

EXPLANATORY MEMORANDUM TO
THE CHILD SUPPORT (MISCELLANEOUS AMENDMENT) REGULATIONS 2008

2008 No. 536

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. Description

2.1 This is a package of miscellaneous amendments to legislation relating to child support maintenance payments. The provisions amend regulations governing both the old and new schemes.

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

3.1 None

4. Legislative Background

4.1 This is a set of negative regulations made under powers in the Child Support Act 1991 (“the 1991 Act”).

4.2 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.

4.3 In this memorandum, 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 new scheme”.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

Policy

7.1 Child Support legislation is focused around the general principle that all parents take financial responsibility for all of their children. Child maintenance is an amount of money that parents who do not normally live with the children concerned (referred to as “absent parent” in the old scheme and “non-resident parent” in the new scheme) pay as a contribution to the upkeep of their children (these are called “qualifying children”).

7.2 In the old scheme, a formula is used to work out how much child maintenance is payable by the absent parent. It takes into account the number and ages of the qualifying children. The

ability of both parents to contribute towards child maintenance is calculated unless the parent with care (the main provider of day-to-day care of the qualifying children) is in receipt of benefit. Ability to pay is calculated by looking at the income available to parents after making allowances for their basic day-to-day expenses. Absent parents are normally expected to pay at least a minimum amount of maintenance for their children (currently £6.00 a week), but there are some exceptions, including those in receipt of certain sickness and disability benefits.

7.3 In the new scheme, the child maintenance calculation is based on a simple system of rates depending on the non-resident parent's weekly net income or benefit status. The amount of child maintenance depends on:

- the number of qualifying children the child maintenance is for;
- the non-resident parent's income and circumstances; and
- the number of other children living with the non-resident parent (these are called "relevant other children").

In most cases the amount of maintenance is worked out as a percentage of the non-resident parent's income – 15% for one qualifying child, 20% for two children and 25% for three or more children. For non-resident parents who do not earn very much or who are in receipt of certain benefits, the reduced rate or flat rate (usually £5 a week) is used. Some non-resident parents, such as students and those on benefit sharing the care of a qualifying child, may pay nothing.

7.4 The 1991 Act allows the Secretary of State to make a deduction from earnings order, whereby child support maintenance is collected direct from a non-resident parent's earnings, without the need for a court order. This is usually in circumstances where the non-resident parent has failed to make payments or otherwise is refusing to co-operate with the Child Support Agency ("the Agency"). A deduction from earnings order may be made in respect of ongoing maintenance, arrears of maintenance, or both.

7.5 Sir David Henshaw's report into the future of the child support system has recommended sweeping policy and operational changes. Indeed, Sir David has recommended, and the Government has agreed, that the Child Support Agency should be abolished and existing clients asked to reapply to an entirely new system. The Child Maintenance and Other Payments Bill, currently before Parliament, is intended to create the Child Maintenance and Enforcement Commission ("the Commission") and make a number of changes to the statutory child maintenance scheme. However, it is still vitally important that the Agency is given the most up-to-date and effective means of operating successfully in the time before these changes take place.

7.6 The Child Support (Miscellaneous) (Amendment) Regulations 2008 make amendments to two sets of regulations. The provisions amend regulations governing both the old and new schemes.

Regulation 2 – Amendment of the Child Support (Information, Evidence and Disclosure) Regulations 1992 (SI 1992/1812)

7.7 Currently, the Child Support (Information, Evidence and Disclosure) Regulations 1992 allow the Secretary of State to require the Driver and Vehicle Licensing Agency (DVLA) to furnish information for the purposes of tracing a non-resident parent.

7.8 The amendment will increase the purposes for which the Agency can request information from the DVLA to include collection and enforcement. The information will be provided from the DVLA's two databases; Driver Licensing and Vehicle Registration.

7.9 The amendment will enable the Agency to meet strategic objectives and support trace, debt enforcement and legal enforcement activity. At present the Agency may only use DVLA databases for trace purposes, this information is available from the Vehicle Registration database. The amendment will allow the Agency to utilise DVLA databases for collection and enforcement

purposes, this will enable the Agency to use more detailed information that is held on the Driver Licensing database. Using information from both databases. will increase compliance, free-up resources, reduce processing times and support longer term aims of reducing uncleared work to acceptable levels by 2009, as outlined in the Agency's Operational Improvement Plan.

7.10 Currently, the Child Support (Information, Evidence and Disclosure) Regulations 1992 allow the Secretary of State to require credit reference agencies to furnish information for the purposes of identifying and tracing a non-resident parent, assessing the financial standing of a non-resident parent and for recovering overpaid child maintenance payments from parents with care.

7.11 The amendment will increase the purposes for which the Agency can request information from credit reference agencies to include collection and enforcement, and in particular to support payment of arrears of child maintenance. Credit reference agencies are able to provide bank account information; access to this information will support the implementation of Third Party Debt Orders and of deduction orders, as proposed in the Child Maintenance and Other Payments Bill. In addition credit reference agencies are able to provide details relating to the NRP's main financial commitments, including utilities, loans and subscriptions. The Agency would want to make use of such information for the purposes of debt negotiation with the non-resident parent. This amendment supports Agency strategy, in the second year of the Operational Improvement Plan, to focus on the collection and enforcement of child maintenance.

7.12 The amendment will also compel deposit-takers to provide the Secretary of State with information for certain purposes where requested to do so, as "deposit-takers" are added to the list of those under a duty to 'furnish information or evidence'.

7.13 Information held by a deposit-taker about a non-resident parent is to be available to the Agency for the purposes of tracing non-resident parents and collecting and enforcing the payment of child maintenance. Currently the Agency relies on the use of inspectors to gather this information, which involves the inspector visiting the institution and seizing the documents. The amendment will allow the Agency to gather this information administratively by issuing a request to the deposit-taker. The institution will be legally obliged to respond and may be guilty of an offence should they fail to do so.

7.14 The amendment does not specify exactly what information the Agency can request, but in practice it is likely to be the name and address of the non-resident parent and details of an employer who makes direct credits to the person's account. In some cases it may be a request for details of any account(s) held. One of the Agency's most effective tools for ensuring that child maintenance is paid is the deduction from earnings order, approximately 10,000 of which fail each month. Establishing a non-resident parent's employer details direct from their bank will help the Agency re-impose a failed deduction from earnings order more rapidly. Details of any account(s) held by a non-resident parent will improve the Agency's ability to successfully negotiate payment of arrears, and could be useful for the purposes of obtaining third party debt orders.

Regulation 3 - Amendment of the Child Support (Collection and Enforcement) Regulations 1992 (S.I. 1992/1989)

7.15 The Secretary of State decides which method of collection shall apply after considering representations from the non-resident parent and the parent with care. In cases where the non-resident parent fails to respond or to make payments as directed, the Secretary of State considers making a deduction from earnings order. It is an offence for an employer not to take all reasonable steps to comply with a deduction from earnings order. The employer can levy an administrative charge, of up to £1 for each deduction, for operating a deduction of earnings order.

7.16 Regulation 15(2) of the Child Support (Collection and Enforcement) Regulations 1992 requires a liable person to notify the Secretary of State in writing within 7 days of every occasion on which he leaves employment or becomes employed or re-employed. However, the liable person is not immediately required to notify the name and address of their new employer.

7.17 In these cases the existing deduction from earnings order will fail and maintenance paid to the parent with care will stop. The Agency will then need to take action to trace the liable person, renegotiate maintenance and re-impose a deduction from earnings order. This amendment will enable the Agency to do this more efficiently by requiring the non-resident parent to notify the Secretary of State of the name and address of their new employer.

7.18 Regulation 15 of the Child Support (Collection and Enforcement) Regulations 1992 will be replaced with the provision in regulation 3(2). The power in the current regulation 15(1), which allows the Secretary of State to require relevant details be provided by a non-resident parent, is essentially already available to the Secretary of State pursuant to the Child Support (Information, Evidence and Disclosure) Regulations 1992 and is therefore not required. Replacing regulation 15 as a whole with the provision detailed in regulation 3(2) will simplify the regulations and reduce any confusion about the information seeking powers relied on by the Secretary of State when requesting information be provided. It sets out clearly the duty to notify which is imposed on any person in respect of whom a deduction from earnings order is in force.

Consultation

7.11 The British Bankers' Association, the Building Societies Association, credit reference agencies and the Driver and Vehicle Licensing Agency have been consulted on these amendments. The DVLA has not expressed any opposition to this extension and the Agency is continuing to work with them to establish how this policy will work in practice once the regulations are in place. Credit reference agencies are supportive of the policy to extend the purposes for which we can request information, and the Agency is currently working on a project with Experian, a credit reference agency, to increase and enhance the Agency's use of their data. More information on consultation with the British Bankers' Association and the Building Societies Association is available in the associated Impact Assessment (link below).

Guidance

7.12 The Agency is developing a communication strategy to ensure that its clients are kept informed of the changes, which will include discussions with key stakeholders and amending relevant leaflets and web-based guidance when the changes are due to be brought into force.

Consolidation

7.13 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. Impact

8.1 An Impact Assessment has been produced for the addition of deposit-takers to the list of organisations under a duty to 'furnish information or evidence.' It can be found at <http://www.dwp.gov.uk/resourcecentre/ria.asp> or obtained from the CSA Policy Team, Department for Work and Pensions, 5th Floor Caxton House, Tothill Street, London SW1H 9NA.

9. Contact

Laura Norris at the Child Support Agency, telephone 020 7340 4273 or e-mail laura.norris@dwp.gsi.gov.uk can answer any queries regarding this instrument.

Summary: Intervention & Options

Department /Agency: Child Support Agency (Department for Work and Pensions)	Title: Impact Assessment of The Child Support (Miscellaneous Amendment) Regulations 2008	
Stage: Final	Version: #1	Date: 28 February 2007
Related Publications:		

Available to view or download at:

<http://www.dwp.gov.uk/resourcecentre/ria.asp>

Contact for enquiries: Laura Norris

Telephone: 020 7340 4163

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

Many non-resident parents seek to evade their responsibility to pay child maintenance. One of the Child Support Agency's most effective tools for ensuring that child maintenance is paid is the deduction from earnings order (DEO). However, an average 8,500 DEOs fail in any given month without alternative payment methods being arranged, usually because the non-resident parent has changed employer. In these cases the Agency needs rapidly to identify the new employer and impose a new DEO. We believe that banks can provide us with the information needed to re-instate 2,500-3,400 DEOs every month.

What are the policy objectives and the intended effects?

The primary policy objective is to contribute towards the Child Support Agency's targets to help 200,000 more children to benefit from maintenance payments, which equates to an additional £250m in child support maintenance collected, and to reduce the number of non-resident parents that avoid their child maintenance liabilities, by improving case compliance to 80%, by March 2009.

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

1. No intervention - continue using current provision to gather information by means of an inspector
2. To add banks and building societies to the bodies required to provide the Agency with specific information about a non-resident parent on request.
3. To add VocaLink to the bodies required to provide the Agency with specific information about a non-resident parent on request.

Option 2 is the preferred option. The effectiveness of option 1 is limited, and banks have indicated a preference for option 2 over option 3.

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

At the end of 3 years

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

James Plaskitt.....Date: 27.02.08

Summary: Analysis & Evidence

Policy Option: 2

Description: To add banks and building societies to the bodies required to provide CSA with specific information about a non-resident parent on request

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ 0	3	Banks and building societies would have to bear the administrative cost of providing the Agency with the required information.
	Average Annual Cost (excluding one-off)		
£ 189,144		Total Cost (PV)	£ 490,169
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ 0	3	The Child Support Agency will benefit from reduced costs.
	Average Annual Benefit (excluding one-off)		
£ 802,456		Total Benefit (PV)	£ 2,079,575
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks

This assumes that there will not be a significant rise in the number of failed DEOs each month. Key sensitivities surround ECHR and DPA compliance.

Price Base Year 2008	Time Period Years 3	Net Benefit Range (NPV) £ 1,598,406	NET BENEFIT (NPV Best estimate) £ 1,598,406
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What is the geographic coverage of the policy/option?	United Kingdom			
On what date will the policy be implemented?	6 th April 2008			
Which organisation(s) will enforce the policy?	Child Support Agency			
What is the total annual cost of enforcement for these organisations?	£ n/a			
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	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ 490,169	Decrease of	£ 2,079,575
		Net Impact	£ 1,598,406

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

Evidence Base (for summary sheets)

[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.]

Objectives

Tackling child poverty is a key priority for the Department for Work and Pensions (DWP), which is in the frontline in efforts to meet the Government's targets of halving child poverty by 2010 and ending it completely by 2020.

The system administering child maintenance has a key role to play in achieving these goals, and the receipt of child maintenance payments currently helps to lift around 100,000 children out of poverty, but it could do more. The Child Support Agency's Operational Improvement Plan, published in February 2006, sets targets for the Agency, by March 2009, to help 200,000 more children to benefit from child support maintenance payments, which equates to an additional £250m in child support maintenance collected, and to reduce the number of non-resident parents that avoid their child maintenance liabilities, by improving case compliance to 80%.

Amendments to the Child Support (Information, Evidence and Disclosure) Regulations 1992 (S.I. 1992/1812) could contribute to meeting these objectives. The evidence base for this is set out below.

Background

Many non-resident parents seek to evade their responsibilities, and the total amount of outstanding money owed by non-resident parents in respect of their children is around £3.5bn. In many cases the Agency has difficulties both in tracing the non-resident parent and in subsequently identifying income and recovering maintenance from non-resident parents that have not paid the maintenance due to support their children.

The Agency has a number of tools and information sources available to enable the effective and efficient identification and tracing of the non-resident parent in the majority of cases. However, there are a minority of non-resident parents that take steps to avoid their child support liabilities by seeking to ensure that the Agency cannot trace them in order either to calculate maintenance or to enforce a maintenance calculation previously made.

One of the Child Support Agency's most effective tools for ensuring that maintenance is paid by previously non-compliant non-resident parents is the deduction from earnings order (DEO), whereby child support maintenance payments, and usually a contribution towards arrears of such, are deducted by the non-resident parent's employer from his or her salary/wages. Over 75% of DEOs are compliant so they are generally an effective means of ensuring that child support maintenance is paid.

However, an average of 8,500 DEOs fail every month. Of these, approximately 30%-40% (2,500-3,400) neither move to another payment method nor see the non-resident parent move onto benefits. It is these cases in which the Agency requires additional information in order to identify the new employer and impose a new DEO to ensure that child support maintenance may start flowing again.

Rationale for Government Intervention

The Government is committed to ensuring that parents fulfil their responsibilities towards their children, and some may deliberately evade fulfilling their responsibilities. It is in the best interests of the child for the Government to enforce the payment of child maintenance in the most efficient way that it can.

In cases where a DEO fails and the non-resident parent does not advise the Agency of new employment details, the CSA needs to be able rapidly to identify the new employer and impose a new DEO. In most cases where the Agency requires information in order to calculate or collect maintenance, it will be able successfully to utilise its current sources. However, in cases where such information is likely only to be held by the non-resident parent's bank, as is the case in this instance, the Agency needs to be able to ask the bank for that information. The majority of accounts into which salaries or wages are paid are maintained by banks rather than building societies, so the amendments to the Child Support (Information, Evidence and Disclosure) Regulations 1992 will primarily affect banks, although a small number of building societies may also be affected.

Banks are a key source of relevant and reliable information on a large proportion of non-resident parents – around 88% of employed non-resident parents have their salaries paid by direct transfer and around 71% of state benefits are paid in this way. Employer details needed to process salaries will help the Agency to re-impose and maintain DEOs and potentially to prosecute those non-resident parents who fail to provide us with details of their new employer.

This package of regulations also extends the information that a non-resident parent whose child support maintenance is payable by DEO must provide to the Agency if the employer changes. Failure to notify the Agency of this information within seven days of the change is an offence, punishable on summary conviction by a fine not exceeding level two on the standard scale. It is hoped that, by enforcing this requirement, over time the Agency will be able to reduce the number of DEOs that fail as a result of a change of the non-resident parent's employer because increasing numbers of non-resident parents will comply with the requirement to notify the Agency in order to avoid committing an offence.

The Agency has a number of tools and information sources available to enable the effective and efficient identification and tracing of the non-resident parent in the majority of cases. However, there is a minority of non-resident parents that take steps to avoid their child support liabilities by seeking to ensure that the Agency cannot trace them in order either to calculate maintenance or to enforce a maintenance calculation previously made. In some of these cases, if the Agency is able to identify the non-resident parent's bank account details through other information sources, being able to request details of the non-resident parent's home address or employer details would enable the Agency to make contact with the non-resident parent and seek to get child support maintenance flowing to the parent with care as quickly as possible.

Options Considered

1. Do nothing.

In some circumstances the Agency is currently able to gather information needed from deposit takers by use of an inspector, exercising his powers under Section 15(4A)(c) of the Child Support Act 1991. The Agency could continue to use this power.

Advantages

There would be no administrative changes for the Agency or for deposit takers, therefore avoiding the need for implementation costs and training.

Disadvantages

The effectiveness of this approach is limited because it requires an inspector to visit premises and seize documents, which is costly, time consuming and not always successful.

The practical limitations and relative costs (to the Agency and the holder of the premises inspected) of this approach would prohibit its use and effectiveness in ensuring that failed DEOs are quickly re-established.

Taking these factors into account, it is disproportionate to use inspectors on each occasion where the Agency would otherwise wish to exercise a power to request information directly from the non-resident parent's bank.

2. Add banks and building societies (defined as "deposit-takers" in the regulations) to the bodies required to provide the Agency with specific information about a non-resident parent on request, for the purposes of identifying or tracing the non-resident parent, or for the collection and enforcement of the non-resident parent's liability for child support maintenance.

Advantages

Having this power available as an administrative function would release resources and expenditure currently required to operate the system of inspection of premises, and support the trace and enforcement processes:

- Trace: Banks could be required to provide the Agency with the home address, home telephone, mobile telephone, work telephone and/or employer details they hold in relation to the non-resident parent which are necessary to enable the Agency to contact the non-resident parent; and
- Enforcement: Establishing the details of any employer that is making direct credits to the non-resident parent's account will enable the Agency to contact that employer and set-up a DEO to ensure that child support maintenance continues to be paid. Additionally, details of the non-resident parent's specific account information, such as a significant sum in an account, in some cases could improve the Agency's ability to successfully negotiate payment of arrears or, subject to further discussion, to secure a Third Party Debt Order.

The Child Support (Information, Evidence and Disclosure) Regulations 1992 provide a ready mechanism for the Agency to require the provision of information.

This proposal was discussed with the British Banking Association (BBA) on 2 November 2006. The BBA indicated that, if such information is required by the Agency, this would be their preferred option.

The collection of data from banks is not without precedent. Section 109B(2A) of the Social Security Administration Act 1992 allows an officer authorised by the Secretary of State to require the provision of information from banks, credit reference agencies and other bodies for the purposes of investigating social security fraud.

Disadvantages

This policy will impose administrative costs upon those deposit takers that are required to provide the Agency with the information requested, although the Agency will aim to reduce such costs – for example by providing pre-paid envelopes for responses – there will still be costs in terms of staff time. There will also be a one-off cost of introducing the new procedure e.g. training.

This will also apply to the Agency, although it is expected that the cost of this will be less than the current use of inspectors to gather such information.

3. Amend the Child Support (Information, Evidence and Disclosure) Regulations 1992 to compel VocaLink to give the Agency specific information about a non-resident parent upon request

This option was discounted after discussion with the BBA. The information used by VocaLink is owned by the banks, and as such the banks could choose to use VocaLink in order to provide the Agency with the information requested. We believe that the banks should be given the flexibility to provide the Agency with information in the way they consider most efficient, rather than be prescriptive.

Analysis of Costs and Benefits/Impact on business – average annual cost per organisation

The cost and impact on business of these regulations has been estimated using the Standard Cost Model, which provides a simplified but consistent framework for assessing the administrative costs imposed by regulation on business. Costs have been worked out for 3 years, at which point the policy will be reviewed.

Costs – formula used

Administrative cost = internal costs (£) + external costs (£)

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

Price = tariff x time

Quantity = population x frequency

Overheads = (Price x Quantity) x 30%

Tariff is the hourly wage costs for activities carried out

Time is the amount of time required to complete the activity

Population is the number of businesses affected (we have worked out the cost for the sector as a whole)

Frequency is the number of times that an activity must be completed each year by a business

Costs – per annum

Price	=	8.28 x 0.5	=	4.14
Quantity	=	1 x 42,600	=	42,600
Overheads	=	176,364 x 30%	=	12,780

Internal costs = 4.14 x 42,600 + 12,780 = £189,144

External costs – there are no external costs associated with these regulations

Administrative cost = £189,144

Over 3 years this represents a cost (at Present Value) of £490,169

Impact on the public sector

Powers to require deposit takers to provide the Agency with specific information upon request would lead to more efficient enforcement of child maintenance payments as the Agency would be able to gather the information needed to impose a DEO on a non-compliant non-resident

parent more quickly. In the long run this will reduce the number of non-resident parents who 'job-hop' in order to avoid paying maintenance.

There will also be a financial benefit as the administrative cost of the new procedure will be lower than the use of inspectors.

Cost benefits to the Public Sector

Using the Standard Cost Model formula as detailed above it is estimated that the current cost to the Agency to gather the required information from banks is £917,092. Using the powers provided by these regulations the cost is anticipated as £114,636. This represents a saving of £802,456. Benefits have been worked out for 3 years, at which point the policy will be reviewed.

Current Cost

Price	=	8.28 x 2	=	16.56
Quantity	=	1 x 42,600	=	42,600
Overheads	=	705,456 x 30%	=	211,636
Internal costs	=	16.56 x 42,600 + 211,636	=	£917,092

Anticipated Cost

Price	=	8.28 x 0.25	=	2.07
Quantity	=	1 x 42,600	=	42,600
Overheads	=	88,182 x 30%	=	26,454
Internal costs	=	2.07 x 42,600 + 211,636	=	£114,636

Potential Saving

£917,092 - £114,636 = **£802,456**

Over 3 years this represents a benefit (at Present Value) of £2,079,575

Risk, uncertainty and unintended consequences

The financial impact on the private sector is based on the assumption that the number of failed DEOs without alternative payment methods being put in place remains steady, at an average of 2,500-3,400 per month which would be likely to require contact with the banks. The increased focus on enforcement in the final year of the Agency's Operational Improvement Plan is likely to result in a greater number of DEOs being used, which in turn could lead to greater numbers of failed DEOs. However, plans to mitigate this, such as greater sanctions on employers who fail to comply with DEOs, and increased liability on the non-resident parent paying by DEO to inform the Agency of relevant changes, are in place.

There is a small risk of challenge under Article 8 of the European Convention on Human Rights (right to private and family life). However, we believe that the policy is justifiable in the wider public interest and the interests of the parent with care and qualifying children in ensuring that non-resident parents meet their financial obligations to their children.

Implementation

What will we ask for and how will we ask for it?

The Agency intends to use this power for two main purposes

1. Enforcement e.g. acquiring employer details of a non-resident parent
2. Trace e.g. acquiring address details of a non-resident parent

It is envisaged that, if the Agency had reason to believe that a particular bank or building society held information about a non-resident parent, it will be able to request the information in the same way that it currently does for employers, i.e. issuing a form to the bank or building society in question, highlighting the legal authority for making the request and specifying what information about the non-resident parent is needed. In practice it is likely to confirm the name and address of the non-resident parent and request any details of the person's employer which can be obtained from the account information held by the bank. It may also request further information in relation to accounts held, such as any significant sum held in an account, in appropriate cases. We do not expect to request details of account numbers.

An example of a form sent to an employer is attached at Annex A – we anticipate that the form to be issued to banks would follow a similar format.

The Agency would ask the bank or building society to return the form within seven working days, providing a pre-paid envelope for this purpose.

These arrangements would be subject to consultation with the BBA and Building Societies' Association on behalf of the deposit takers, and kept under review to ensure that it remained effective for both the Agency and those responding to information requests.

Volumes

Enforcement - The number of failed DEOs averages 8,500 per month. Of these, approximately 30%-40% (2,500-3,400) neither move to another payment method nor see the non-resident parent move onto benefits. It is in these cases where the Agency requires additional information in order to identify the new employer and impose a new DEO to ensure that child support maintenance may start flowing again. The Agency would therefore be likely to want to seek relevant information from deposit takers in such cases where it also holds – or is able to obtain through other data sources such as the parent with care or credit reference agencies – details of the non-resident parent's bank and branch (or sort code) and account number. Additionally, details of the non-resident parent's specific account information, such as a significant sum in an account, in some cases could improve the Agency's ability to successfully negotiate payment of arrears or, subject to further discussion, to secure a Third Party Debt Order. Currently the Agency secures around 155 Third Party debt orders each month. It is anticipated that requests to deposit takers for information to secure a third party debt order will not exceed this number.

Trace - Given the other information sources available to the Agency we anticipate that the requests made to banks for the purpose of tracing the non-resident parent will be negligible and likely to be contained within the numbers given above in relation to enforcement.

Enforcement

The Agency will be responsible for enforcing this policy. The proposed changes would place a legal obligation on deposit takers to give the Agency information it requires. Under Section 14A(2) and (3) of the Child Support Act 1991 it is an offence for any person required to provide information to:

- Make a statement or representation which he or she knows to be false;
- Deliberately provide false information or allow others to provide it; or
- Fail to provide information when the Agency asks for it.

A person found guilty of an above offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale – currently £1,000.

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	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
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	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	Yes
Rural Proofing	No	No

Annexes

Small firms impact test

It is possible that the administrative cost of providing this information will be too great for the smallest deposit takers to bear, and it could mean that they are less able to offer competitive deals due to the administrative costs associated with the policy. However, in accordance with their size and relative customer base, the smaller institutions are less likely to receive requests for information from the Agency.

Human Rights

There is a small risk of challenge under Article 8 of the European Convention on Human Rights (right to private and family life). However, we believe that the policy is justifiable in the wider public interest and the interests of the parent with care and qualifying children in ensuring that non-resident parents meet their financial obligations to their children.