



# Child Support (Miscellaneous Amendments) Regulations 2010

Consultation on draft regulations

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# Part One - Consultation arrangements

## Who is this consultation aimed at?

- 1.1 The consultation is primarily aimed at parents who live apart, representative organisations for parents who live apart or their children, representatives of the legal profession and members of the general public with an interest in child maintenance issues. A list of our stakeholders to be consulted is at **Annex A**.

## Subject of consultation

- 1.2 This consultation concerns the draft Child Support (Miscellaneous Amendments) Regulations 2010 (“the Regulations”), which implement a number of minor and technical amendments to existing regulations governing how the Child Support Agency (“the Agency”), on behalf of the Child Maintenance and Enforcement Commission (“the Commission”) carries out its statutory functions.
- 1.3 The Regulations will:
- (i) update the list of orders included within the definition of ‘maintenance orders’ under section 8(11) of the Child Support Act 1991 (the Act) and those orders which cease to have effect when a maintenance calculation is made which are listed under the powers in section 10(1) of that Act;
  - (ii) amend an existing regulation to take account of Minutes of Agreement in Scotland following a change in primary legislation;
  - (iii) bring the ‘old’ scheme (the rules that governed those cases which opened between 1993 and 2003) into line with ‘current’ scheme (the rules under which cases have been handled since 2003) policy when revisions are made to a case whilst an appeal is outstanding;
  - (iv) amend ‘effective dates’ policy (the policy which determines when changes to an individual’s circumstances are translated into changes in their child support case) in order to make the Agency’s processes clearer and more consistent in relation to:
    - ‘relevant other children’ (generally children for whom a parent liable to pay maintenance under the child support scheme has financial responsibility but does not pay maintenance for – generally because they live with him/her); and
    - decisions made under paragraph 15 of Schedule 1 to the Act (generally where a non-resident parent has failed to keep the Agency updated over a period of time, and has multiple change of circumstances that need to be taken account of in their case); and
  - (v) amend old scheme regulations to allow the Agency to take account of periods where a non-resident parent had claimed benefit, but the Agency had not made the changes necessary to the non-resident parent’s liability to take account of this.

- 1.4 It is proposed that the Regulations will come into effect in October 2010. They will apply to both the current child support scheme, introduced in 2003, and to the old child support scheme, introduced in 1993. The Regulations will be made by Ministers of the Department for Work and Pensions on the recommendation of the Commission.

## **Purpose of the consultation**

- 1.5 This document describes proposed changes to existing child support regulations, outlined in **Part 2** (policy background and proposed changes).
- 1.6 The Commission is formally inviting you to review the proposals in this document and provide your comments on them. Your views are important to us and wherever possible we will use them to inform our recommendations on the content of the regulations and the processes we use to apply them.

## **Scope of Consultation**

- 1.7 This consultation applies to England, Wales and Scotland.

## **Duration of the Consultation**

- 1.8 The consultation period will run from **30 March 2010** until **30 June 2010**.

## **How you can respond to this consultation**

- 1.9 To facilitate the consultation process we ask some questions at the end of this document. We would be grateful if you would respond. In addition to your responses to those questions, we will be pleased to hear your views on any aspect of our proposals.
- 1.10 Please send your consultation responses to:

**Via the internet:** [www.childmaintenance.org](http://www.childmaintenance.org)  
(click on 'contact us')

**By post:** **Policy and Legislation team**  
**Child Maintenance and Enforcement Commission**  
**PO Box 61791**  
**London**  
**SW1P 9NT**

**Email:**  
[stockleyhouse.consultations@childmaintenance.gsi.gov.uk](mailto:stockleyhouse.consultations@childmaintenance.gsi.gov.uk)

**Please ensure your response reaches us by 30 June 2010**

- 1.11 When responding, please tell us whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

## **Queries about the content of this document**

- 1.12 Any queries about the subject matter of this consultation should be made to:

**Name:**                   **Mercy Adebisi**

**Address:**   **Policy and Legislation team**  
**Child Maintenance and Enforcement Commission**  
**PO Box 61791**  
**London**  
**SW1P 9NT**

**Email:**               **Mercy.Adebisi1@childmaintenance.gsi.gov.uk**

## **Gathering additional views in this consultation**

- 1.13 We want to ensure that we get views from as broad a range of people as possible about these proposals. We have sent this consultation document to a number of people and organisations who have an interest in child maintenance. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

## **Freedom of information**

- 1.14 The information you send us may need to be passed to colleagues within the Commission and published in a summary of responses received.
- 1.15 All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.

- 1.16 If you want to find out more about the general principles of freedom of information and how it is applied within the Commission, please contact:

**Freedom of Information Focal Point  
The Child Maintenance and Enforcement Commission  
PO Box 61791  
London  
SW1P 9NT**

**Email: [foi.focalpoint@csa.gsi.gov.uk](mailto:foi.focalpoint@csa.gsi.gov.uk)**

- 1.17 Please note that the Freedom of Information Focal Point can only advise on freedom of information issues, and not the content of this consultation document.
- 1.18 More information about the Freedom of Information Act can be found on the website of the Ministry of Justice **[www.justice.gov.uk](http://www.justice.gov.uk)**

### **Feedback on this consultation**

- 1.19 We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

**Name: Robin Van den Hende - Stakeholder Groups Manager**

**Address: Child Maintenance and Enforcement Commission  
Stockley House  
PO Box 61791  
London SW1P 9NT**

**Email: [Robin.Van-den-Hende@childmaintenance.gsi.gov.uk](mailto:Robin.Van-den-Hende@childmaintenance.gsi.gov.uk)**

- 1.20 In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria in the Government Code of Practice on Consultation or if you wish to make any suggestions as to how the process of consultation could be improved further.
- 1.21 If you have any requirements that we need to meet to enable you to comment, please let us know.
- 1.22 We will publish a summary of responses received on the Commission's website within three months of the end of the consultation. We will consider all responses when finalising the draft Regulations. We will indicate what actions we intend to take and also give reasons where comments have not been taken into account, in the consultation response summary.

# Part Two - Policy background and proposed changes to regulations

## Introduction

- 2.1 The Commission is responsible for child maintenance policy and the Child Support Agency (the Agency). Under the Child Support Act, 1991 and the Child Maintenance and Other Payments Act 2008 the Commission is required to ensure that parents meet their obligations to maintain their children even when they cannot live together, by improving the flow of money to children.
- 2.2 It has become necessary to amend existing secondary legislation governing child support to implement some minor and technical changes. The Regulations attached at **Annex B** are subject to final legal checks so may change slightly. A summary of the proposals are outlined below.

## Maintenance orders

- 2.3 A parent with care or a non-resident parent may apply for a maintenance calculation after a maintenance order, made on or after 3 March 2003 has been in place for one year. After that time, the Commission can instruct the court to remove the court order if there is an application to the Agency by the parent with care or the non-resident parent. The meaning of “maintenance order” is defined in primary legislation and the regulations supplement that meaning. The list of relevant court orders which supplement the meaning of maintenance order and those which the Agency can supersede, i.e. replace with a maintenance calculation, are listed in secondary legislation, which is now out of date as many of the orders are no longer relevant.
- 2.4. The proposed change is to amend regulations 2 and 3 of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 (S.I. 1992/2645) made under powers contained in section 8(11)(f) and 10(1) of the Act, to ensure the list of court orders is up to date. This has no practical effect other than to ensure our legislation no longer contains out of date information.

## Minutes of Agreement in Scotland

- 2.5 Minutes of Agreement are a type of legal agreement in Scotland, which fulfil a similar function in relation to child maintenance as maintenance orders do in England and Wales. If parents agree how much maintenance should be paid, they can have a Minute of Agreement drafted. Once this has been registered for execution, a Sheriff Officer can take action if the non-parent fails to pay the agreed amount of maintenance. The Agency treats registered Minutes of Agreement in the same way as court orders, in line with Upper Tribunal case law. As Upper Tribunal case law may be challenged in the courts, the Act was amended by the Child Maintenance and Other Payments Act 2008, to make clear in law that these agreements would be

treated as court orders for the purposes of deciding whether a person may make an application for a maintenance calculation. There is however, still an inconsistency in secondary legislation as registered Minutes of Agreement are not treated in the same way as maintenance orders in the effective date provisions.

- 2.6. We therefore propose to amend regulation 26 of the Child Support (Maintenance Calculation Procedure) Regulations 2000 (S.I. 2001/157) made under powers in paragraph 11 of Schedule 1 to the Act, to align Minutes of Agreement with maintenance court orders and give them the same effective date. This change will have no effect on current practice, but will put the legal position as held in case law on a legislative footing.

### **Revisions to an old scheme case where an appeal is outstanding**

- 2.7 Presently, there is a difference in the old and current scheme child support legislation when revising maintenance assessments where an appeal is outstanding. Under the old scheme rules, the Agency is prevented from revising a decision on a case where an appeal is outstanding, if the revision is less advantageous to the appellant than the original decision. The practical effect of this is to leave the maintenance liability of the non-resident parent at the wrong level for the life of his or her appeal allowing arrears to build up and denying the parent with care and qualifying child the right level of maintenance for the same period. The current scheme allows a revision to be made in those circumstances whatever the effect on the appellant. This ensures the non-resident parent's liability is correct (and that the correct amount of maintenance is paid to the parent with care in the meantime) if the appeal is unsuccessful. If the appeal is successful then any money incorrectly paid would be refunded, if appropriate.
- 2.8 This change proposes to amend old scheme legislation so that there is provision to allow a revision to be made to a child maintenance liability (with an appeal outstanding) regardless of the impact on the appellant (as is the case in the current scheme). We therefore propose to amend regulations 17(6) of the Child Support (Maintenance Assessment Procedure) Regulations 1992 (S.I. 1992/1813) under the powers in section 16 of the Act, to effect this change.

## Relevant other child ceases to be a “child” for child maintenance purposes

- 2.9 A relevant other child is a child who lives with the non-resident parent. In the current maintenance scheme, the presence of such a child in the household will mean that the amount of maintenance to be paid by the non-resident parent will be reduced. When this child has attained the age of 19 or otherwise left the household, that reduction in maintenance should no longer apply as the non-resident parent’s financial responsibility for the child is deemed to cease. In the old child maintenance scheme, the income of a child that lives with the non-resident parent for at least 104 nights per year may be included within the parent’s net income for assessment purposes. A recent Upper Tribunal case highlighted that there is presently no provision in legislation to backdate the change to the date it occurred if the Agency is notified after the event. This means that there would be a delay in adjusting the amount of maintenance to be paid to the parent with care.
- 2.10 We propose to amend schedule 3D to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991) and regulation 23 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 (S.I. 1992/1813), to indicate that in a change of circumstances involving cases where a relevant other child ceases to be a child for child maintenance purposes the change should be backdated to the date the change in circumstances occurred.

## Multiple changes of circumstance and effective dates

- 2.11 A large number of the Agency’s cases, particularly where the non-resident parent has been non-compliant over a significant period of time, have a number of outstanding changes of circumstance that require to be processed. The Act makes provision for such situations in paragraph 15 of Schedule 1. This applies where Agency caseworkers are making a decision in relation to a case and they find that there have been further changes on the case in the meantime or future changes can be anticipated. This provision in the Act is intended to simplify the process of applying the normal supersession rules and allow agency caseworkers to carry out a number of separate calculations as part of a single process.
- 2.12 Where a decision is made in relation to a single change of circumstances, it will usually only be implemented where the effect on the maintenance amount is above a certain threshold (in the current scheme this is 5%, in the old scheme this is a fixed amount, usually £10). This process allows caseworkers to carry out additional outstanding changes of circumstance without applying that threshold to the additional changes, once a valid change has occurred. An example of how this process operates is attached at **Annex C**. This will allow changes of circumstance to be taken into account that would not ordinarily have been the case.

- 2.13 These changes will make it easier for caseworkers to action changes of circumstance which occur in quick succession and those where there are a large number of changes outstanding stretched over period of time. In addition the non-resident parent and the parent with care will not receive a series of separate decisions but instead receive only one decision incorporating all the changes specifying different amounts for different periods.
- 2.14 It also means that any appeal would be against the decision as a whole which incorporates paragraph 15 of Schedule 1 to the Act changes rather than a person having to appeal a large number of different decisions made separately which would be onerous for the parties and the first-tier tribunal.
- 2.15 Previously the Agency has legitimately relied on the provisions of paragraph 15 of Schedule 1 to the Act in order to use this power, but in order to clarify its use and ensure consistent application, we wish to amend the relevant secondary legislation for both schemes. We propose to amend regulation 6B of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and regulation 21 of the Child Support (Maintenance Assessment Procedure) Regulations 1992, to make clear that the threshold on both schemes (i.e. the 5% or £10 referred to above) does not apply in relation to these subsequent decisions. This is because applying this threshold would undermine the intent of the Act, which never intended for the threshold to apply in this situation. The impact on clients of this change (whether positive or negative) is to ensure that the amount of child maintenance accurately reflects the circumstances of the case and produces a calculation closer to what was intended by the legislation.
- 2.16 We also propose to make changes in both schemes to the effective dates of decisions under paragraph 15 of Schedule 1 to the Act, so that the effective date will have effect from the first day of the maintenance period in which the changes occurred. This is in line with all other effective date policy, which is intended to prevent the amount of money to be paid from changing in the middle of a week. The regulations being amended are paragraph 8 of Schedule 3D to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and regulation 23 of the Child Support (Maintenance Assessment Procedure) Regulations 1992.
- 2.17 These proposed changes to regulations will have the effect of clarifying and harmonizing procedures across both schemes and allowing more efficient processing of outstanding changes.

## **Old scheme cases where non-resident parents claimed relevant benefits**

- 2.18 There are a number of old scheme cases where non-resident parents had moved onto benefits in the past and the system for notifying the Agency that this had occurred did not work correctly. This resulted in a large number of cases where the non-resident parent's liability was not reduced as it should have been to take account of the fact that he/she was in receipt of benefits. Old scheme regulations currently prevent the Agency from adjusting liability retrospectively if such an error comes to light.
- 2.19 We therefore propose to amend regulation 23 of the Child Support (Maintenance Assessment Procedure) Regulations 1992, so that the Agency will have statutory power to do this. This will ensure that debt on these old scheme cases will more accurately reflect the circumstances of the parents during the lifetime of the case.

## **Parliamentary procedure**

- 2.20 The Regulations are subject to the negative parliamentary procedure.

# Part Three - Equalities Impact Assessment (Initial Screening)

## **The Child Support (Miscellaneous Amendments) Regulations 2010**

The Child Maintenance Enforcement Commission has carried out an equality impact assessment on the proposal to make minor and technical amendments to child maintenance legislation to meet the requirements of the:

- Race Equality Duty;
- Disability Equality Duty;
- Gender Equality Duty;

This process helps to ensure:

- Our strategies, policies and services are free from discrimination;
- Due regard is given to equality in decision making and subsequent processes; and
- Opportunities for promoting equality are identified.

## **Minor and Technical Amendments**

1. The proposed regulations are to improve the administration of child maintenance and are concerned with a single broad area of child maintenance policy:
  - Minor and technical amendments.

## **Maintenance Orders: Amendments to the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 (“the MAJ Regulations”)**

2. A parent with care or non-resident parent may apply for a maintenance calculation after a court order has been in place for 12 months.
3. After that time, the Agency can instruct the court to remove the court order if there is an application to do so by the parent with care or the non-resident parent. The meaning of “maintenance order” is defined in primary legislation and the regulations supplement that meaning. The list of relevant court orders which supplement the meaning of maintenance order and those which the Agency can supercede, i.e. replace with a maintenance calculation, are listed in secondary legislation.
4. Regulations 2 and 3 of the MAJ Regulations detail the relevant court orders that the Child Maintenance and Enforcement Commission may supersede (i.e. replace with a maintenance calculation) after the 12 month period has elapsed.
5. The MAJ Regulations are being amended as the list is now out of date and many of the orders listed are no longer relevant.

## **Minutes of Agreement in Scotland: Amendments to the Child Support (Maintenance Calculation Procedure) Regulations 2008 (“the MCP Regulations”)**

6. Minutes of Agreement are a type of legal agreement in Scotland, which perform the same function in relation to child maintenance as court orders in England and Wales. If parents agree how much maintenance should be paid, they can have a Minute of Agreement drafted. Once this has been registered a Sheriff Officer can take action if the non-resident parent fails to pay the agreed amount of maintenance.
7. Regulation 26 of the MCP Regulations is being amended to align Minutes of Agreement with maintenance orders and give them the same effective date. Whilst there will be no impact on clients, it will put the legal position of Minutes of Agreement beyond doubt.

## **Revisions to an old scheme case where an appeal is outstanding: Amendments to the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the MAP Regulations”)**

8. The amendments address a difference in the old and current scheme child support legislation when revising maintenance assessments where an appeal is outstanding. Cases where the application for maintenance has an effective date before 3 March 2003 are classed and processed under the ‘old’ child maintenance scheme and those applications with an effective date after that date are classed and processed under the ‘current’ child maintenance scheme.
9. The amendments amend old scheme legislation so that there is provision to allow a revision to be made to a child maintenance liability (with an appeal outstanding) regardless of the impact on the appellant, as is the case for the current scheme.
10. Regulation 17(6) of the MAP Regulations is being amended to effect this change.

## **Relevant other child ceases to be a “child” for child maintenance purposes: Amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the D&A Regulations”) and amendments to the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the MAP Regulations”)**

11. A relevant other child is a child who lives with the non-resident parent.
12. In the current child maintenance scheme, the presence of such a child in the household will notionally reduce the non-resident parent’s income, on which the maintenance calculation is based, and this has the effect of a non-resident parent’s child maintenance liability being reduced.

13. In the old child maintenance scheme, the income of a child that lives with the non-resident parent for at least 104 nights per year may be included within the parent's net income for assessment purposes.
14. This does not apply in circumstances where the relevant other child has ceased to be a relevant other child. There is no provision in legislation to backdate the change for maintenance purposes to the date the change in circumstances relating to the relevant other child occurred, if the Child Maintenance and Enforcement Commission is notified after the event.
15. Amendments are being made to Schedule 3D of the D&A Regulations and Regulation 23 of the MAP Regulations, to indicate that a change in circumstances involving cases where a relevant other child ceased to be a child for child maintenance purposes, then the change should be backdated to the date of the change in circumstances.

**Multiple changes of circumstance and effective dates:  
Amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the D&A Regulations”) and  
Amendments to the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the MAP Regulations”)**

16. Paragraph 15 of Schedule 1 to the Child Support Act 1991 makes provision for situations where there are a number of outstanding changes of circumstance that are required to be processed.
17. The provision in Paragraph 15 of Schedule 1 to the Act simplifies the process of applying the supersession rules to each separate calculation, and allows a number of separate calculations to be undertaken as part of a single process.
18. Amendments are being made to the D&A Regulations and the MAP Regulations in order to clarify the use of the Schedule 1 power and ensure its consistent application.
19. Amendments are also being made to these regulations to align the effective dates of decisions under paragraph 15 of Schedule 1 to the Act with other effective dates within child support legislation. The effective date is established as the first day of the maintenance period in which the changes occurred. This is in line with other effective dates and ensures that the amount of child maintenance liability does not change in the middle of a week.

## **Old scheme cases where non-resident parent went onto benefits: Amendments to the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the MAP Regulations”)**

20. Amendment to Regulation 23 of the MAP Regulations gives the statutory power to reduce a non-resident parent’s child maintenance liability to take into account the fact that they are in the receipt of benefits and for child maintenance liability and debts that have accrued to be adjusted accordingly.

### **Number of people affected**

21. The current Child Support Agency caseload is 1,213,100 (at December 2009). Non-resident parents – to whom the amended regulations mainly relate – are in the majority men (95%). These figures are available to the Agency via existing management information.
22. The total number of cases in which these proposals may actually be applied is likely to be significantly smaller than the overall caseload.
23. We cannot quantify the number of cases where these technical amendments to regulations would have an effect, but they will only apply in very specific instances and are being introduced to improve the administration of the child maintenance system. We are however satisfied that these regulations will not have any detrimental impact on clients in any event.
24. We do not have any information to suggest that ethnic minority or disabled clients will be disproportionately affected by these technical amendments.

### **Impact and conclusion**

These proposals are comprised of amendments to secondary legislation. There is no evidence to support a disproportionate impact on ethnic minority or disabled groups. The amendments by the proposed regulations will be applicable in all cases, regardless of gender. The demographic composition of the current Child Support Agency caseload indicates a potentially higher impact on males but this is as the majority of non-resident parents are men (as detailed in paragraph 21) and hence this higher impact is understandable.

# Part Four – Consultation questions

It would be helpful to have your comments on the proposed amendment regulations. Your views are sought on the listed questions below:

## **Question 1:**

Are the proposed amendment regulations welcome? Are there alternative approaches that you would propose?

## **Question 2:**

Do you expect different impacts for different groups from the proposed amendments? If so, please provide details.

## **Question 3:**

Were the issues / proposals clearly set out and easy to understand?

## **Question 4:**

What further comments do you have on this consultation exercise?

# Part Five - Annexes

## **Annex A - List of Stakeholders**

- 4 Children
- Action for Children
- Association of Directors of Children's Services
- Barnardo's
- Centre for Separated Families
- Child Poverty Action Group
- Children's Workforce Development Council
- Citizens Advice
- CIVITAS (Institute for the Study of Civil Society)
- Demos
- Families Need Fathers
- Fatherhood Institute
- Gingerbread England and Wales
- Institute of Payroll Practitioners
- Kids in the Middle Campaign
- National Academy of Parenting Practitioners
- National Families Mediation
- NSPCC (National Society for the Prevention of Cruelty to Children)
- Parenting UK
- Payroll Alliance
- Policy Exchange
- Relate
- Resolution
- Save the Children Fund
- Save the Children UK
- The Children's Society
- Together for Children

## Annex B - The draft Child Support (Miscellaneous Amendments) Regulations 2010

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### STATUTORY INSTRUMENTS

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#### 2010 No. XXX FAMILY LAW CHILD SUPPORT

#### The Child Support (Miscellaneous Amendments) Regulations 2010

*Made* - - - - 2010  
*Laid before Parliament* 2010  
*Coming into force* - - - - October 2010

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 8(11)(f), 10(1), 16(1), 17(3) and (5), 51(1), 52(4), 54, of, and paragraph 11 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 2010 and will come into force on [ ] October 2010.

(2) In these Regulations—

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

“the Maintenance Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992(c); and

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

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- (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. 1992/2645. 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.
- (d) 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.

## Amendment of the Decisions and Appeals Regulations

- 2.— (1) The Decisions and Appeals Regulations are amended as follows.
- (2) In paragraph (3) of regulation 1 (interpretation)—
- (a) after the definition of “the Board” insert—
- “the Child Support Act” means the Child Support Act 1991;” and
- (b) after the definition of “referral” insert—
- “references in these Regulations to “a relevant other child” are to be interpreted by reference to paragraph 10C of Schedule 1 to the Child Support Act;”.
- (3) In paragraph (4) of regulation 6B (circumstances in which a child support decision may not be superseded)(a)—
- (a) omit “or” at the end of sub-paragraph (d)(b); and
- (b) after sub-paragraph (e) add—
- “; 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) In Schedule 3D (effective dates for supersession of child support decisions)(c)—
- (a) in paragraph 3 (decision backdated to when the change occurred), after sub-paragraph (a) insert—
- “(ab) a relevant other child dies or ceases to be a relevant other child;” and
- (b) in paragraph 8 (series of changes waiting to be actioned), for “the date of that application” substitute “the beginning of the maintenance period in which that application was made”.

## Amendment of the Maintenance Arrangements and Jurisdiction Regulations

- 3.— The Maintenance Arrangements and Jurisdiction Regulations are amended as follows.
- (2) Omit regulation 2 (prescription of enactments for the purposes of section 8(11) of the Act)(d).
- (3) For paragraph (1) of regulation 3 (relationship between maintenance calculations and certain court orders)(e), substitute—
- “(1) Orders made under the following enactments are of a kind prescribed for the purposes of section 10(1) of the Act—
- (a) Part 2 of the Matrimonial Causes Act 1973(f);
- (b) the Domestic Proceedings and Magistrates’ Courts Act 1978(g);
- (c) Part 3 of the Matrimonial and Family Proceedings Act 1984(h);
- (d) the Family Law (Scotland) Act 1985(i);
- (e) Schedule 1 to the Children Act 1989(j); or
- (f) Schedule 5, 6 or 7 of the Civil Partnership Act 2004(k).”.

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- (a) Regulation 6B was inserted by S.I. 2000/3185.
- (b) Sub-paragraph (d) was omitted by S.I. 2009/396.
- (c) Schedule 3D was inserted by S.I. 2009/396.
- (d) Regulation 2 was substituted by S.I. 1995/1045.
- (e) The relevant amending instruments are S.I. 1995/123, 1995/1045, 1995/3261, 1999/1510, 2001/161 and 2005/2877.
- (f) 1973 c. 18.
- (g) 1978 c. 22.
- (h) 1984 c. 42.
- (i) 1985 c. 37.
- (j) 1989 c. 41.
- (k) 2004 c. 33.

## Amendment of the Maintenance Assessment Procedure Regulations

4.— (1) The Maintenance Assessment Procedure Regulations are amended as follows.

(2) In paragraph (6) of regulation 17 (revision of decisions)(a) omit paragraph (b) and the word “nor” immediately before that paragraph.

(3) In paragraph (5) of regulation 21 (circumstances in which a decision may not be superseded)(b)—

(a) omit “or” at the end of sub-paragraph (b); and

(b) after sub-paragraph (c) add—

“; or

(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.”.

(4) In regulation 23 (date from which a decision is superseded)(c)—

(a) in paragraph (2), for “section 9” substitute “section 8, 9”;

(b) in paragraph (21A)( ), after sub-paragraph (a), insert—

“(ab) a relevant child dies or ceases to be a relevant child;”;

(c) after paragraph (21A), insert—

“(21B) In paragraph (21A), “relevant child” has the same meaning as in regulation 1(2) of the Maintenance Assessments and Special Cases Regulations.

(21C) 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.”.

## Amendment of the Child Support (Maintenance Calculation Procedure) Regulations 2000

5. In regulation 26 of the Child Support (Maintenance Calculation Procedure) Regulations 2000( ) (effective dates of maintenance calculations—maintenance order and application under section 4 or 7), in sub-paragraph (c) of paragraph (1) after “maintenance order” insert “or, in Scotland, a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books,”.

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

Date

*Name*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

- 
- (a) Regulation 17 was substituted by S.I. 1999/1047 and revoked with savings by 2001/157 (as amended by S.I. 2000/3186, 2003/328 and 347 and 2004/2415). The relevant amending instruments are S.I. 2000/1596 and 3186, 2003/328 and 347, 2004/2415 and 2008/2543.
- (b) Regulation 21 was substituted by S.I. 1999/1047 and revoked with savings by 2001/157 (as amended by S.I. 2000/3186, 2003/328 and 347 and 2004/2415).
- (c) Regulation 23 was substituted by S.I. 1999/1047 and revoked with savings by 2001/157 (as amended by S.I. 2000/3186, 2003/328 and 347 and 2004/2415). The relevant amending instruments are S.I. 2000/1596, 2003/1050, 2005/785, 2008/ 2543 and 2683 and 2009/2909.
- (d) Paragraph (21A) was inserted by S.I. 2009/2909.
- (e) S.I. 2001/157. Relevant amending instruments are S.I. 2002/1204 and 2008/2544. 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.

## EXPLANATORY NOTE

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

These Regulations are made under the powers in the Child Support Act 1991 (c. 48) (“the 1991 Act”) and come into force on [ ] October 2010. They amend the Social Security and Child Support (Decisions and Appeals) Regulation 1991 (“the Decisions and Appeals Regulations”), the Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 (“the Maintenance Arrangements and Jurisdiction 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 two new definitions into paragraph (3) of regulation 1 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 a new category of decisions to which the effective date in paragraph 3 of Schedule 3D to those Regulations applies and makes a minor amendment to paragraph 8 of that Schedule.

Regulation 3 amends the Maintenance Arrangements and Jurisdiction Regulations. This regulation omits regulation 2 and substitutes paragraph (1) regulation 3 of those Regulations which prescribe enactments for the purposes of sections 8(11)(f) and 10(1) of the 1991 Act, respectively.

Regulation 4 amends the Maintenance Assessment Procedure Regulations. This regulation amends paragraph (6) of regulation 17 of those Regulations to provide the grounds for revision of a decision where an appeal has been made but not determined. Regulation 21 of those Regulations is amended in the same manner as regulation 2 amends regulation 6B of the Decisions and Appeals Regulations. Regulation 23 is amended to ensure that initial decisions in relation to entitlement to benefit are included within the scope of the effective date in paragraph (2) of that regulation, prescribes a new category of decisions to which the effective date in paragraph (21A) of that regulation applies, inserts a definition for the purposes of that provision and inserts a new effective date into that regulation for the purposes of decisions made to which paragraph 15 of Schedule 1 of the Act applies.

Regulation 5 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 regulation 26.

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

## Annex C - Child Support Act 1991 – Schedule 1 Paragraph 15



