

2013 No.

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendment) Regulations
2013**

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

The Secretary of State, in exercise of the powers conferred by sections 17(5), 28G(3), 42, 51(1), 52(4) and 54 of, and paragraphs 10(1) and (2)(b) and 10C(2)(b) of Schedule 1 to, the Child Support Act 1991(a) and sections 55(3) and (4) and 57(2) of the Child Maintenance and Other Payments Act 2008(b), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Child Support (Miscellaneous Amendment) Regulations 2013 and come into force [.....].

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

2. In regulation 20 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (persons treated as absent parents)(c), after paragraph (6) insert—

“(7) For the purposes of this regulation, where a person has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not receive child benefit)(d) for payments of child benefit not to be made, that person is to be treated as being in receipt of child benefit.”

(a) 1991 c. 48. Section 17 was substituted by section 41 of the Social Security Act 1998 (c. 14). Section 28G was substituted by section 7 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”). Schedule 1 was substituted by section 1(3) of, and Schedule 1 to, the 2000 Act. Paragraph 10(1) and (2) of Schedule 1 was amended by section 16 of, and paragraphs 1, 2 and 9 of Schedule 4 to, the Child Maintenance and Other Payments Act 2008 (c. 6) and S.I. 2012/2007. Section 54 is cited for the meaning of “prescribed”.

(b) 2008 c. 6.

(c) S.I. 1992/1815. These Regulations have been revoked with respect to particular cases by S.I. 2001/155 (as amended by S.I. 2003/347) and S.I. 2012/2785. For savings, see S.I. 2001/155 and S.I. 2000/3186 (as amended by S.I. 2004/2415).

(d) 1992 c. 5. Section 13A was inserted by section 8 of, and paragraph 3 of Schedule 1 to, the Finance Act 2012 (c. 14).

Amendment of the Child Support (Collection and Enforcement) Regulations 1992

3.—(1) The Child Support (Collection and Enforcement) Regulations 1992(a) are amended as follows.

(2) In regulation 25A(1) (interpretation)—

(a) after the definition of “assessable income” insert—

““current income” has the meaning given in regulation 37 of the Child Support Maintenance Calculation Regulations 2012(b);”;

(b) after the definition of “garnishee order” insert—

““gross weekly income” means income calculated under Chapter 1 of Part 4 of the Child Support Maintenance Calculation Regulations 2012;”;

(c) omit the definition of “net weekly income”.

(3) In regulation 25C(1)(a) (maximum deduction rate), omit “in respect of that period”.

(4) In regulation 25G(2)(d) (review of a regular deduction order), for “gross weekly” substitute “current”.

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000

4.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations 2000(c) are amended as follows.

(2) For paragraph (3) of regulation 1 (prescription of “relevant other child”) substitute—

“(3) For the purposes of paragraph 10C(2)(b) of Schedule 1 to the Act (which provides for other descriptions of relevant children to be prescribed) “relevant other child” includes a child, other than a qualifying child, in respect of whom the non-resident parent or the non-resident parent’s partner—

(a) would receive child benefit under Part IX of the Contributions and Benefits Act, but in respect of whom they do not do so, solely because the conditions set out in section 146 of that Act (person outside Great Britain) are not met; or

(b) has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made.”

(3) In paragraph (3) of regulation 8 (persons treated as non-resident parents), the words from ““child benefit”” to the end become sub-paragraph (a), and after that sub-paragraph insert—

“(b) where a person has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made, that person is to be treated as being in receipt of child benefit.

Amendment of the Child Support Maintenance Calculation Regulations 2012

5.—(1) The Child Support Maintenance Calculation Regulations 2012 are amended as follows.

(2) In regulation 34 (the general rule for determining gross weekly income)—

(a) in paragraph (2)—

(i) in sub-paragraph (b) omit “the amount of historic income is nil or”;

(ii) after sub-paragraph (b), insert—

(a) S.I. 1992/1989. Regulation 25A to 25AD were inserted by S.I. 2009/1815. Regulations 25C and 25G were amended by S.I. 20012/2785.

(b) S.I. 2012/2677.

(c) S.I. 2001/155.

“; or

(c) the Secretary of State is unable, for whatever reason, to request or obtain the required information from HMRC.”

(b) after paragraph (2), insert—

“(2A) For the purposes of paragraph (2)(a), where the amount of historic income is nil, current income is treated as differing from historic income by an amount that is at least 25% of historic income in circumstances where there is any current income.”

(3) In paragraph (1)(a) of regulation 42 (estimate of current income where insufficient information available)—

(a) after “34(2)(b)” insert “or (c)”; and

(b) omit “nil or”.

(4) In regulation 50 (parent treated as a non-resident parent in shared care cases), after paragraph (3) insert—

“(4) For the purposes of paragraph (3), where a person has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made, that person is to be treated as receiving child benefit.”

(5) In regulation 54 (care provided for relevant other child by a local authority), the existing provision becomes paragraph (1), and after that paragraph insert—

“(2) For the purposes of paragraph (1), where a person has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made, that person is to be treated as receiving child benefit.”

(6) In paragraph (2) of regulation 75 (situations in which a variation previously agreed may be taken into account in calculating maintenance liability) omit from “and the Secretary of State is satisfied” to “ceased to have effect.”

(7) For the heading to regulation 77 (relevant other child outside Great Britain), substitute “Meaning of “relevant other child” for the purposes of the 1991 Act”.

(8) In regulation 77, the words from “would receive” to the end become sub-paragraph (a), and after that sub-paragraph insert—

“; or

(b) has made an election under section 13A(1) of the Social Security Administration Act 1992 (election not to receive child benefit) for payments of child benefit not to be made.

Amendment of the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012

6. In regulation 1(6) of the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012(a), for the definition of “arrears of child support maintenance” substitute—

““arrears of child support maintenance” means any payment of child support maintenance—

(a) which has become due in relation to a maintenance assessment, or a maintenance calculation made under 2003 scheme rules, and not paid; and

(b) in respect of which the Secretary of State is arranging collection under section 29 of the 1991 Act;”.

(a) S.I. 2012/2785

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

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions amending various sets of Child Support Regulations.

Some of the provisions in these Regulations make amendments to child support provisions following changes to legislation allowing a person to make an election for payments of child benefit not to be made in cases where the person or their partner have income of over £50,000 per year. Regulation 2 amends regulation 20 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (S.I. 1992/1815), which apply to the 1993 scheme of child support, so that a person who has made an election under section 13A(1) of the Social Security Administration Act 1992 (c. 5) for payments of child benefit not to be made is treated as being in receipt of child benefit. Regulation 4(3) makes the same amendment to the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (S.I. 2001/155) (“the 2000 Regulations”), which apply to the 2003 scheme and regulation 5(4) and (5) makes the same amendment to the Child Support Maintenance Calculation Regulations 2012 (S.I. 2012/2677) (“the 2012 Regulations”) for the purposes of the 2012 scheme.

Regulation 4(2) amends the prescription of relevant other child in the 2000 Regulations so that it includes a child in respect of whom an election has been made for payments of child benefit not to be made. Regulation 5(7) and (8) makes the same amendment to the 2012 Regulations for the purposes of the 2012 scheme.

Regulation 3 makes amendments to the Child Support (Collection and Enforcement) Regulations 1992 (S.I. 1992/1989), which are consequential on a change made in the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012. Regulation 3(2) inserts a definition of “gross weekly income” and “current income”. Regulation 3(3) amends regulation 25C so that the maximum deduction rate is 40% of the person’s gross weekly income as calculated for the purposes of the current maintenance calculation or, where it is an arrears only case, the most recent previous calculation. Regulation 3(4) amends regulation 25G so that in an arrears only case the liable person can request a review of the deduction order where there has been a change to current gross income.

Regulation 5(2) amends regulation 34 of the 2012 Regulations so that the non-resident parent’s gross weekly income can be (a) based on historic income in cases where the amount of historic income is nil, and (b) based on current income where the Secretary of State is unable to request or obtain information from HMRC. Regulation 5(3) makes changes consequential on this.

Regulation 5(6) amends regulation 75 so that a variation previously agreed to which has ceased to have effect for specified reasons can be taken into account again without the need for an application or needing to consider whether has been a material change of circumstances.

Regulation 6 makes a technical amendment to a definition in the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012 (S.I.2012/2785).