STATUTORY RULES OF NORTHERN IRELAND

2014 No. 194 (C. 13)

FAMILY LAW

CHILD SUPPORT

The Child Maintenance (2008 Act) (Commencement No. 14 and Transitional Provisions) Order (Northern Ireland) 2014

Made - - - - 27th June 2014

The Department for Social Development makes the following Order in exercise of the power conferred by section 41(1) and (2) of the Child Maintenance Act (Northern Ireland) 2008(**1**).

Citation and interpretation

1.—(1) This Order may be cited as the Child Maintenance (2008 Act) (Commencement No. 14 and Transitional Provisions) Order (Northern Ireland) 2014.

(2) In this Order—

"the Act" means the Child Maintenance Act (Northern Ireland) 2008;

"the Child Support Order" means the Child Support (Northern Ireland) Order 1991(**2**);

"maintenance assessment" has the meaning given in Article 2(2) of the Child Support Order (interpretation) before its substitution by section 25 (amendments) of, and paragraph 12(e) of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**) (amendments of statutory provisions relating to child support);

"maintenance calculation" has the meaning given by Article 2(2) of the Child Support Order(**4**);

"new calculation rules" means Part 1 of Schedule 1 to the Child Support Order (calculation of weekly amount of child support maintenance) as amended by paragraph 2 of Schedule 1 to the Act (calculation by reference to gross weekly income);

"transition period" has the meaning given in regulation 1(2) of the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations (Northern Ireland) 2014(**5**) (citation, commencement and interpretation).

(**1**) 2008 (c. 10 (N.I.))
(**2**) S.I. 1991/2628 (N.I. 23)
(**3**) 2000 (c. 4 (N.I.))
(**4**) The definition of "maintenance calculation" is substituted for the definition of "maintenance assessment" by paragraph 12(e) of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
(**5**) S.R. 2014 No. 191

(3) In this Order, a reference to an existing case is a case in which there is—

(a) a maintenance assessment in force;

(b) a maintenance calculation, made otherwise than in accordance with the new calculation rules, in force;

(c) an application for a maintenance assessment which has been made but not determined; or

(d) an application for a maintenance calculation, which falls to be made otherwise than in accordance with the new calculation rules, which has been made but not determined.

(4) In this Order, unless the context requires otherwise, any reference to a numbered section or Schedule is a reference to a section of, or Schedule to, the Act.

Appointed day

2. The day appointed for the coming operation of section 11(transfer of cases to new rules) of, and Schedule 2 (maintenance calculations: transfer of cases to new rules) to the Act, in so far as are not already in operation, is 30th June 2014.

Thirteen week linking rule in relation to certain cases

3.—(1) This Article has effect from 30th June 2014.

(2) Where—

(a) The Department ceases acting in an existing case as a result of being requested, on or after 30th June 2014, to cease acting by the person with care under Article 7(5) of the Child Support Order (child support maintenance); and

(b) the qualifying child or, if there is more than one qualifying child, all of the qualifying children in relation to the existing case will reach the age of 20 before the end of the transition period,

the non-resident parent is not eligible to make an application under Article 7(1) of the Child Support Order(**6**) in relation to a qualifying child referred to in sub-paragraph (b) before the expiry of the period of 13 weeks from and including the date of cessation of action by the Department, unless paragraph (3) applies.

(3) Where the non-resident parent becomes the person with care, paragraph (2) does not apply.

(4) For the purposes of paragraph (2), the date of cessation of action by the Department is—

(a) where there is a maintenance assessment or maintenance calculation in force, the date on which the liability under that assessment or calculation ends as a result of the request to cease acting; or

(b) where there is an application still to be determined, the date notified to the person with care as the date on which the Department has ceased acting.

(5) In this Article—

(a) subject to sub-paragraph (b) "non-resident parent", "person with care" and "qualifying child" have the meanings given in Article 4 of the Child Support Order(**7**) (meaning of certain other terms used in this Order);

(b) a reference to a non-resident parent includes reference to a person who is—

(**6**) Article 7(1) was amended by regulation 1(2)(a) of and paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**7**) The term "non-resident parent" was substituted for the term "absent parent" by paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000. The definition of "qualifying child" in Article 4(1) of the Child Support (Northern Ireland) Order 1991 was amended by paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(i) treated as the non-resident parent for the purposes of the Child Support Order(**8**),

(ii) an absent parent (which has the meaning given in Article 2(2) of the Child Support Order before its substitution by section 25 of, and paragraph 11 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, or

(iii) treated as the absent parent for the purposes of the Child Support Order(**9**).

Amendment of the Child Maintenance (2008 Act) (Commencement No. 10 and Transitional Provisions) Order

4. With effect from 30th June 2014, in the Child Maintenance (2008 Act) (Commencement No. 10 and Transitional Provisions) Order (Northern Ireland) 2012(**10**)—

(a) in Article 3(1) (cases to which the new calculation rules apply), "any of paragraphs (2) to (4)" shall be read as "paragraph (2)"; and

(b) Articles 3(3), (4) and (7) and 4 do not apply.

Amendment of the Child Maintenance (2008 Act) (Commencement No. 11 and Transitional Provisions) Order

5. With effect from 30th June 2014, in the Child Maintenance (2008 Act) (Commencement No. 11 and Transitional Provisions) Order (Northern Ireland) 2013(**11**)—

(a) in Article 3(1) (cases to which the new calculation rules apply), "any of paragraphs (2) to (4)" shall be read as "paragraph (2)"; and

(b) Articles 3(3), (4) and (7) and 4 do not apply.

Sealed with the Official Seal of the Department for Social Development on 27th June 2014

Anne McCleary
A senior officer of the Department for Social Development

(**8**) A person may be treated as a non-resident parent for the purposes of the Child Support (Northern Ireland) Order 1991 under regulation 49(2) of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012 (S.R. 2012 No. 427) or regulation 8(2) of the Child Support (Maintenance Calculation and Special Cases) Regulations (Northern Ireland) 2001 (S.R. 2001 No. 18)

(**9**) A person may be treated as an absent parent for the purposes of the Child Support Order under regulation 20(2) of the Child Support (Maintenance Assessment and Special Cases) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 341)

(**10**) S.R. 2012 No. 440 (C. 45)

(**11**) S.R. 2013 No. 201 (C. 13)