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STATUTORY INSTRUMENTS

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**2003 No. 328**

**The Child Support (Miscellaneous  
Amendments) Regulations 2003**

**Amendment of the Transitional Regulations**

9.—(1) The Transitional Regulations (1) shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “commencement date”, for “the Assessment Procedure Regulations or the Maintenance Arrangements and Jurisdiction Regulations”, there shall be substituted “regulation 30 or 33(7) (but not regulation 8C or 30A) of the Assessment Procedure Regulations or regulation 3(5), (7) or (8) of the Maintenance Arrangements and Jurisdiction Regulations”; and

(b) in the definition of “Maintenance Arrangements and Jurisdiction Regulations”, the words after “1992” shall be omitted.

(3) In regulation 3(1) (decision and notice of decision)—

(a) in sub-paragraph (a), “has an effective date before the commencement date and” shall be omitted; and

(b) in sub-paragraph (c), after “interim maintenance assessment”, there shall be inserted “(whenever made)”.

(4) In regulation 10 (circumstances in which a transitional amount is payable), after “22”, there shall be inserted “, an amount calculated under regulation 26 of the Variations Regulations”.

(5) In regulation 11 (transitional amount—basic, reduced and most flat rate cases)—

(a) in paragraph (1), for “paragraph (2)”, there shall be substituted “paragraphs (2) and (3)”;

(b) for paragraph (2), there shall be substituted—

“(2) Subject to paragraph (3), where regulation 10 applies and there is at the calculation date more than one maintenance assessment in relation to the same absent parent, which has the meaning given in the former Act, the amount of child support maintenance payable from the case conversion date in respect of each person with care shall be determined by applying regulation 10 and paragraph (1) as if—

(a) the references to the new amount were to the apportioned amount payable in respect of the person with care; and

(b) the references to the former assessment amount were to that amount in respect of that person with care.

(3) Where regulation 10 applies and a conversion decision is made in a circumstance to which regulation 15(3C) applies, the amount of child support maintenance payable from the case conversion date—

- (a) to a person with care in respect of whom an application for a maintenance calculation has been made or treated as made which is of a type referred to in regulation 15(3C)(b), shall be the apportioned amount payable in respect of that person with care; and
- (b) in respect of any other person with care, shall be determined by applying regulation 10 and paragraph (1) as if the references to the new amount were to the apportioned amount payable in respect of that person with care and the references to the former assessment amount were to that amount in respect of that person with care.

(4) In this regulation, “apportioned amount” means the amount payable in respect of a person with care calculated as provided in Part I of Schedule 1 to the Act and Regulations made under that Part and, where applicable, regulations 17 to 23 and Part IV of these Regulations.”.

(6) In regulation 15 (case conversion date)—

- (a) in paragraph (1), for “paragraph (2)” there shall be substituted “paragraphs (2) to (3G)”;
- (b) in paragraph (2)—
  - (i) after “paragraph (3)” there shall be inserted “or (3A)”;
  - (ii) for “shall be” there shall be substituted “is”;
- (c) for paragraph (3), there shall be substituted—

“(3) This paragraph applies where the maintenance calculation is made with respect to a relevant person who is a relevant person in relation to the maintenance assessment whether or not with respect to a different qualifying child.

(3A) This paragraph applies where the maintenance calculation is made in relation to a partner (“A”) of a person (“B”) who is a relevant person in relation to the maintenance assessment and—

- (a) A or B is in receipt of a prescribed benefit; and
- (b) either—
  - (i) A is the non-resident parent in relation to the maintenance calculation and B is the absent parent in relation to the maintenance assessment; or
  - (ii) A is the person with care in relation to the maintenance calculation and B is the person with care in relation to the maintenance assessment.

(3B) The case conversion date of a conversion decision made where paragraph (3C) applies is the beginning of the first maintenance period on or after the date of notification of the conversion decision.

(3C) This paragraph applies where on or after the commencement date—

- (a) there is a maintenance assessment in force;
- (b) an application is made or treated as made which, but for the maintenance assessment, would result in a maintenance calculation being made with an effective date before the conversion date;
- (c) the non-resident parent in relation to the application referred to in sub-paragraph (b) is the absent parent in relation to the maintenance assessment referred to in sub-paragraph (a); and
- (d) the person with care in relation to the application referred to in sub-paragraph (b) is a different person to the person with care in relation to the maintenance assessment referred to in sub-paragraph (a).

(3D) The case conversion date of a conversion decision made where paragraph (3E) applies is the beginning of the first maintenance period on or after the date on which the superseding decision referred to in paragraph (3E)(d) takes effect.

(3E) This paragraph applies where on or after the commencement date—

- (a) a maintenance assessment is in force in relation to a person (“C”) and a maintenance calculation is in force in relation to another person (“D”);
- (b) C or D is in receipt of a prescribed benefit;
- (c) either—
  - (i) C is the absent parent in relation to the maintenance assessment and D is the non-resident parent in relation to the maintenance calculation; or
  - (ii) C is the person with care in relation to the maintenance assessment and D is the person with care in relation to the maintenance calculation; and
- (d) the decision relating to the prescribed benefit referred to in sub-paragraph (b) is superseded on the ground that C is the partner of D.

(3F) The case conversion date of a conversion decision made where paragraph (3G) applies is the beginning of the first maintenance period on or after the date from which entitlement to the prescribed benefit referred to in paragraph (3G)(c) begins.

(3G) This paragraph applies where on or after the commencement date—

- (a) a person (“E”) in respect of whom a maintenance assessment is in force is the partner of another person (“F”) in respect of whom a maintenance calculation is in force;
- (b) either—
  - (i) E is the absent parent in relation to the maintenance assessment and F is the non-resident parent in relation to the maintenance calculation; or
  - (ii) E is the person with care in relation to the maintenance assessment and F is the person with care in relation to the maintenance calculation; and
- (c) E and F become entitled to a prescribed benefit as partners.”; and
- (d) in paragraph (4)—
  - (i) before the definition of “maintenance assessment”, there shall be inserted—

““absent parent” has the meaning given in the former Act.”; and
  - (ii) in the definition of “relevant person”, the words “, which has the meaning given in the former Act,” shall be omitted.

(7) In regulation 16 (conversion calculation and conversion decision)—

- (a) in paragraph (1)(c), for “23”, there shall be substituted “23A”;
- (b) after paragraph (2), there shall be inserted—

“(2A) For the purposes of sections 29 to 41B of the Act and regulations made under or by virtue of those sections, a conversion decision shall be treated on or after the case conversion date as if it were a maintenance calculation.”; and

- (c) in paragraph (3)—
  - (i) for “conversion calculation”, there shall be substituted “conversion decision”; and
  - (ii) for “the calculation”, there shall be substituted “the conversion calculation”.

(8) In regulation 22 (effect on conversion calculation—maximum amount payable where relevant departure direction is on additional cases ground)—

- (a) in paragraph (1), for sub-paragraphs (a) and (b) there shall be substituted—
- “(a) a weekly amount calculated by aggregating the first prescribed amount with the result of applying Part I of Schedule 1 to the Act to the additional income arising under the relevant departure direction; or
- (b) a weekly amount calculated by applying Part I of Schedule 1 to the Act to the aggregate of the additional income arising under the relevant departure direction and the weekly amount of any benefit, pension or allowance received by the non-resident parent which is prescribed for the purposes of paragraph 4(1)(b) of that Schedule.”; and
- (b) in paragraph (3)—
- (i) in sub-paragraph (a), after “(special expenses)”, there shall be inserted “or a relevant property transfer”; and
- (ii) after sub-paragraph (b) there shall be added—
- “and
- (c) any benefit, pension or allowance referred to in sub-paragraph (b) shall not include—
- (i) in the case of industrial injuries benefit under section 94 of the Social Security Contributions and Benefits Act 1992<sup>(2)</sup>, any increase in that benefit under section 104 (constant attendance) or 105 (exceptionally severe disablement) of that Act;
- (ii) in the case of a war disablement pension within the meaning in section 150(2) of that Act, any award under the following articles of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (“the Service Pensions Order”): article 14 (constant attendance allowance), 15 (exceptionally severe disablement allowance), 16 (severe disablement occupational allowance) or 26A (mobility supplement)<sup>(3)</sup> or any analogous allowance payable in conjunction with any other war disablement pension; and
- (iii) any award under article 18 of the Service Pensions Order (unemployability allowances) which is an additional allowance in respect of a child of the non-resident parent where that child is not living with the non-resident parent.”.
- (9) In regulation 24 (phasing amount)—
- (a) in paragraph (3), for “paragraph (4)”, there shall be substituted “paragraphs (4) and (5)”; and
- (b) after paragraph (4), there shall be added—
- “(5) Where the new amount is calculated under regulation 26(1) of the Variations Regulations, the “relevant income” for the purposes of paragraph (2) is the additional income arising under the variation.”.
- (10) In regulation 25 (maximum transitional amount)—
- (a) in paragraph (1)—

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(2) 1992 c. 4.

(3) S.I. 1983/883. Article 26A was inserted by article 4 of S.I. 1983/1116 and amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286 and 2001/409.

- (i) for “to which regulation 15(2)” there shall be substituted “to which regulation 15(3C)”; and
- (ii) for sub-paragraph (a) there shall be substituted—
  - “(a) the transitional amount payable under this Part added to, where applicable, the transitional amount payable under Part IV; and”; and
- (b) in paragraph (3)—
  - (i) after sub-paragraph (a), there shall be inserted—
    - “(aa) the amount of child support maintenance payable to a person with care in respect of whom there was a maintenance assessment in force immediately before the case conversion date and in respect of whom the amount payable is not calculated by reference to a phasing amount, shall be an amount calculated as provided in sub-paragraph (a) and, where applicable, regulations 17 to 23;”; and
  - (ii) in sub-paragraph (b), for “the amount calculated as provided in sub-paragraph (a)”, there shall be substituted “the amounts calculated as provided in sub-paragraphs (a) and (aa)”.
- (11) In regulation 27 (subsequent decision with effect in transitional period—amount payable), after paragraph (6), there shall be added—
  - “(7) Where paragraph (1) applies and at the date of the subsequent decision there is more than one person with care in relation to the same non-resident parent—
    - (a) the amount payable to a person with care in respect of whom the amount payable is calculated by reference to a phasing amount shall be determined by applying paragraphs (1) to (5) as if references to the new amount, the subsequent decision amount and the transitional amount were to the apportioned part of the amount in question; and
    - (b) the amount payable in respect of any other person with care shall be the apportioned part of the subsequent decision amount.
  - (8) In paragraph (7), “apportioned part” means the amount payable in respect of a person with care calculated as provided in Part I of Schedule 1 to the Act and Regulations made under that Part and, where applicable, Parts III and IV of these Regulations.
  - (9) Where a subsequent decision is made in respect of a decision which is itself a subsequent decision, paragraphs (2) to (5) shall apply as if, except in paragraphs (2)(a) and (4)(a), references to the new amount were to the subsequent decision amount which applied immediately before the most recent subsequent decision.”.
- (12) In paragraphs (6), (7), (7A) and (8)(a) of regulation 28 (linking provisions), for “conversion calculation”, wherever it appears, there shall be substituted “conversion decision”.
- (13) In regulation 33(1) (savings in relation to revision of or appeal against a conversion or subsequent decision)—
  - (a) for “15(2)” where it first occurs, there shall be substituted “15(2), (3B), (3D) or (3F)”; and
  - (b) for “15(2)” where it later occurs, there shall be substituted “15(2), (3B), (3D) or (3F) as the case may be”.