenance period in which notification of the application is given to the non-resident parent.

7. Where there is a new qualifying child in relation to a different person with care and an application for a maintenance calculation has been made under section 4 or section 7 of the Child Support Act, the decision takes effect from the beginning of the maintenance period in which notification of the calculation is given to the non-resident parent.

Series of changes waiting to be actioned

8. Where a decision is superseded on application and, in relation to that decision, a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Act applies, the effective date of the calculation or calculations is the beginning of the maintenance period in which the change of circumstances to which the calculation relates occurred or is expected to occur and where it occurred before the date of the application for the supersession and was notified after that date, ¹the beginning of the maintenance period in which that application was made.◀

¹Words substituted in para. 8 by reg. 2(4)(d) of S.I. 2011/1464 as from 4.7.11.

Own initiative decision

9. Unless paragraph 4 applies, where a decision is superseded in a case where the Commission is required to give notice under regulation 7C, the decision takes effect from the first day of the maintenance period which includes the date which is 28 days after the date on which the Commission has given notice (oral or written) to the relevant persons under that regulation.

Supersession of tribunal decision made pending outcome of a related appeal

10. Where, in accordance with section 28ZB(5) of the Child Support Act (appeals involving issues that arise on appeal in other cases), the Commission makes a decision superseding the decision of the First-tier Tribunal or the Upper Tribunal, the superseding decision takes effect from the beginning of the maintenance period following the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal would have taken effect had it been decided in accordance with the determination of the Upper Tribunal or the court in the appeal referred to in section 28ZB(1)(b).

Supersession of tribunal decision made in error due to misrepresentation etc.**11. Where—**

- (a) a decision made by the First-tier Tribunal or the Upper Tribunal is superseded on the ground that it was erroneous due to misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the Commission is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

the superseding decision takes effect from the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal took, or was to take, effect.

Supersession of look alike case where law reinterpreted by the Upper Tribunal or a court

12. Any decision made under section 17 of the Child Support Act in consequence of a determination which is a relevant determination for the purposes of section 28ZC (cases of error) of that Act takes effect from the date of the relevant determination.◀

- (i) completing and returning a maintenance enquiry form under the provisions of regulation 6(1);
- (ii) providing information or evidence that is required by him for the determination of an application for a maintenance assessment; or
- (iii) providing information or evidence that is required by him to enable him to revise a decision under section 16 of the Act or supersede a decision under section 17 of the Act.

(4) Where an interim maintenance assessment is in force which is not a Category B interim maintenance assessment and the Secretary of State is satisfied that it would be appropriate to make a Category B interim maintenance assessment, he may revise the interim maintenance assessment which is in force.

(5) Where the Secretary of State revises an interim maintenance assessment in accordance with paragraph (4) and that interim maintenance assessment was made immediately following a previous interim maintenance assessment, he may also revise that previous interim maintenance assessment.

▶¹(6) Paragraph (1) shall not apply in respect of a material change of circumstances which—

- (a) occurred since the date on which the decision was made; or
- (b) is expected, according to information or evidence which the Commission has, to occur.◀

¹Regulation 17(6) substituted by reg. 3(2) of S.I. 2011/1464 as from 4.7.11.

(7) In paragraphs (1), (2) and (6) and regulation 18(3) “decision” means a decision of the Secretary of State under section 11 or 12 of the Act and any supersession of such a decision.

(8) Paragraph (1) shall apply in relation to—

- (a) any decision of the Secretary of State with respect to ▶²◀ a person’s liability under section 43 of the Act; and
- (b) the supersession of any such decision under section 17 as extended by paragraph 2 of Schedule 4C to the Act,

²Words omitted in reg. 17(8)(a) by reg. 2(4) of S.I. 2008/2543 as from 27.10.08.

as it applies in relation to any decision of the Secretary of State under sections 11, 12 or 17 of the Act.

Late applications for a revision

18.—(1) The period of one month specified in regulation 17(1)(a) may be extended where the requirements specified in the following provisions of this regulation are met.

(2) An application for an extension of time shall be made by a relevant person or a person acting on his behalf.

(3) An application for an extension of time under this regulation shall—

- (a) be made within 13 months of the date on which notification of the decision which it is sought to have revised was given or sent; and
- (b) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified.

(4) The application for an extension of time shall not be granted unless the person making the application or any person acting for him satisfies the Secretary of State that—

- (a) it is reasonable to grant that application;
- (b) the application for a decision to be revised has merit; and
- (c) special circumstances are relevant to the application for an extension of time,

and as a result of those special circumstances, it was not practicable for the application for a decision to be revised to be made within one month of the date of notification of the decision which it is sought to have revised.

CHILD SUPPORT (MAINTENANCE ASSESSMENT PROCEDURE)
REGULATIONS 1992

(5) In determining whether it is reasonable to grant an application for an extension of time, the Secretary of State shall have regard to the principle that the greater the time that has elapsed between the expiration of the period of one month described in regulation 17(1)(a) from the date of notification of the decision which it is sought to have revised and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant the application for an extension of time, no account shall be taken of the following—

- (a) that the person making the application for an extension of time or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that ¹the Upper Tribunal◀ or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

¹Words substituted in reg. 18(6)(b) by para. 59 of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

Date from which revised decision takes effect

19. Where the date from which a decision took effect is found to be erroneous on a revision under section 16 of the Act, the revision shall take effect from the date on which the revised decision would have taken effect had the error not been made.

Supersession of decisions

20.—(1) Subject to paragraphs (9) and (10), for the purposes of section 17 of the Act, the cases and circumstances in which a decision (“a superseding decision”) may be made under that section are set out in paragraphs (2) to (7).

(2) A decision may be superseded by a decision made by the Secretary of State acting on his own initiative—

- (a) where he is satisfied that the decision is one in respect of which there has been a material change of circumstances since the decision was made;
- (b) where he is satisfied that the decision was made in ignorance of, or was based upon a mistake as to, some material fact; or
- (c) in consequence of a departure direction or of a revision or supersession of a decision with respect to a departure direction.

(3) Except where paragraph (8) applies, ²but subject to regulation 23(22)◀ a decision may be superseded by a decision made by the Secretary of State where—

- (a) an application is made on the basis that—
 - (i) there has been a change of circumstances ³since the date from which the decision had effect◀; or
 - (ii) it is expected that a change of circumstances will occur; and
- (b) the Secretary of State is satisfied that the change of circumstances is or would be material.

²Words inserted in reg. 20(3) by reg. 3(4) of S.I. 2005/785 as from 16.3.05.

³Words in reg. 20(3)(a)(i) substituted by reg. 8 of S.I. 2000/1596 as from 19.6.00.

⁴Reg. 20(3A) inserted by reg. 3(2) of S.I. 2009/2909 as from 4.12.09.

⁴(3A) For the purposes of paragraph 2 of Schedule 4C to the Act (a), the circumstances in which a decision may be superseded under paragraph (2) or (3) include where the material change of circumstances causes the maintenance assessment to cease by virtue of paragraph 16(1) of Schedule 1 to the Act or where the Commission no longer has jurisdiction by virtue of section 44 of the Act (jurisdiction)(b).◀

- (a) Schedule 4C was inserted by section 86(1) of, and paragraph 54 of Schedule 7 to, the 1998 Act.
- (b) Some of the words in section 44 were substituted by section 86(1) of, and paragraph 41 of Schedule 7 to, the 1998 Act and section 13(4) of, and paragraphs (1) and (46) of Schedule 3 to, the Child Maintenance and Other Payments Act 2008 (c. 6). Some words in section 44(1) and subsection (2A) were inserted by section 22(1) to (3) of the Child Support, Pensions and Social Security Act 2000 (c. 19) and some of the words in section 44(2A)(c) were substituted by S.I. 2009/1941. There are other substitutions none of which are relevant to these Regulations.

(4) A decision may be superseded by a decision made by the Secretary of State where—

- (a) an application is made on the basis that the decision was made in ignorance of, or was based upon a mistake as to, a fact; and
- (b) the Secretary of State is satisfied that the fact is or would be material.

¹(4A) A decision may be superseded by a decision made by the Secretary of State—

- (a) where an application is made on the basis that; or
- (b) acting on his own initiative where,

¹Para. (4A) inserted in reg. 20 by reg. 5(1) of S.I. 2003/1050 as from 5.5.03.

the decision to be superseded is a decision of ²the First-tier Tribunal or Upper Tribunal◀ that was made in accordance with section 28ZB(4)(b) of the Act, in a case where section 28ZB(5) of the Act applies.◀

²Words substituted in reg. 20(4A) by Sch. 1, para. 60 of S.I. 2008/2683 as from 3.11.08.

(5) A decision, other than a decision given on appeal, may be superseded by a decision made by the Secretary of State—

- (a) acting on his own initiative where he is satisfied that the decision was erroneous in point of law; or
- (b) where an application is made on the basis that the decision was erroneous in point of law.

(6) An interim maintenance assessment may be superseded by a decision made by the Secretary of State where he receives information which enables him to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Act for a period beginning after the effective date of that interim maintenance assessment.

(7) Subject to paragraphs (4) and (5) of regulation 17, where the Secretary of State is satisfied that it would be appropriate to make an interim maintenance assessment the category of which is different from that of the interim maintenance assessment which is in force, he may make a decision which supersedes the interim maintenance assessment which is in force.

(8) This paragraph applies—

- (a) where any paragraph of regulation 21 applies; and
- (b) in the case of a Category A or Category D interim maintenance assessment.

(9) The cases and circumstances in which a decision may be superseded shall not include any case or circumstance in which a decision may be revised.

(10) Paragraphs (2) to (6) shall apply neither in respect of—

- (a) a decision to refuse an application for a maintenance assessment; nor
- (b) a decision to cancel a maintenance assessment.

(11) For the purposes of section 17 of the Act as extended by paragraph 2 of Schedule 4C to the Act, paragraphs (2) to (5) shall apply in relation to—

- (a) a decision with respect to ³◀ a person's liability under section 43 of the Act; and
- (b) any decision of the Secretary of State under section 17 of the Act as extended by paragraph 2 of Schedule 4C to the Act, whether as originally made or as revised under section 16 of the Act as extended by paragraph 1 of Schedule 4C to the Act, as they apply in relation to any decision as to a maintenance assessment save that paragraph (8) shall not apply in respect of such a decision.

³Words omitted in reg. 20(11)(a) by reg. 2(5) of S.I. 2008/2543 as from 27.10.08.

Circumstances in which a decision may not be superseded

21.—(1) A decision of the Secretary of State shall not be superseded in any of the circumstances specified in the following paragraphs of this regulation.

(2) Except where paragraph (3) or (4) applies and subject to paragraph (5) and regulation 22, this paragraph applies where the difference between—

- (a) the amount of child support maintenance (“the amount”) fixed in accordance with the original decision; and

CHILD SUPPORT (MAINTENANCE ASSESSMENT PROCEDURE)
REGULATIONS 1992

- (b) the amount which would be fixed in accordance with a superseding decision, is less than £10.00 per week.

(3) Subject to paragraph (5), this paragraph applies where the circumstances of the absent parent are such that the provisions of paragraph 6 of Schedule 1 to the Act would apply and either—

- (a) the amount fixed in accordance with the original decision is less than the amount that would be fixed in accordance with a superseding decision and the difference between the two amounts is less than £5.00 per week; or
(b) the amount fixed in accordance with the original decision is more than the amount that would be fixed in accordance with the superseding decision and the difference between the two amounts is less than £1.00 per week.

(4) Subject to paragraph (5), this paragraph applies where—

- (a) the children, in respect of whom child support maintenance would be fixed in accordance with a superseding decision, are not the same children for whom child support maintenance was fixed in accordance with the original decision; and
(b) the difference between—
(i) the amount of child support maintenance (“the amount”) fixed in accordance with the original decision; and
(ii) the amount which would be fixed in accordance with a superseding decision,
is less than £1.00 per week.

(5) This regulation shall not apply where—

- (a) the absent parent is, by virtue of paragraph 5(4) of Schedule 1 to the Act, to be taken for the purposes of that Schedule to have no assessable income;
(b) the case falls within paragraph 7(2) of Schedule 1 to the Act; ¹◀
(c) it appears to the Secretary of State that the case no longer falls within paragraph 5(4) of Schedule 1 to the Act ¹or
(d) a decision is superseded and in relation to that superseding decision a maintenance assessment is made to which paragraph 15 of Schedule 1 to the Act applies.◀

¹Word deleted in sub-para. (b) of reg. 21(5) & sub-para. 21(5)(d) inserted by reg. 3(3)(a) & (d) of S.I. 2011/1464 as from 4.7.11.

(6) In this regulation—

- “original decision” means the decision which would be superseded but for the application of this regulation; and
“superseding decision” means a decision which would supersede the original decision but for the application of this regulation.

Special cases and circumstances for which regulation 21 is modified

22. Where an application is made for a supersession on the basis of a change of circumstances which is relevant to more than one maintenance assessment, regulation 21 shall apply with the following modifications—

- (a) before the word “amount” in each place it occurs there shall be inserted the word “aggregate”; and
(b) for the word “decision” in each place it occurs there shall be substituted the word “decisions”.

Date from which a decision is superseded

23.—(1) Except in a case to which paragraph (2) applies, where notice is given under regulation 24 in the period which begins 28 days before an application for a supersession is made and ends 28 days after that application is made, the superseding decision of which notice was given under regulation 24 shall take effect as from the first day of the maintenance period in which that application was made.

¹(2) Where a superseding decision is made in a case to which regulation 20(2)(a) applies and—

¹Reg. 23 paragraph (2) substituted by reg. 3(4)(a) of S.I. 2011/1464 as from 4.7.11.

- (a) the absent parent begins or ceases to receive a benefit mentioned in Schedule 4 to the Maintenance Assessments and Special Cases Regulations (case where child support maintenance is not to be payable); or
- (b) the absent parent or person with care begins or ceases to be a person who receives a benefit referred to in paragraph 5(4) of Schedule 1 to the Act (assessable income),

the decision takes effect from the first day of the maintenance period in which the change occurred.◀

(3) Where a superseding decision is made in a case to which either paragraph (2)(b) or (5)(a) of regulation 20 applies, the decision shall take effect as from the first day of the maintenance period in which the decision was made.

(4) ²Subject to paragraph (19), where a superseding decision is made◀ in a case to which regulation 20(3)(a)(i), (4) or (5)(b) applies, the decision shall take effect as from the first day of the maintenance period in which the application for a supersession was made.

²Words substituted in reg. 23(4) by reg. 9(b) of S.I. 2000/1596 as from 19.6.00.

(5) Where a superseding decision is made in a case to which regulation 20(3)(a)(ii) applies, the decision shall take effect as from the first day of the maintenance period in which the change of circumstances is due to occur.

(6) Subject to paragraphs (1), (3) and (14), in a case to which regulation 24 applies, a superseding decision shall take effect as from the first day of the maintenance period in which falls the date which is 28 days after the date on which the Secretary of State gave notice to the relevant persons under that regulation.

(7) For the purposes of paragraph (6), where the relevant persons are notified on different dates, the period of 28 days shall be counted from the date of the latest notification.

(8) For the purposes of paragraphs (6) and (7)—

- (a) notification includes oral and written notification;
- (b) where a person is notified in more than one way, the date on which he is notified is the date on which he was first given notification; and
- (c) the date of written notification is the date on which it was handed or sent to the person.

(9) Regulation 1(6) shall not apply in a case to which paragraph (8)(c) applies.

(10) Where—

- (a) a decision made by ³the First-tier Tribunal under section 20 of the Act or the Upper Tribunal◀ is superseded on the ground that it was erroneous due to a misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the Secretary of State is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

³Words substituted in reg. 23(10) by Sch. 1, para. 61(i) & (ii) of S.I. 2008/2683 as from 3.11.08.

the superseding decision shall take effect as from the date the decision of the ³the First-tier Tribunal or, as the case may be, the Upper Tribunal◀ took, or was to take effect.

(11) Any decision given under section 17 of the Act in consequence of a determination which is a relevant determination for the purposes of section 28ZC of the Act(a) (restrictions on liability in certain cases of error) shall take effect as from the date of the relevant determination.

(a) Section 28ZC was inserted by section 44 of the Social Security Act 1998 (c. 14).

CHILD SUPPORT (MAINTENANCE ASSESSMENT PROCEDURE)
REGULATIONS 1992

(12) Where the Secretary of State supersedes a decision in accordance with regulation 20(6), the superseding decision shall take effect as from the first day of the maintenance period in which the Secretary of State has received the information referred to in that paragraph.

(13) Where the Secretary of State supersedes a decision in accordance with regulation 20(7), the superseding decision shall take effect as from the first day of the maintenance period in which the Secretary of State became satisfied that it would be appropriate to make an interim maintenance assessment the category of which is different from that of the maintenance assessment which is in force.

(14) Where a decision is superseded in consequence of a departure direction or a revision or supersession of a decision with respect to a departure direction—

- (a) paragraph (6) above shall not apply; and
- (b) the superseding decision shall take effect as from the date on which the departure direction or, as the case may be, the revision or supersession, took effect.

¹Paras. 15-18 omitted in reg. 23 by reg. 2(6) of S.I. 2008/2543 as from 27.11.08.

²Para. 23(19) substituted & para. 23(21B) inserted by reg. 3(4)(b)-(c) of S.I. 2011/1464 as from 4.7.11.

³Reg. 23(20) inserted by reg. 5(2) of S.I. 2003/1050 as from 5.5.03.

⁴Words substituted in reg. 23(20) by Sch. 1, para. 61(b) of S.I. 2008/2683 as from 3.11.08.

⁵Paras. (21) & (22) inserted in reg. 23 by reg. 3(5) of S.I. 2005/785 as from 16.3.05.

⁶Reg. 23(21A) inserted by reg. 3(3) of S.I. 2009/2909 as from 4.12.09.

(15)-(18) ¹◀

²(19) Where a superseding decision is made in a case to which regulation 20(2)(a) or (3) applies and the material circumstance is—

- (a) a qualifying child dies or ceases to be a qualifying child; or
- (b) a relevant child dies or ceases to be a relevant child,

the decision shall take effect as from the first day of the maintenance period in which the change occurred.◀

³(20) Where a superseding decision is made in a case to which regulation 20(4A) applies that decision shall take effect from the first day of the maintenance period following the date on which the ⁴First-tier Tribunal or the Upper Tribunal's◀ decision would have taken effect had it been decided in accordance with the determination of the ⁴Upper Tribunal◀ or the court in the appeal referred to in section 28ZB(1)(b) of the Act.◀

⁵(21) Where a superseding decision is made in a case to which regulation 20(2)(a) or (3) applies, and the relevant circumstance is that a person has ceased to be a person with care in relation to a qualifying child in respect of whom the maintenance assessment was made, the decision shall take effect from the first day of the maintenance period in which that person ceased to be that person with care in relation to that qualifying child.

⁶(21A) Where a superseding decision is made in a case to which regulation 20(3A) applies and the material circumstance is—

- (a) a qualifying child dies or ceases to be a qualifying child;
- (b) the person with care ceases to be a person with care in relation to a qualifying child; or
- (c) the person with care, the absent parent or a qualifying child ceases to be habitually resident in the United Kingdom,

the decision takes effect from the first day of the maintenance period in which the change occurred.◀

²(21B) Where—

- (a) a superseding decision is made in a case to which regulation 20(3) applies; and
- (b) in relation to that decision, a maintenance assessment is made to which paragraph 15 of Schedule 1 to the Act applies,

the effective date of the assessment or assessments is the first day of the maintenance period in which the change of circumstances to which the assessment relates occurred or is expected to occur and where it occurred before the date of the application for the

supersession and was notified after that date, the first day of the maintenance period in which that application was made. ◀

(22) Regulation 21 shall not apply where a superseding decision is made under regulation 20(3) in the circumstances set out in paragraph (19) or (21). ◀

¹(23) The reference in paragraph (2) to when an absent parent begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be.

¹Paras. 23 & 24 inserted
by reg. 3(4)(d) of S.I.
2011/1464 as from
4.7.11.

(24) In paragraph (19), “relevant child” has the same meaning as in regulation 1(2) of the Maintenance Assessments and Special Cases Regulations. ◀

Procedure where the Secretary of State proposes to supersede a decision on his own initiative

24. Where the Secretary of State on his own initiative proposes to make a decision superseding a decision other than in consequence of a decision with respect to a departure direction or a revision or supersession of such a decision he shall notify the relevant persons who could be materially affected by the decision of that intention. ◀

- (f) the amounts calculated in accordance with Part I of Schedule 1 to the Act and, where there has been agreement to a variation or a variation has otherwise been taken into account, the Child Support (Variations) Regulations 2000(a);
- (g) where the weekly rate is adjusted by apportionment or shared care, or both, the amount calculated in accordance with paragraph 6, 7 or 8, as the case may be, of Part I of Schedule 1 to the Act; and
- (h) where the amount of child support maintenance which the non-resident parent is liable to pay is decreased in accordance with regulation 9 or 11 of the Maintenance Calculations and Special Cases Regulations (care provided in part by local authority and non-resident parent liable to pay maintenance under a maintenance order), the adjustment calculated in accordance with that regulation.

(2) A notification of a maintenance calculation made under section 12(1) of the Act (default maintenance decision) shall set out the effective date of the maintenance calculation, the default rate, the number of qualifying children on which the rate is based, whether any apportionment has been applied under regulation 7 and shall state the nature of the information required to enable a decision under section 11 of the Act to be made by way of section 16 of the Act.

(3) Except where a person gives written permission to the Secretary of State that the information in relation to him, mentioned in sub-paragraphs (a) and (b) below, may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the officer concerned who is exercising functions of the Secretary of State under the Act) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

(4) Where a decision as to a maintenance calculation is made under section 11 or 12 of the Act, a notification under paragraph (1) or (2) shall include information as to the provisions of sections 16, 17 and 20 of the Act.

Notification when an applicant under section 7 of the Act ceases to be a child

24. Where a maintenance calculation has been made in response to an application by a child under section 7 of the Act and that child ceases to be a child for the purposes of the Act, the Secretary of State shall immediately notify, so far as that is reasonably practicable—

- (a) the other qualifying children who have attained the age of 12 years and the non-resident parent with respect to whom that maintenance calculation was made; and
- (b) the person with care.

PART VII

EFFECTIVE DATES OF MAINTENANCE CALCULATIONS

Effective dates of maintenance calculations

25.—(1) Subject to regulations 26 to 29¹ and 31², where no maintenance calculation is in force with respect to the person with care³ or the non-resident parent, the effective date of a maintenance calculation following an application made under section 4 or 7 of the Act, as the case may be, shall be the date determined in accordance with paragraphs (2) to (4) below.

(2) Where the application for a maintenance calculation is made under section 4 of the Act by a non-resident parent, the effective date of the maintenance calculation shall be the date that an effective application is made or treated as made under regulation 3.

- (3) Where the application for a maintenance calculation is—
 - (a) made under section 4 of the Act by a person with care;
 - (b) ³

¹Words inserted in reg. 25(1) by reg. 7(4) of S.I. 2003/328 as from 21.2.03.

²Words inserted in reg. 25(1) by reg. 5(2) of S.I. 2008/2544 as from 27.10.08.

³Words omitted in reg. 25(1) & (3) by reg. 9(6)(a) & (b) of S.I. 2008/2543 as from 27.10.08.

(a) S.I. 2001/156.

Regs. 25-29

(c) made by a child under section 7 of the Act,

the effective date of the maintenance calculation shall be the date of notification to the non-resident parent.

(4) For the purposes of this regulation, where the Secretary of State is satisfied that a non-resident parent has intentionally avoided receipt of a notice of a maintenance application he may determine the date of notification to the non-resident parent as the date on which the notification would have been given to him but for such avoidance.

(5) Where in relation to a decision made under section 11 of the Act a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Act applies, the effective date of the calculation shall be the beginning of the maintenance period in which the change of circumstance to which the calculation relates occurred or is expected to occur.

Effective dates of maintenance calculations - maintenance order and application under section 4 or 7

¹Words substituted and inserted in regs. 26(1), 28 and 29(1) by reg. 5(3)-(5) of S.I. 2008/2544 as from 27.10.08.

²Reg. 26(1)(c) substituted & words in reg. 27(1)(c) & 28(b) substituted by reg. 6(4) - (6) of S.I. 2002/1204 as from 30.4.02.

³Words inserted in reg. 26(1)(c) by reg. 4 of S.I. 2011/1464 as from 4.7.11.

26.—(1) This regulation applies, subject to ¹regulations 28 and 29B~~4~~, where—

- (a) no maintenance calculation is in force with respect to the person with care or the non-resident parent;
- (b) an application for a maintenance calculation is made under section 4 or 7 of the Act; and

²(c) there is a maintenance order ³or, in Scotland, a maintenance agreement registered for execution in the Books of Council and Session or the Sheriff Court books,~~4~~ which—

- (i) is in force and was made on or after the date prescribed for the purposes of section 4(10)(a) of the Act;
- (ii) relates to the person with care, the non-resident parent and all the children to whom the application referred to in sub-paragraph (b) relates; and
- (iii) has been in force for at least one year prior to the date of the application referred to in sub-paragraph (b).~~4~~

(2) The effective date of the maintenance calculation shall be two months and two days after the application is made.

27. ~~4~~

⁴Reg. 27 omitted & words deleted in regs. 28(b), 29(1) & sub-para. (1)(a) by regs. 9(7)-(9) of S.I. 2008/2543 as from 27.10.08.

Effective dates of maintenance calculations - maintenance order ceases

28. ¹Subject to regulation 29B~~4~~ where—

- (a) a maintenance calculation is made; and
- (b) there was a maintenance order in force in relation to the person with care and the non-resident parent which ceased to have effect after the date on which the application for the maintenance calculation was made but before the effective date provided for in regulation ²26~~4~~ ⁴~~4~~,

the effective date of the maintenance calculation shall be the day following that on which the maintenance order ceased to have effect.

Effective dates of maintenance calculations in specified cases

29. ⁵—(1)~~4~~¹Subject to regulation 29B~~4~~ where an application for a maintenance calculation is made under section 4 or 7 of the Act ⁴~~4~~—

- (a) ⁴~~4~~ where in the period of 8 weeks immediately preceding the date the application is made, or treated as made under regulation 3, there has been in force a maintenance calculation in respect of the same non-resident parent and child but a different person with care, the effective date of the maintenance calculation made in respect of the application shall be ⁶the date~~4~~ on which the previous maintenance calculation ceased to have effect;
- (b) where a maintenance calculation (“the existing calculation”) is in force with respect to the person who is the person with care in relation to the application but who is the non-resident parent in relation to the existing calculation, the effective date of the calculation shall be a date not later than 7 days after the date of notification to the non-resident parent which is the day on which a maintenance period in respect of the existing calculation begins.

⁵Reg. 29 renumbered 29(1) by reg. 7(5) of S.I. 2003/328 as from 21.2.03.

⁶Words in reg. 29(1)(a) substituted by reg. 7(5) of S.I. 2003/328 as from 21.2.03.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992, the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the 1992 Regulations”) and the Child Support (Maintenance Calculation Procedure) Regulations 2000 (“the 2000 Regulations”). They also make transitional provisions.

Regulation 2 amends the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992. Regulation 7 of those Regulations is omitted in consequence of the changes made by regulations 3(2) and (3).

Regulation 3 amends the 1992 Regulations:

- paragraph (2) inserts a new paragraph (3A) into regulation 20 of the 1992 Regulations to provide a ground for superseding a decision where a maintenance assessment has ceased by virtue of paragraph 16(1) of Schedule 1 to the Child Support Act 1991 (c. 48) (“the Act”) or where the Commission has no jurisdiction by virtue of section 44 of the Act;
- paragraph (3) inserts a new paragraph (21A) into regulation 23 of the 1992 Regulations to provide that the day on which a decision made on the ground in new regulation 20(3A) of the 1992 Regulations takes effect, is the first day of the maintenance period in which the specified material change of circumstances occurred;
- paragraph (4)(a) substitutes paragraph 1 of Schedule 1 to the 1992 Regulations. The new paragraph 1 of that Schedule provides the prescribed conditions for the purposes of section 55(1)(c) of the Act and inserts a new paragraph 1A into that Schedule to provide that, where a person ceases to fall within section 55(1) of the Act, a person is to be treated as continuing to fall within that subsection for any period during which that person is a person in respect of whom child benefit is payable, this is subject to the absolute bar in section 55(8) of the Act;
- paragraph (4)(b) substitutes paragraph 2 of that Schedule prescribing the meaning of “advanced education” for the purposes of section 55 of the Act, the substituted paragraph mirrors the definition in regulation 1(3) of the Child Benefit (General) Regulations 2006;
- paragraph 4(c) substitutes paragraph 4(2) of that Schedule to provide that paragraph 4(1) of that Schedule (circumstances in which interruptions in full-time education are not taken into account) does not apply where a period of interruption to a person’s full-time education is followed immediately by a period during which child benefit ceases to be payable in respect of that person;
- paragraph 4(d) omits paragraph 5 of that Schedule. The provisions are otiose as a result of the amendments made by these Regulations inserting paragraph 1A into that Schedule as equivalent provision is made in respect of child benefit by regulation 7 of the Child Benefit (General) Regulations 2006;
- paragraph 4(e) substitutes the interpretation provision at paragraph 6 of that Schedule to reflect the amendments made by these Regulations.

Regulation 4 makes amendments to Schedule 1 to the 2000 Regulations. These amendments have the same effect as those made by regulation 3(4) amending Schedule 1 to the 1992 Regulations.

Regulation 5 makes transitional provision. Paragraphs (1) and (2) provide that the day on which certain maintenance assessments or maintenance calculations made on an application under section 4 or 7 of the Act or on a supersession decision made under section 17 of that Act are to take effect is the day on which regulation 5 comes into force, in specified circumstances. Paragraph (3) modifies regulation 28(3) of the Child Support (Transitional Provisions) Regulations 2000 (linking provisions) where an application made under section 4 or 7 of the Act in a case to which the circumstances in regulation 5(2) of these Regulations apply, to change the meaning of “the relevant period” for the purposes of regulation 28(1) of those Regulations.

A full impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors.

2011 No. 1464**FAMILY LAW****CHILD SUPPORT****The Child Support (Miscellaneous Amendments)
Regulations 2011**

<i>Made</i> - - - -	<i>9th June 2011</i>
<i>Laid before Parliament</i>	<i>13th June 2011</i>
<i>Coming into force</i>	<i>4th July 2011</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 16(1), 17(3) and (5), 51(1), 52(4), 54, of, and paragraph 11(1) of Schedule 1 to, the Child Support Act 1991(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations 2011 and will come into force on 4th July 2011.

(2) In these Regulations—

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999(b); and

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(c).

[Regulation 2 amends regulation 1(3) of S.I. 1999/991.]

[Regulation 3 substitutes regulation 17(6) & amends regulation 21(5) and regulation 23 of S.I. 1992/1813.]

[Regulation 4 amends regulation 26 of S.I. 2001/157.]

-
- (a) 1991 c. 48. Section 16 was substituted by section 40 of the Social Security Act 1998 (c. 14) (“the 1998 Act”) and further substituted by section 8 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”) in relation to cases other than 1993 scheme cases (a “1993 scheme case” means a case in respect of which the provisions of the 2000 Act have not been brought into force in accordance with article 3 of the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003 (c. 11)). Section 17(3) was substituted by section 41 of the 1998 Act and further substituted by section 9 of the 2000 Act in relation to cases other than 1993 scheme cases. Section 54 is cited for the meaning given to the word “prescribed”.
- (b) S.I. 1999/991. References to the Secretary of State in these Regulations are treated as references to the Commission by virtue of paragraph 55(3) of Schedule 3 to the Child Maintenance and Other Payments Act 2008 (c. 6) (“the 2008 Act”), as the functions of the Secretary of State were transferred to the Commission by section 13 of that Act.
- (c) S.I. 1992/1813. References to the Secretary of State in these Regulations are treated as references to the Commission by virtue of paragraph 55(3) of Schedule 3 to the 2008 Act, as the functions of the Secretary of State were transferred to the Commission by section 13 of that Act.

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

9th June 2011

Maria Miller
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under powers in the Child Support Act 1991 (c. 48) (“the 1991 Act”) and come into force on 4th July 2011. They amend the Social Security and Child Support (Decisions and Appeals) Regulation 1999 (“the Decisions and Appeals Regulations”), the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“Maintenance Assessment Procedure Regulations”) and the Child Support (Maintenance Calculation Procedure) Regulations 2000 (“the Maintenance Calculation Procedure Regulations”).

Regulation 2 amends the Decisions and Appeals Regulations. This regulation inserts a new definition into regulation 1(3) of those Regulations, provides that regulation 6B of those Regulations does not apply where a decision is made to which paragraph 15 of Schedule 1 to the 1991 Act applies, prescribes two new categories of case to which the effective date in paragraph 3 of Schedule 3D to those Regulations applies (one for relevant other children and the other for non-resident parent or partner on or off benefit), inserts a new paragraph 3A in Schedule 3D which supplements the new on or off benefit category of case in paragraph 3, consequentially omits paragraph 4 and makes a minor amendment to paragraph 8 of that Schedule.

Regulation 3 amends the Maintenance Assessment Procedure Regulations. This regulation substitutes regulation 17(6) of those Regulations to limit the disapplication of paragraph (1) to a material change of circumstances. Regulation 21 of those Regulations is amended in the same manner as regulation 6B of the Decisions and Appeals Regulations. Regulation 23 is amended to substitute a new effective date for paragraph (2) (absent parent and parent with care on or off benefit), substitute paragraph (19) of that regulation with an effective date which applies to relevant other children as well as qualifying children, insert a new effective date into that regulation for the purposes of decisions made to which paragraph 15 of Schedule 1 of the Act applies, make provision which supplements the substituted effective date in paragraph (2) and insert a definition for the purposes of new paragraph (19) of regulation 23.

Regulation 4 amends the Maintenance Calculation Procedure Regulations. Regulation 26 (effective dates of maintenance calculations—maintenance order and application under section 4 or 7) of those Regulations is amended to include maintenance agreements registered for execution in the Books of Council and Session or the sheriff court books within the scope of the effective date provided for by that regulation.

A full impact assessment has not been published for this instrument as it has no impact on the private sector and civil society organisations.

1997 No. 2943 (S.188)

FAMILY LAW

CHILD SUPPORT

**The Child Support (Written Agreements) (Scotland)
Order 1997**

<i>Made - - - -</i>	<i>3rd December 1997</i>
<i>Laid before Parliament</i>	<i>12th December 1997</i>
<i>Coming into force</i>	<i>2nd January 1998</i>

The Lord Advocate, in exercise of the powers conferred on him by section 8(5) of the Child Support Act 1991(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

1. This Order may be cited as the Child Support (Written Agreements) (Scotland) Order 1997 and shall come into force on 2nd January 1998.
2. Section 8 of the Child Support Act 1991 shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child in any circumstances in which paragraphs (a) and (b) of section 8(5) apply.

Lord Advocate's Chambers Edinburgh
3rd December 1997

Hardie
Lord Advocate

(a) 1991 c. 48.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the circumstances in which a Scottish court will continue to have jurisdiction to make a maintenance order in relation to a child even though a child support officer has jurisdiction to make a maintenance assessment for that child under the Child Support Act 1991. It enables persons who have entered into a maintenance agreement (whether or not registered for execution in the books of Council and Session) to which a court has not interposed authority to have a maintenance order made by the court in the same terms as their agreement. Such an order if made under the Family Law (Scotland) Act 1985 or any other prescribed enactment can be taken into account in the calculation of “income” under the Maintenance Assessment and Special Cases Regulations 1992 (S.I. No 1815).