STATUTORY RULES OF NORTHERN IRELAND

2016 No. 390

FAMILY LAW

CHILD SUPPORT

The Child Support (Deduction from Earnings Orders, Amendment and Modification and Miscellaneous Amendments) Regulations (Northern Ireland) 2016

Made - - - -	*28th October 2016*
Coming into operation	*18th November 2016*

The Department for Communities makes the following Regulations in exercise of the powers conferred by Articles 29(2) and (3), 32(1), (2)(n) and (5), 47(1) and 48(4) of the Child Support (Northern Ireland) Order 1991(**1**), and now vested in it(**2**), and section 36(1) and (2) of, and paragraphs 5 and 6(1) and (2) of Schedule 2 to, the Child Maintenance Act (Northern Ireland) 2008(**3**).

Citation, commencement and cessation

1.—(1) These Regulations may be cited as the Child Support (Deduction from Earnings Orders, Amendment and Modification and Miscellaneous Amendments) Regulations (Northern Ireland) 2016 and come into operation on 18th November 2016.

(2) Regulations 2, 3, 4 and 6 cease to have effect on 22nd May 2021, and the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**4**) apply thereafter as if the amendments made to them by regulation 2 had not been made.

Amendment of the Child Support (Collection and Enforcement) Regulations

2. In regulation 20(1)(**5**) of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 (discharge of deductions from earnings orders)—

(**1**) S.R. 1991/2628 (N.I. 23); Articles 29(2) and (3) were amended by Section 1(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (C. 4 (N.I.))
(**2**) See Article 8(b) of S.R. 1999 No.481 and Section 1(7) of the Departments Act (Northern Ireland) 2016 (C. 5(N.I.))
(**3**) 2008 (C. 10 (N.I.))
(**4**) S.R. 1992 No. 390; relevant amending Regulations are S.R. 1995 No. 162, S.R. 2001 No. 15, S.R. 2012 No. 438 and S.R. 2014 No. 193
(**5**) Regulation 20(1) was amended by Regulation 4(9) of S.R. 1995 No. 162, Regulation 3(14) of S.R. 2001 No. 15, Regulation 4(5) of S.R. 2012 No. 438 and Regulation 2(7)(a) of S.R. 2014 No. 193

(a) omit "or" after sub-paragraph (f); and

(b) after sub-paragraph (g) add—

"; or

(h) it is appropriate to discharge the order in a case where liability has ceased to accrue under the maintenance assessment or maintenance calculation in respect of which the order is made because the power under paragraph 1(1) of Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008 (power to require a decision about whether to stay in the statutory scheme) has been exercised in relation to the case.".

Modification of the Child Support (Collection and Enforcement) Regulations

3.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 are modified as follows in relation to a case in which liability to pay child support maintenance is calculated in accordance with Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991(**6**) (calculation of weekly amount of child support maintenance) as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 (calculation by reference to gross weekly income).

(2) Regulation 7(1) (notice to liable person as to requirements about payment) has effect as if—

(a) in sub-paragraph (e)(**7**) after "child support maintenance" there were inserted "calculated in accordance with Part 1 of Schedule 1 to the Order as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 ("the new scheme rules")"; and

(b) after sub-paragraph (e) there were inserted—

"and

(f) the amount of any payment of child support maintenance calculated otherwise than in accordance with the new scheme rules which is overdue and which remains outstanding ("the old scheme arrears"), where the old scheme arrears have been transferred to the computer system on which cases where child support maintenance is calculated under the new scheme rules are administered by the Department.".

(3) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 have effect as if after Part IV (liability orders) there were inserted—

"Part V

Segment 5 cases

Modifications in relation to certain segment 5 cases

36.—(1) These Regulations have effect with the following modifications in relation to a case where—

(**6**) Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991 is substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and amended by paragraph 12 of Schedule 24 to the Civil Partnership Act 2004 and Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008

(**7**) Sub-paragraph (e) was added by Regulation 3(6)(a) of S.R. 2001 No. 15 and amended by Regulation 2(5)(a) of S.R. 2014 No. 193

(a) the person with care, non-resident parent and qualifying child were the person with care, non-resident parent or absent parent and qualifying child in relation to an existing case ("the previous case") where—

(i) notice has been given under regulation 5(2) of the Ending Liability Regulations (exercise of choice as to whether or not to stay in the statutory scheme) specifying a liability end date determined in accordance with regulation 6(1)(b) of those Regulations(**8**);

(ii) on the date on which the notice was printed by the Department the case was a segment 5 case (which has the meaning given in the scheme prepared by the Department under regulation 3(1) of the Ending Liability Regulations (as revised from time to time))(**9**); and

(iii) the notice was sent on or after 23rd May 2016; and

(b) an application for a maintenance calculation is made before the liability end date in the previous case.

(2) Regulation 3 (method of payment) has effect as if—

(a) paragraphs (3) to (8) were omitted;

(b) in paragraph (9) the definitions of "family" and "relevant employer" were omitted.

(3) Regulation 4(1)(b) (payments to be scheduled over reference period) has effect as if the word "equal" were omitted.

(4) Regulation 20 (discharge of deduction from earnings orders) has effect as if—

(a) in paragraph (1) after "(1A)" there were substituted "or (1B)";

(b) in paragraph (1) after sub-paragraph (h) there were inserted—

"; or

(i) the liable person receives any benefit prescribed under paragraph 4(1)(b) of Schedule 1 to the Order for the purposes of paragraph 4 of that Schedule;"

(c) after paragraph (1A) there were inserted—

"(1B) This paragraph applies where—

(a) the Department has specified that a portion of the child support maintenance payable is to be paid by a method of payment listed in regulation 3(1)(a) to (g);

(b) the liable person has made payments by the method specified for such period as the Department considers appropriate in the circumstances of the case; and

(c) the Department considers it is reasonable to discharge the order in the circumstances of the case.".

(5) In regulation 22 (appeals against deduction from earnings orders)—

(a) in paragraph (2), omit "subject to paragraph (2A),";

(b) omit paragraphs (2A), (3A) and (5);

(c) in paragraph (3), omit "subject to paragraph (3A),";

(d) in paragraph (4), omit "subject to paragraph (5),".

(**8**) Regulation 6(1)(b) is amended by Regulation 5 of these Regulations

(**9**) The scheme is available on https://www.communities-ni.gov.uk/publications/child-support-scheme-timing-and-related-matters-relation-ending-liability-existing . A paper copy may be obtained from the Department