STATUTORY RULES OF NORTHERN IRELAND

2016 No. 208

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT

The Social Security, Child Support and Mesothelioma Lump Sum Payments (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*11th April 2016*
Laid before Parliament	*14th April 2016*
Coming into operation in accordance with regulation 1	

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by Articles 22(2A), (2C) and (4)(**1**) (as substituted by section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**2**)), 22(3A), (3C) and (5)(**3**) (as it has effect apart from section 10 of that Act) and 48(4) of the Child Support (Northern Ireland) Order 1991(**4**), Articles 13(2A) and (5) and 28(3) of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**5**) and Articles 2(2), 10(1), 13(3A) and (5A) and 74(3), (5) and (6) of the Social Security (Northern Ireland) Order 1998(**6**) and sections 4(2), 5(1A) and (4) and 9(1) and (2) of the Mesothelioma, etc., Act (Northern Ireland) 2008(**7**).

These powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(**8**).

(**1**) Article 22 was substituted by Article 42 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraphs (2A) and (2C) are inserted by paragraph 2 of Schedule 11 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)).
(**2**) 2000 c. 4 (N.I.); section 10 of that Act amended Article 22 of the Child Support (Northern Ireland) Order 1991 in relation to certain cases only, *see* Article 3 of S.R. 2003 No. 53 (C. 4).
(**3**) Paragraphs (3A) and (3C) are inserted by paragraph 3 of Schedule 11 to the Welfare Reform (Northern Ireland) Order 2015
(**4**) S.I. 1991/2628 (N.I. 23).
(**5**) S.I. 1997/1183 (N.I. 12); Article 13(2A) is inserted by paragraph 7(2) of Schedule 11 to the Welfare Reform (Northern Ireland) Order 2015.
(**6**) S.I. 1998/1506 (N.I. 10); Article 13(3A) and (5A) are inserted respectively by Article 107(3) and (4) of the Welfare Reform (Northern Ireland) Order 2015 and Article 2(2) is cited for the meaning of "prescribe".
(**7**) 2008 c. 9 (N.I.); section 5(1A) is inserted by paragraph 14(2) of Schedule 11 to the Welfare Reform (Northern Ireland) Order 2015.
(**8**) S.I. 2015/2006 (N.I. 1).

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security, Child Support and Mesothelioma Lump Sum Payments (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 2016.

(2) These Regulations come into operation–

(a) for the purposes of the provisions specified in paragraph (3) on 11th July 2016;

(b) for all other purposes, on 23rd May 2016.

(3) The specified provisions are–

(a) regulation 2;

(b) regulation 3(4), (5)(c) and (e); and

(c) regulation 5.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**9**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 10(**10**) (notification of a new or a fresh maintenance assessment) after paragraph (4) add—

"(5) Paragraphs (2) to (4) apply in the case of a decision in respect of which there is no right of appeal as the result of regulation 16A (consideration of revision before appeal) as they apply in the case of a decision which may be appealed under Article 22 of the Order (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000).".

(3) After regulation 16(**11**) (revision of decisions) insert—

"**Consideration of revision before appeal**

16A.—(1) This regulation applies in a case where—

(a) the Department gives a person written notice of a decision; and

(b) that notice includes a statement to the effect that there is a right of appeal against the decision only if the Department has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under Article 22 of the Order against the decision only if the Department has considered on an application whether to revise the decision under Article 18 of the Order.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 16(1) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Department may treat any purported appeal as an application for a revision under Article 18 of the Order.

(5) In this regulation "decision" means a decision mentioned in Article 22 of the Order (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000).".

(**9**) S.R. 1992 No. 340 was revoked, with savings, by regulation 9(2) of, and the Schedule to, S.R. 2012 No. 438 (*see also* regulation 1(1)(c) of those Regulations).

(**10**) Regulation 10 was amended by regulation 4(4) of S.R. 1995 No. 19, regulation 8(4) of S.R. 1995 No. 162, regulation 3(5) of S.R. 1995 No. 475, regulation 50 of S.R. 1996 No. 541, regulation 2(9) of S.R. 1999 No. 167 and Article 8(3) of S.R. 1999 No. 246 (C. 20).

(**11**) Regulations 16 and 17 were substituted by regulation 2(12) of S.R. 1999 No. 167.

(4) In regulation 17 (late application for a revision)—

(a) in paragraph (4)(b) at the end insert "except in a case to which regulation 16A applies"; and

(b) in paragraph (6) after "extension of time" insert ", except in a case to which regulation 16A applies".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

3.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**12**) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 3(1)(b)(**13**) (revision of decisions) for "regulation 28(1)(b)", in both places, substitute "regulation 3ZA(3)(b) or 28(1)(b)".

(3) After regulation 3 insert—

"**Consideration of revision before appeal**

3ZA.—(1) This regulation applies in a case where—

(a) the Department gives a person written notice of a decision under Article 9 or 11 (whether as originally made or as revised under Article 10); and

(b) that notice includes a statement to the effect that there is a right of appeal in relation to the decision only if the Department has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under Article 13(2) in relation to the decision only if the Department has considered on an application whether to revise the decision under Article 10.

(3) The notice referred to in paragraph (1) must inform the person—

(a) of the time limit specified in regulation 3(1) or (3) for making an application for a revision; and

(b) that, where the notice does not include a statement of the reasons for the decision ("written reasons"), he may, within one month of the date of notification of the decision, request that the Department provide him with written reasons.

(4) Where written reasons are requested under paragraph (3)(b), the Department must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as a result of paragraph (2), there is no right of appeal against a decision, the Department may treat any purported appeal as an application for a revision under Article 10.".

(4) After regulation 3A(**14**) (revision of child support decisions) insert—

"**Consideration of revision before appeal in relation to certain child support decisions**

3B.—(1) This regulation applies in a case where—

(a) the Department gives a person written notice of a decision; and

(b) that notice includes a statement to the effect that there is a right of appeal against the decision only if the Department has considered an application for a revision of the decision.

(**12**) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2000 No. 215, S.R. 2001 Nos. 23 and 120, S.R. 2002 No. 189, S.R. 2004 No. 516, S.R. 2005 No. 46, S.R. 2008 No. 355 and S.R. 2010 No. 20.
(**13**) Paragraph (1)(b) was substituted by regulation 2(3)(a) of S.R. 2002 No. 189.
(**14**) Regulation 3A was inserted by regulation 2(4) of S.R. 2001 No. 23.

(2) In a case to which this regulation applies, a person has a right of appeal under Article 22 of the Child Support Order (as substituted by section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000) against the decision only if the Department has considered on an application whether to revise the decision under Article 18 of that Order.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 3A(1)(a) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Department may treat any purported appeal as an application for revision under Article 18 of the Child Support Order.

(5) In this regulation "decision" means a decision mentioned in Article 22(1)(a) or (b) of the Child Support Order (as substituted by section 10 of the Child Support, Pension and Social Security Act (Northern Ireland) 2000).".

(5) In regulation 4 (late application for a revision)—

(a) in paragraph (3)(b)(**15**) after "regulation" insert "3ZA(3)(b) or";

(b) in paragraph (4)(b) at the end insert ", except in a case to which regulation 3ZA applies";

(c) in paragraph (4)(b) after "regulation 3ZA" insert "or 3B";

(d) in paragraph (6) after "extension of time" insert ", except in a case to which regulation 3ZA applies"; and

(e) in paragraph (6) after "regulation 3ZA" insert "or 3B".

(6) After regulation 9ZA(**16**) (review of certificates of recoverable lump sum payments) insert—

"**Consideration of review before appeal**

9ZB.—(1) This regulation applies in a case where—

(a) the Department has issued a certificate of recoverable benefits or certificate of recoverable lump sum payments; and

(b) that certificate is accompanied by a notice to the effect that there is a right of appeal in relation to the certificate only if the Department has considered an application for review of the certificate.

(2) In a case to which this regulation applies, a person has a right of appeal under Article 13 of the Recovery of Benefits Order against the certificate only if the Department has considered an application for review of the certificate under Article 12 of that Order.".

(7) In regulation 25(**17**) (other persons with a right of appeal) after "Article 13(2)" insert ", but subject to regulation 3ZA".

(8) In regulation 26(**18**) (decisions against which an appeal lies) at the beginning insert "Subject to regulation 3ZA,".

(9) In regulation 29(**19**) (further particulars required relating to certificate of recoverable benefits or, as the case may be, recoverable lump sum payments appeals or applications) for paragraph (6) substitute—

"(6) The Department may treat any—

(**15**) Paragraph (3)(b) was amended by regulation 7(3) of S.R. 2005 No. 46.
(**16**) Regulation 9ZA was inserted by paragraph 3 of Schedule 2 to S.R. 2008 No. 355.
(**17**) Regulation 25 was amended by regulation 2(7) of S.R. 2002 No. 189 and regulation 3(3) of S.R. 2004 No. 516.
(**18**) Regulation 26 was amended by regulation 6(9) of S.R. 2000 No. 215, regulation 4(b) of S.R. 2001 No. 120 and Article 3 of S.R. 2010 No. 20.
(**19**) Regulation 29 was amended by paragraph 4 of Schedule 2 to S.R 2008 No. 355.