EXPLANATORY MEMORANDUM TO

THE CHILD SUPPORT COLLECTION AND ENFORCEMENT (DEDUCTION ORDERS) AMENDMENT REGULATIONS 2009

2009 No.

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 This instrument is to make amendments to the Child Support (Collection and Enforcement) Regulations) 1992 ("the Collection and Enforcement Regulations") to introduce the use of both lump sum and regular deduction orders. These orders are new administrative tools enabling the Commission to instruct a deposit-taker to deduct either a regular or a one off amount from the account of a liable person. The purpose of this instrument is to introduce the use of deduction orders as a method of collecting and enforcing the payment of child support maintenance.

2.2 The amendments made by these Regulations apply to the current child support scheme as introduced for cases with an effective date (as determined under specific provisions) on or after 3rd March 2003 and certain linked cases, and to the old child support scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 These regulations are subject to affirmative resolution procedure and are made under powers in the Child Support Act 1991 ("the 1991 Act"). The Regulations are made using powers inserted into the 1991 Act by the Child Maintenance and Other Payments Act 2008. These regulations will be the first use of the new powers.

4.2 The 1991 Act makes provision for the calculation, collection and enforcement of child maintenance, which is an amount of money that parents who do not normally live with the children concerned (the "non-resident parent") pay as a contribution to the upkeep of their children (the "qualifying children"). Child maintenance legislation is focused around the general principle that all parents take financial responsibility for all of their children.

4.3 The child support scheme in the 1991 Act was substantially amended by the Child Support, Pensions and Social Security Act 2000 ("the 2000 Act"). Some of the amendments are fully in force, whilst others have so far been brought into force for the purposes of specified cases only. This means there are effectively two schemes.

4.4 The child support scheme in force prior to the amendments to the 1991 Act made by the 2000 Act is referred to as "the old scheme" and the child support scheme in force following those amendments is referred to as "the current scheme". These Regulations affect both the old and the current schemes.

4.5 Regular deduction orders are made under section 32A of the 1991 Act; these orders allow regular deductions to be made from an account in respect of arrears and current child maintenance. The order requires the institution holding the account to deduct payments on a regular basis and pay them to the Commission.

4.6 Lump sum deductions orders which may only be made in respect of arrears of child maintenance operate in two stages. First, an order under section 32E of the 1991 Act requires the deposit-taker holding the account not to reduce the funds of the person liable for child maintenance below the amount in the order. A 14 day period is given for making representations against the proposals set out in that order. Second, a final order under section 32F of the 1991 Act is made after the 14 day period has expired and any representations dealt with, requiring the deduction to be made and paid to the Commission after the time for appealing has ended and any proceedings have finished (including further appeals).

4.7 These Regulations amend the Collection and Enforcement Regulations inserting a new Part 3A into those Regulations. Part 3A makes provision which supports the making of regular deduction orders and lump sum deduction orders.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

Kitty Ussher Parliamentary Under-Secretary of State for Work and Pensions has made the following statement regarding Human Rights:

In my view the provisions of the Child Support (Deduction Orders) (Collection and Enforcement Amendment) Regulations 2009 are compatible with the Convention rights.

7. Policy Background

- **What is being done and why**

7.1 The Child Support Act 1991 provides the power for the Child Maintenance and Enforcement Commission (the Commission) to collect child maintenance directly from the non-resident parent on behalf of the parent with care (the main provider of day-to-day care of the qualifying children).

7.2 The current methods of payment available to the Commission for the collection of maintenance are set out in regulation 3 of the Collection and Enforcement Regulations and include a deduction from earnings order. This is an administrative tool to deduct child maintenance direct from a non-resident parent's earnings. However, its use is not always appropriate or can be ineffective because, for example, the non-resident parent is self-employed or changes jobs frequently.

7.3 The 2008 Act has provided the Commission with the power to introduce new collection and enforcement measures in order to fulfil the Government's proposals for

tougher enforcement set out in its White Paper 'A new system of child maintenance' published in 2006.

7.4 The Commission will use some of its new powers in these Regulations to introduce regular and lump sum deduction orders as child maintenance enforcement tools from August 2009.

Regular deduction orders

7.5 Where a non-resident parent has arrears of child maintenance the Commission will be able to make an order, without application to a court, against that person (the liable person) and directed at a deposit-taker (normally a bank or building society) holding funds for the liable person, to deduct regular (normally monthly) amounts of ongoing maintenance and/or arrears from an account holding the liable person's money.

7.6 An order will not be made on an account which is used by the liable person wholly or in part for business purposes except where the account is used by the liable person as a sole trader. Orders will not be made in respect of accounts holding funds that are required in order to maintain the business and income of the liable person or funds that do not belong to that person.

7.7 The maximum deduction rate will ensure that the liable person retains a minimum of 60% of their net weekly income (or in respect of old scheme cases, assessable income) after paying maintenance.

7.8 The Commission will send a copy of the regular deduction order to the deposit-taker. It will specify details of the account and the amount in respect of which it is made, and the dates on which deductions are due to be made. A copy of the order will also be sent to the liable person.

7.9 The deposit-taker may also take an amount up to £10 for each deduction towards its administrative costs. It is not intended that a regular deduction order will be a permanent method of collection in individual cases; it will be used in cases where the liable person refuses to co-operate with other methods of collection and normally where a deduction from earnings order cannot be used. The expectation is that the imposition of the regular deduction order will persuade the liable person to agree to pay by direct debit, a preferred method of payment that is cheaper and easier to administer and incurs no charge to the liable person.

7.10 The liable person or the deposit-taker may apply to the Commission for the review of a regular deduction order at any time.

7.11 The liable person and the deposit-taker may appeal to a county court or in Scotland, the sheriff, against the making of the regular deduction order or against any decision made on an application for the review of that order.

Lump sum deduction orders

7.12 Where a non-resident parent has arrears of child maintenance the Commission will be able to make an order, without application to a court, against that person (the liable person) and directed to a deposit-taker (normally a bank or building society)

holding funds for the liable person to deduct a specified amount of arrears from an account holding the liable person's money.

7.13 An order will not be made on an account that is used by the liable person wholly or in part for business purposes or on funds that do not belong to that person.

7.14 A copy of an interim lump sum deduction order will be served on the deposit-taker and will act as an instruction to freeze funds up to the amount of the order. A copy of the order will also be sent to the liable person. The deposit-taker and the liable person will then have 14 days from the date of service of the order to make representations to the Commission in respect of the proposal set out in the interim order.

7.15 Once any representations have been dealt with, or after 16 days if none is made, the Commission will make a final order (which may be for an amount equal to or less than the interim order) instructing the deposit-taker to deduct the funds and transfer them to the Commission after a further 21 day period during which anyone affected by the order may appeal to a county court or in Scotland to the sheriff against the making of the order.

7.16 Alongside the process outlined above, from receipt of the interim order until the funds are paid to the Commission the liable person and the deposit-taker will be able to make applications for some or all of the specified amounts to be released from the account. The non-resident parent might make such an application where, for example, the funds are needed to prevent hardship in meeting ordinary living expenses. The Commission will consider any such applications and if it decides that some or all of the funds should be released it will instruct the bank or building society to do so. The liable person or deposit-taker will be able to appeal to the court against the Commission's decision not to release funds within 21 days of receipt of that decision.

7.17 Once any appeal or further appeal has been determined (or after 21 days if no appeal is made) the Commission will issue a prompt to the deposit-taker asking for the funds to be deducted and paid to the Commission. If there are insufficient funds to deduct the full amount, any amount available will be deducted and the order may remain in place to allow access to any further funds credited to the account. The deposit taker may also deduct an amount up to £55 towards its administrative costs; this aligns with the amount a deposit taker may currently deduct for processing third party debt orders made by a court which follow a similar procedure.

General

7.18 The deposit-taker will have a legal duty to make deductions from an account as specified in an order, ensuring it does not take the account into overdraft, and pay the amount to the Commission.

7.19 The minimum amount will ensure a balance in the operation of orders so that the amount collected is reasonably proportionate to the level of administrative costs.

7.20 Deductions will not be made from amounts in which the liable person does not have a beneficial interest.

7.21 Where the Commission and a court have made an order either on or including the same account a deposit-taker will have clear guidance as to order of priority for dealing with these orders.

7.22 The deposit-taker will alert the Commission to circumstances where the amount on a regular or lump sum deduction order cannot be secured and the reasons why. This will enable the Commission to seek further information from the deposit-taker to decide what further action to take.

Commencement date

7.23 Exceptionally, ministers have decided to exercise their discretion in commencing these regulations on 3 August 2009, a date other than one of the two common commencement dates - 6 April and 1 October. Regulations have been developed in full consultation with representatives of deposit-takers. Deferral to the next common commencement date would delay the ability to use deduction orders which are expected to play an important role in the Governments agenda for tackling child poverty.

Consolidation

7.24 The law relating to child support is available on the internet at http://www.dwp.gov.uk/advisers/docs/lawvols/orangvol/ and is generally updated twice-yearly.

8. Consultation outcome

8.1 The primary powers to make deduction orders were among the Government's proposals for reform of the child maintenance system published in the White Paper *A new system of child maintenance* published in December 2006. Those proposals were the subject of a full consultation exercise, the results of which were published in May 2007. Responses to the deduction order proposals were mixed with organisations representing parents with care being generally in favour. These regulations have been developed in close consultation with the British Bankers' Association, the Building Societies Association and a number of individual banks and building societies.

9. Guidance

9.1 The Commission is developing a communication strategy to ensure that clients, employees and stakeholders are kept informed of the changes. This which will include discussions with key stakeholders, staff training, amending relevant leaflets, drafting new notifications and providing web-based guidance.

10. Impact

10.1 The impact on business is low and is limited to financial institutions. There is no impact on charities or voluntary bodies.

10.2 The impact on the public sector is low and is limited to the Commission and the courts who will hear appeals.

10.3 A full impact assessment is attached to this memorandum.

11. Regulating Small Business

11.1 The legislation does not apply to small businesses.

12. Monitoring & Review

12.1 The Commission will closely monitor the operation of deduction orders in conjunction with deposit-takers throughout the first year of implementation. The Commission actively engages with its stakeholders, including financial institutions, financial associations and parents' representative groups, and will continue to do so to ensure that the policy intent is maintained.

13. Contact

Holly Greig
Child Maintenance and Enforcement Commission
Telephone: 0207 853 8073
E-mail: Holly.Greig1@childmaintenance.gsi.gov.uk

Summary: Intervention & Options

Department /Agency:	Title:	
DWP/Child Maintenance and Enforcement Commission	**Impact Assessment of The Child Support Collection and Enforcement (Deduction Order) Amendment Regulations 2009**	
Stage: Implementation	**Version:** Final	**Date: 20th May 2009**

Related Publications: The White Paper- *A new system of child maintenance*, Summary of responses to the White Paper and The Child Maintenance and Other Payments Act 2008.

Available to view or download at:

http://www.opsi.gov.uk/acts/acts2008/ukpga_20080006_en_1, http://www.dwp.gov.uk/childmaintenance/csa_report.pdf and http://www.dwp.gov.uk/childmaintnenance/pdfs/cmr-responses-summary.pdf

Contact for enquiries: Daniel Groves **Telephone:** 02078538053

What is the problem under consideration? Why is government intervention necessary?

A significant number of non-resident parents will do everything they can to evade their responsibilities for paying child maintenance. The Government wishes to ensure that reliable collection of maintenance is established as quickly as possible and that fast, effective and firm action can be taken to enforce payment.

What are the policy objectives and the intended effects?

To take firm enforcement action at the earliest opportunity against non-resident parents who do not fulfil their responsibility to pay child maintenance; to collect debt that has accumulated; and to encourage ongoing compliance with child maintenance liabilities.

What policy options have been considered? Please justify any preferred option.

The 'do nothing' option would mean not implementing the power that Parliament provided in the 2008 Act and that non-resident parents could continue to evade their responsibilities despite having available funds to pay their child maintenance.

Deduction orders are among new, stronger enforcement powers introduced by the Child Maintenance and Other Payments Act 2008 intended to break down the culture of non-compliance, and to get more money to children.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

September 2010.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

William D. McKenzie

.....Date: 2 June 2009

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ 213,000	1
Average Annual Cost (excluding one-off)	
£ £698,900	

Description and scale of **key monetised costs** by 'main affected groups'

C-MEC: Set-up cost (£213k) Annual Cost (£446.4k, staff+training)

Banks/Building Societies: Annual Cost (£185k)

Non-Resident Parent : Annual (£67.5k)

Total Cost (PV) **£ £911,900**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£	1
Average Annual Benefit (excluding one-off)	
£ 2,184,000	

Description and scale of **key monetised benefits** by 'main affected groups'

1) C-MEC and children: £2,184,000 (1,680 successful deduction orders per annum at £1,300 estimated average benefit) 2) if the above benefits are assumed to be purely a transfer from NRPs to PWCs the benefits are less easily quantifiable ones concerning improved long-term outcomes for children

Total Benefit (PV) **£ 0 - 2,184,000 pa**

Other **key non-monetised benefits** by 'main affected groups' C-MEC: Increased incentive to pay child maintenance.

Key Assumptions/Sensitivities/Risks

Price Base Year 2009	Time Period Years 1	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£ 1,272,000**

What is the geographic coverage of the policy/option?				Great Britain	
On what date will the policy be implemented?				3 August 2009	
Which organisation(s) will enforce the policy?				CMEC	
What is the total annual cost of enforcement for these organisations?				£ Negligible	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **£0**	Small **£19,000**	Medium **£28,000**	Large **£140,000**	
Are any of these organisations exempt?	No	No	N/A	N/A	

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 64,423 Decrease of £ **Net Impact** **£** 64,423

Key:	**Annual costs and benefits: Constant Prices**	**(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

These regulations enable the new powers provided in sections 22 and 23 of the Child Maintenance and Other Payments Act 2008 to be brought into operation. The detailed narrative from which they are generated is represented by:

- the White Paper *A new system of child maintenance* and its associated Regulatory Impact Assessment published in December 2006;
- the summary of responses to consultation on the White Paper, published in May 2007;
- the Child Maintenance and Other payments Act 2008 (c.6) and its associated Explanatory Notes.

Impact Assessment

The Child Maintenance and Enforcement Commission (the Commission) currently has 822,700 cases in which there is a positive maintenance liability from the non-resident parent to the parent with care. Performance shows that in March 2009 69 per cent of non-resident parents met this obligation within the last quarter; therefore there are around 252,400 cases that failed to pay any maintenance. The Child Support Agency has a total of £3.8 billion worth of outstanding maintenance owed.

These cases all owe money that should be benefiting children. The Commission has a range of enforcement powers that can be used to try and recover this money. The following are a list of enforcement powers that are open to the Commission, apart from deduction from earnings orders these are imposed by courts and this takes considerable time and effort.

Liability orders. These are needed before other enforcement action can be taken.
Distress actions (recovery by bailiffs)
Third party debt orders
Charging orders

Scotland
Liability orders
Attachments
Arrestments
Bills of Inhibition

England, Wales & Scotland
Deduction from earnings orders/requests
Suspended committal sentences
Committal Sentences
Suspended driving licence disqualification sentences
Driving licence disqualification sentences

The regulation amendments will allow the Commission to use deduction orders which are similar to third party debt orders or arrestments in Scotland. The policy would mean that the Commission would be able to take money from non-compliant non-resident parent's bank accounts without the need to go through the courts. Using these powers will mean that the process should be quicker and more effective than, for example, third party debt orders.

Deduction from earnings orders or requests (DEO) can be used to take money straight from the non-resident parent's source of income. However, DEOs do not work effectively for all non-resident parents. They cannot be used for people who are self-employed; and for those in transient employment payment under a DEO frequently breaks down. Other non-resident parents may have access to cash, but do not necessarily work or work in legitimate employment and others may not be self-employed but may have an income. Recovering a large amount of arrears through a DEO can also take a very long time. A deduction order will only be used where a DEO is either not possible or ineffective and the non-resident parent fails to co-operate in making an alternative arrangement for paying their child maintenance

The Process

Once the Commission has decided that a deduction order is likely to be the most effective method of collecting child maintenance and /or arrears it will use information from deposit-takers to identify the most suitable account and decide whether to make a lump sum deduction order or a regular deduction order. The Commission will only ask a deposit-taker for information to help to identify an account if it has good reason to believe that such an account is held with that the deposit-taker. This might happen where, for example, the Commission has established that the non-resident parent has a mortgage with that deposit-taker or it identifies an account through databases that are available to it.

Regular deduction order

The Commission will send the regular deduction order to the deposit-taker, specifying details of the account, the amount, the date from which it will take effect and the dates on which deductions are to be made. A copy of the order will also be sent to the non-resident parent.

The deposit-taker will have a legal duty to make deductions from the account specified in the order and pay the amount to the Commission, ensuring it does not take the account into overdraft. The deposit-taker may also take an amount of up to £10 for each deduction towards its administrative costs. It is not intended that a regular deduction order will be a permanent method of collection in individual cases. It will be imposed in cases where the non-resident parent refuses to co-operate with other methods of payment and often where a deduction from earnings order cannot be used - most commonly because the non-resident parent is self-employed. The expectation is that the imposition of a regular deduction order will persuade the non-resident parent to agree to pay by direct debit, which incurs no administrative charge. Direct debit and DEO are the Commission's preferred methods of payment because they are the most convenient methods for most non-resident parents to use and historically have the best compliance rates. The Commission actively promotes these methods of payment.

Lump sum deduction order

An interim lump sum deduction order will instruct the deposit-taker to secure funds up to the amount of the order. A copy of the order will then be sent to the non-resident parent. The non-resident parent and the deposit-taker will then have 14 days to make representations to the Commission against the proposals in the interim order.

Once any representations have been dealt with, or after 14 days if none is made, and, unless any representations are accepted the Commission will issue a final lump sum deduction order (which may be for an amount equal to or less than the interim order) instructing the deposit-taker to deduct the funds. These funds are then transferred to the Commission after a further 21 day period during which anyone affected by the order (the deposit-taker or the non-resident parent) may appeal to a county court/sheriff against the making of the order. If an appeal is received during the 21 day period the funds will remain frozen until the appeal is resolved.

Alongside the process outlined above, from receipt of the interim lump sum deduction order until the funds are paid to the Commission the non-resident parent and the deposit-taker will be able to make an application for some or all of the specified amounts to be released from the account. The non-resident parent might make such an application where, for example, the funds are needed to prevent hardship in meeting ordinary living expenses. The deposit-taker might make such an application where, for example, the funds are being used as security against a loan. The Commission will consider any such applications and if it decides that some or all of the funds should be released it will instruct the deposit-taker to do so. Where the Commission refuses to release funds from the account the non-resident parent and deposit taker will have 21 days to appeal to the court against this decision.

Once any appeal or further appeal against the making of the order has been concluded (or after 21 days if no appeal is filed), depending on the outcome of the appeal, the Commission will either issue a prompt to the deposit-taker asking for the funds to be deducted and paid to the Commission or direct the deposit-taker to discharge the order. If there are insufficient funds to deduct the full amount, any amount available will be deducted and the order may remain in place to allow access to any further funds credited to the account. The deposit-taker may also deduct an amount up to £55 towards its administrative costs for each deduction made; this aligns with the amount a deposit taker may currently deduct for processing third party debt orders which are made by a court and follow a similar procedure.

Evidence Base for Benefits

Scenario 1

The evidence set out below has been gathered using administrative data on third party debt orders. Third party debt orders allow the Commission to take money from any source of asset the non-resident parent has, whereas deduction orders allow money to be taken from specified bank accounts and not other assets. Of the enforcement actions currently used, third party debt orders are the closest proxy for deduction orders.

The Commission has already taken steps to increase its use of existing collection and enforcement tools. However, DEOs, for example, cannot be directed at all non-resident parents who are non-compliant and take a long time to recover a large debt. The Commission has also considered the option of increasing the use of its existing enforcement tools, such as third party debt orders which require an application to be made to a court and a hearing that incurs a fee. This process creates delays for the parent with care and provides the non-resident parent with the opportunity to remove funds held in the account.

The similarities between third party debt orders and lump sum deduction orders provide a good basis for analysis. It is anticipated that there will be few regular deduction orders because these will cost the non-resident parent £10 per deduction, whereas the alternative method for making regular payments, a direct debit, would incur no extra cost.

Data was collated on all third party debt orders since January 1996 and the average amount obtained was £1,300. Capacity constraints mean that in the first few years the aim is to pursue 500 cases each month. Of these, preliminary analysis with the banks and building societies showed that 70 per cent (350 cases) had bank accounts and it is estimated that in 40 per cent of these cases it would be possible to make a deduction order because there would be sufficient money within the account. This would lead to an expected 140 successful deduction orders per month and the total annual benefit is anticipated to be close to £2.2 million. The 140 cases will be split into lump sum and regular deduction orders, with the anticipation that most will be lump sum amounts. Regular deduction orders may not prove as effective as lump sum deduction orders in recovering child maintenance but there is an increased deterrence effect in that they are expected to encourage payment by other methods.

The benefits described above assume that the legal obligation to pay child maintenance as outlined by the policy intent mean that the payments from the non-resident parent to the parent with care are counted as an economic benefit. As set out below in scenario 2, it is possible to make an alternative assumption on this which considers the payments to be a pure transfer from the non-resident parent to the parent with care and therefore not a monetisable economic benefit.

However, there are significant additional benefits in terms of the longer term impacts on children through any such redistribution of income (increased family income, improved educational attainment etc). As at August 2008 approximately 35% of parents with care were on benefit, compared to around 25% of non-resident parents.

The main related 'non-cash' benefit is an increased incentive for payment of child maintenance because of the likelihood of money being taken from non-resident parent's bank accounts. Evaluating the impact of these behavioural incentives is not possible, but the impact may affect many non-resident parents' decision making.

Summary for cash benefits:

500 cases (considered per month)
350 cases (have bank accounts, 70% of cases considered per month)
140 deduction orders (successfully applied on 40% of cases with a bank account (per month))

1,680 (successful deduction orders per annum) x £1,300 (average benefit per successful DO)

= £2.18m each year

Scenario 2

It should be noted that the economic benefits described above might be considered to be a pure transfer from the non-resident parent to the parent with care and therefore not in themselves an economic benefit. Under this scenario, the overall benefits are less easily quantifiable but concern the redistribution of money to families with children and the corresponding impact on child poverty. These contribute to better outcomes for children through increased family income, better educational attainment and so on.

Evidence Base for Costs

The costs of these measures are broken into one-off set up costs and annual running costs; these are then subdivided into costs affecting the Commission and those affecting the deposit-takers.

Commission

Set up costs

The Commission implementation costs are £213,000 for staff required to implement the policy.

Annual running costs

It is expected that eleven full time equivalent Child Support Agency staff will be required to operate the regulations and this will form the majority of the average annual costs at £440,000 (11 staff at an average cost of £40,000 each including overheads).

The training costs for the Commission are estimated to be three working days, consisting of 12 full time equivalent staff (11 members of the regulatory team and one trainer), this is estimated to be a little under £6,400 per annum. Commission staff work an average 220 working days in the year and have an annual cost of £40,000 per staff member, which includes overheads. Although the training will need to be implemented in the first year for the new regulations it is expected that further specific training will be needed in future years.

Deposit-takers

Set up costs

Deduction orders will be processed by deposit-takers, mainly banks and building societies, of which there around 280 in the United Kingdom. Each will be individually responsible for setting up the processes to enable deduction orders to be actioned. The volumes will be low in the initial phase and should require no significant expenditure except the option to train staff. Many organisations will phase in staff training as and when required and thus will not have any initial costs.

Annual running costs

Disclosure requests are where the Commission ask a deposit-taker for further information about an account held by a non-resident parent. It is estimated that 70 per cent of the 500 monthly cases will actually progress to a disclosure request. This is based on each case having accounts with on average 1.5 banks/building societies.

Relevant institutions were invited to propose estimated cost per disclosure request; the final unit cost is based upon the average of the two estimates obtained and then extrapolated to an annual amount based upon expected annual volumes. This is estimated to be £20.23 per disclosure request, 525 (that is 350 successful times 1.5 accounts per case) disclosures requests per month and an annual cost of £127,400. These costs will be placed entirely on deposit-takers.

Training costs for deposit-takers are expected to vary quite considerably based upon the likely volumes of deduction orders and disclosure requests organisations are likely to receive. Institutions were asked to provide estimates of costs of training, but there was a limited response.

Training costs have been calculated on the principle that the largest organisations (7 banks/building societies that constituted nearly 80 per cent of the market share) would provide more training to their staff and therefore incur more training costs. From these estimates it was calculated that training for 14 staff days would cost of £11,000 per annum.

Medium sized institutions are likely to receive fewer orders and therefore incur lower training expenditure. There are 5 institutions which fall into this category and the total cost for these would be just under £4,000. Finally it is estimated to be around 275 small bank and building societies across the country. There may be several amongst this group which are likely to receive no deduction orders of the annual projected 6,000 deduction orders. Many others may only receive a handful within the year hence the staff training costs for small institutions will probably not extend to over an average of 1 day of staff training per institution. Thus the total cost is estimated to be under £25,000 for all smaller organisations.

The total staff training cost to deposit-takers equates to around £40,000.

It is estimated that it will cost deposit-takers on average £22 to make each deduction through a regular deduction order. This is based on costs provided by banks and building societies encompassing both average time per regular deduction and average staff unit cost (taking into account salary and overheads). The regulations will allow them to charge their customers £10 towards these costs where a deduction is made successfully. It is estimated that this will happen 90 per cent of the time. This means that the bank or building society will be able to recover the £10 from the non-resident parent 90 per cent of the time but 10 per cent of the time it will not be able to charge the customer for costs incurred when the deduction is due.

It is estimated that regular deduction orders will comprise around 40 per cent of all deduction orders made and this equates to 56 per month. It is anticipated that on average there will be two deductions made on a regular deduction order before the non-resident parent either pays by direct debit or the order lapses because, for example, there is insufficient money in the account. Thus, it is estimated that there will be around 112 deductions

made through regular deduction orders each month. On an annual scale this equates to 1,344 cases with a total cost of just under £17,500 [134 cases (10%) x £22 and 1,210 cases (90%) x £12].

Non-resident parents

The remaining cost of this policy will be incurred by the non-resident parent. This equates to the 90 per cent of regular deduction orders (90 per cent of 1,344; or 1,210 per annum) where a deduction will be made for which they are liable to pay the £10 charged by the bank in addition to the amount of the deduction order. This equates to £12,100 for regular deduction orders. Further to this, non-resident parents will be liable to pay £55 per deduction that is made under a lump sum deduction order. It is anticipated that a deduction will be made in 60 per cent of all lump sum deduction orders made (1,008 per annum). Therefore the non-resident parent will be liable to pay £55,400 for the costs of lump sum deduction orders each year.

The total cost for the non-resident parent for regular and lump sum deduction orders which will be paid to the bank and building societies will be £67,500 per year.

Courts

Appeals against deduction orders will be heard by the courts. However, it is estimated that the volume of appeals will be outweighed by the reduction in the Commission's applications for liability orders and third party debt orders and the impact will be, at worst, cost neutral.

Summary of annual costing:

C-MEC:
Staff (11 @ £40k FTE) = £440k
Training (12 staff x 3 working days) = £6.4k
Total = **£446.4k**

Deposit-takers:
Gross Costs:
6,300 Disclosure Requests x £20.23 (unit cost per DO) = £127.4k
1,344 Regular Deduction Orders x £22 (unit cost per RDO) = £29.6k
1,008 Lump Sum Deduction Orders x £55 (cost per LDO) = £55.4k
Training Costs (varying cost per institution size) = £40k
Total = £252.4k

Reclaim Amount/Benefit:
Regular Deduction Orders (90% x 1,334 cases x £10) = £12.1k
Lump Sum Deduction Orders (1,008 x £55) = £55.4k
Total = £67.5k

Net Costs:
Gross – Reclaim Amount (£252.4k – £67.5k) = **£185k**

NRP:
Regular Deduction Orders (90% x 1,334 cases x £10) = £12.1k
Lump Sum Deduction Orders (1,008 x £55) = £55.4k
Total = **£67.5k**

Total Costs = **£699k**

Note: Deposit-takers will be able to reclaim £10 on 90 per cent of regular deduction orders (£12.1k) and £55 in 60 per cent of all lump sum deduction orders made (£55.4k). It is assumed that the cost of lump sum deduction orders is the same as the cost and charge on third party debt orders that is £55. The full cost for the non-resident parent is therefore of £67.5k.

The estimated cost for the deposit-taker in providing the service is £22 per deduction made under a regular deduction order and £55 per deduction made under a lump sum deduction order. The deposit-taker can charge the non-resident parent £10 per deduction made under a regular deduction order and £55 per deduction made under a lump sum deduction order. Therefore the deposit-taker can offset the cost of £10 per deduction made under a regular deduction order and all the cost of a deduction made under a lump sum deduction order.

Annual cost per organisation

Annual cost per organisation (small, medium and large respectively) is based on the information available on total number of banks and building societies, respective market share of each size of the organisation and expected volumes of deduction orders. There are not considered to be any institutions which could be termed micro, hence cost for micro sized organisations was considered nil.

Competition

These regulations do not pose any competition issues that affect the way in which the deposit-takers operate. The regulations do not directly or indirectly limit the number or range of deposit-takers, their ability to compete or reduce incentives to compete vigorously.

Risk

The assumptions that have been made in this impact assessment are based on the best evidence available, but these assumptions may turn out to be different from reality. The actual number of deduction orders and the type may differ from these estimates. Actual performance against these regulations will influence their usage in the future.

Compliance, Enforcement and Sanctions

The culture of deposit-takers and their dealings with government mean that it is expected that they will comply with these regulations and there are expected to be negligible costs of enforcement. However, if a deposit-taker failed to comply then the Commission would be able to prosecute, the most likely sanction being a fine.

Summary

As noted above in scenarios 1 and 2, this impact assessment recognises that there is an argument that all money passed from non-resident parents to parents with care are transfers and may not count as an economic benefit. Under this assumption the change in regulation would create quantifiable economic costs but the economic benefits would be largely unquantifiable focusing on the redistributive effects and the positive long term benefits from addressing child poverty – in line with the underlying policy intent around child maintenance and ensuring non-resident parents take responsibility. Any means of doing this more efficiently should be seen as an economic benefit and the change in regulation means using enforcement powers that are more effective but do not require recourse to the courts will reduce operating costs.

Under both scenarios the costs (of approximately £700,000) are considered to be outweighed by the wider benefits – whether the transfer to the parent with care and the consequent wider impacts on children or solely these less quantifiable elements.

Monitoring and Review

Both the costs and benefits are based upon a one year projection. After a year a further policy review is intended to take place. If proven successful an increased number of deduction orders may be carried out in the second and third years. At which stage the banks and building societies may have a better estimation of processing abilities, and the volumes can be increased accordingly. Although this will require increased staff resources for all parties involved, implementation costs will not incur in further years and the marginal benefit per deduction is therefore likely to improve.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	No

Annexes

Annex 1

Equalities Impact Assessment (Initial Screening)

Final April 09

Summary of the Child Support (Deduction Orders) (Collection and Enforcement Amendment) Regulations 2009

1. The proposed regulations are concerned with improving the flow of money to children
2. It is therefore proposed that the following amendments will be made to existing child support regulations:

Improving flow of money to children

1. The Department for Work and Pensions introduced legislation in the Child Maintenance and Other Payments Act 2008 ("the 2008 Act"), which amended the Child Support Act 1991, and established a new organisation – the Child Maintenance and Enforcement Commission (the Commission) – to take on responsibility for the delivery of the new child maintenance system from 1st November 2008.

2. One of the Commission's key proposals is to improve the collection and enforcement process in order to break down the culture of non-compliance and improve the flow of money to children. This includes the use of a new power in the 2008 Act to introduce of a new administrative tool called a deduction order to collect both regular amounts and lump sums in respect of child maintenance directly from accounts holding a non compliant non-resident parent's money.

3. The Commission already has the ability to use a deduction from earnings order (DEO) as an administrative tool to deduct child maintenance direct from a non-resident parent's earnings. However, a DEO is not always appropriate or can be ineffective because, for example, the NRP is self-employed changes jobs frequently. A deduction order will be considered only where the Commission has tried unsuccessfully to agree an alternative method of payment or effective arrangement to recover any arrears.

4. The regulations being amended are the Child Support (Collection and Enforcement) Regulations 1992.

Number of people affected

5. The current Child Support Agency caseload is 1,313,900 (at December 2008). Non-resident parents – to whom the amended regulations mainly relate – are mainly men (about 95 per cent). These figures are available to the Agency via existing management information.

6. The total number of cases in which these proposals may actually be applied will be a small proportion of the overall caseload. In the initial implementation the Commission are intending to use a small number of, dedicated staff to administer the orders. We expect that this may result in up to 140 orders being made each month.

7. The much greater impact on men is a direct consequence of more fathers living apart from their children than mothers – this is reflected in the Commission's overall caseload. We do not have any information to suggest that ethnic minority or disabled clients will be disproportionately affected.

8. The NRP will have ample opportunity to make alternative arrangements with the Commission to clear the arrears before an order is made and there a number of safeguards built into the regulations.

9. Where a regular deduction order is made the amount of the deduction will not exceed 40 per cent of the net weekly income used in the current maintenance calculation and the NRP can apply for the order to be reviewed if, for example, if the NRP has paid some of the arrears by another method. Anyone affected by the making of a RDO will have a right of appeal to a court or sheriff in Scotland against the making of the order or against a decision following an application to review the order.

10. Where a lump sum deduction order is proposed an interim order will instruct the deposit taker to secure funds up to the amount of the order. The NRP and the deposit taker will both have 14 days to make representations to the Commission in respect of the proposal specified in the interim order, and a further 21

days to appeal to a county court/sheriff against the making of the order if those representations are rejected. If an appeal is received during the 21 day period the funds will remain frozen until the appeal is resolved and any further appeal is made and proceedings concluded.

11. Alongside the process outlined above, from receipt of the interim order until the funds are paid to the Commission the account holder and the deposit taker will be able to make an application for some or all of the specified amounts to be released from the account. The NRP might make such an application where, for example, the funds are needed to prevent hardship in meeting ordinary living expenses. The Commission will consider any such applications and if it decides that some or all of the funds should be released it will instruct the bank or building society to do so. The account holder or deposit taker has 21 days to appeal to the court against the Commission's decision not to release funds from the date of that decision.

Scale and cost

12. The impact within the public sector is primarily on the Commission who will be responsible for administering the orders and costs will be relatively low because the teams will be dealing with a small number of cases. In some cases a deduction order will be used in place of other enforcement action requiring a liability order, such as a third party debt orders, and the number of these is expected to reduce over time. Financial institutions, who will be responsible for processing the orders, will be able to deduct from the non-resident parent's account up to £55 for a lump sum deduction and up to £25 for each regular deduction towards administration costs. There is no evidence to suggest that there will be any disproportionate impact on gender, race, disability age or sexual orientation.

Profile

13. The proposed regulations attract the affirmative Parliamentary procedure and will be the subject of Parliamentary debate. Although customer forms require technical amendments there are no specific plans for further communication. The regulations will be implementing powers taken in the 2008 Act following the publication of the White Paper "A new system of child maintenance" in 2006.

14. It should be noted that there is no evidence to suggest that there will be any disproportionate impact on parents on the basis of gender, race or disability – all NRPs will be affected equally by the proposed changes to the regulations.

Conclusion

15. These proposals are comprised of amendments to areas of secondary legislation. There is no evidence to support a disproportionate impact on ethnic minority or disabled groups; and we contend that the high impact on men is a direct consequence of the composition of the Child Support Agency's overall caseload and is therefore justifiable.

16. Based on the outcome of the initial screening, we do not consider it necessary to carry out a full impact assessment at this time.

Contact details for officer responsible:

Lesley Crafer
Telephone: 020 7853 8071
Email: Lesley.Crafer@childmaintenance.gsi.gov.uk

Annex 2

Administrative Burdens

1. Using the standard cost model the calculation of administrative burdens on business is detailed below. These burdens look at the amount of information obligations that are made to deposit-takers. This differs from the administrative costs above as these use estimates provided by bank and building societies, including overheads, calculated in a different manner from admin burdens below.

   Admin Cost = internal costs (£) + external costs (all at 2005 prices)

   Internal costs = Price (£) x Quantity + overheads (non-wage costs)

   = (£6.21 x 7,980) + £14,867

   = £64,423

   Price = £8.28 x 45 mins = £6.21 (obtained from 2005 price estimates on staff costs minus overheads)

   Quantity = (LDO + RDO + Disclosure Requests) x frequency = 1,008+672+6,300 = 7,980

   Overheads = (Price x Quantity) x 30% = £14,867

   External costs = external services (£) + external goods (£)

   = £0

   Administrative Burden = £64,423

Annex 3

Small Firms Impact Test

1. These regulations impact the banking sector which is predominantly made up of larger firms and institutions. They are therefore unlikely to impose a burden on small businesses.

2. However, in January 2008 DWP consulted members and trade associations on the Department for Business, Enterprise and Regulatory Reform's Small Firms Consultation Database about its plans to use regular deduction orders on sole trader business accounts. Views were invited on how they could be implemented with minimum inconvenience to business. The Department received one single response to this consultation which was supportive of its plans.

Annex 4

Human Rights Test

1. As a result of the draft regulations article 8 of the ECHR (right to respect for private and family life) may be engaged in certain individual cases. In these cases any potential breach is justifiable on the basis that information about the non-resident parent will only be requested from deposit-takers where an account has already been identified by the Commission.

2. Further to the information set out above the Commission believes that any potential breach of article 8 of the European Convention on Human Rights (right to respect for private and family life) is justifiable in the wider public interest and for the protection of the rights and freedoms of the parent with care and qualifying children in ensuring that non-resident parents meet their financial obligations to their children.