STATUTORY RULES OF NORTHERN IRELAND

2014 No. 193

FAMILY LAW

CHILD SUPPORT

The Child Support (Modification, Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2014

Made - - - - 27th June 2014

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 18(1), 29(2) and (3), 32(1) and (2)(n), 34(1), 40A, 47(1) and (2)(a) and (i) and 48(4) of, and paragraph 11 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(**1**), and now vested in it(**2**), and section 36(1) and (2) of, and paragraphs 2 and 5 of Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008(**3**).

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Modification, Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2014 and subject to paragraph (2) shall come into operation on 30th June 2014.

(2) Regulation 3(5) comes into operation on 11 August 2014.

Modification of the Child Support (Collection and Enforcement) Regulations

2.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**4**) are modified, 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 as amended

(**1**) S.I. 1991/2628 (N.I. 23); Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraph (1) is amended by section 8(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) ("the 2000 Act"), Article 29(2) and (3) is amended by section 1(2) of the 2000 Act, Article 40A was inserted by section 29 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.)), Article 47(2) was amended by paragraph 31 of Schedule 6 to Social Security (Northern Ireland) Order 1998 and is amended by section 1(2) of, and paragraph 27 of Schedule 3 to, the 2000 Act and paragraph 11 of Schedule 1 is amended by section 1(2) of the 2000 Act

(**2**) *See* Article 8(b) of S.R. 1999 No. 481

(**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. 2008 No. 409 and S.R. 2012 No. 438

by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008, as if they had been amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2)(**5**)—

(i) after the definition of "the Order" insert—

""collection fee" means a fee payable by a non-resident parent under regulation 3 of the Child Support Fees Regulations (Northern Ireland) 2014(**6**);

"enforcement fee" means a fee payable under regulation 6 of the Child Support Fees Regulations (Northern Ireland) 2014;"; and

(ii) in the definition of "liable person" after "maintenance" insert "or liable to make payment of a fee (or both)", and

(b) for paragraph (2A)(**7**) substitute—

"(2A) Except in relation to regulation 8(3)(a) and Schedule 2, in these Regulations "fee" means a collection fee or an enforcement fee (or both).".

(3) In regulation 3 (method of payment)—

(a) in paragraph (2)(**8**) after "paragraph (1)" insert "and from which payments of collection fees (where payable) may be made"; and

(b) in paragraph (6)(b) and (c)(**9**) after "liability" insert ", that parent's liability to pay a fee or the amount of a fee payable by that parent".

(4) In regulation 4(1)(**10**) (payments to be scheduled over reference period) after "payments of child support maintenance" insert "and any collection fees".

(5) In regulation 7 (notice to liable person as to requirements about payment)—

(a) in paragraph (1)(**11**)—

(i) in sub-paragraph (a) after "child support maintenance" insert "and any collection fees",

(ii) in sub-paragraph (b) for "it is" substitute "child support maintenance and any collection fees are",

(iii) in sub-paragraph (c) after "payment" insert "of child support maintenance and any collection fees",

(iv) in sub-paragraph (d) after "payments" insert "of child support maintenance and any collection fees", and

(v) in sub-paragraph (e) after "child support maintenance" insert "and any payment of a collection fee";

(b) in paragraph (1A)(**12**) for ", interest or fees", in both places, substitute "or interest";

(c) after paragraph (1A) insert—

"(1B) In the case of an enforcement fee, the Department shall send the liable person a notice stating—

(a) the amount of the enforcement fee payable; and

(**5**) To which there are amendments not relevant to these Regulations
(**6**) S.R. 2014 No. 182
(**7**) Paragraph (2A) was inserted by regulation 3(2)(b) of S.R. 2001 No. 15
(**8**) Paragraph (2) is amended by regulation 3(4)(c) of S.R. 2001 No. 15
(**9**) Paragraph (6) was inserted by regulation 3(2)(c) of S.R. 2008 No. 409
(**10**) Regulation 4 is substituted by regulation 4(2) of S.R. 2012 No. 438
(**11**) Paragraph (1) is amended by regulation 3(6)(a) of S.R. 2001 No. 15
(**12**) Paragraph (1A) is inserted by regulation 3(6)(b) of S.R. 2001 No. 15

(b) the method of enforcement action in respect of which that fee is payable.";

(d) in paragraph (3)(**13**) for ", interest or fees" substitute "or interest"; and

(e) after paragraph (3) add—

"(4) A notice under paragraph (1B) shall be sent to the liable person as soon as is reasonably practicable after an enforcement fee becomes payable.".

(6) In regulation 17(1)(b)(**14**) (requirement to review deduction from earnings orders)—

(a) after "any arrears" insert "of child support maintenance, arrears of collection fees"; and

(b) for "or fees" substitute "or enforcement fee".

(7) In regulation 20 (discharge of deduction from earnings orders)—

(a) in paragraph (1)(**15**)—

(i) after "where" insert "paragraph (1A) applies or"; and

(ii) in sub-paragraph (f) after "maintenance calculation" insert "and any requirement to pay collection fees"; and

(b) after paragraph (1) insert—

"(1A) This paragraph applies where the Department—

(a) has agreed with the liable person an alternative method of payment of the child support maintenance due under the maintenance calculation and an alternative method of payment of fees (where payable); and

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

(8) In regulation 26(2)(**16**) (notice of intention to apply for a liability order) for "or fees" substitute ", collection fees or enforcement fees".

(9) In Schedule 1 (liability order prescribed form) after "Part IV of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992" insert "and Parts 2 and 3 of the Child Support Fees Regulations (Northern Ireland) 2014".

Modification of the Child Support (Management of Payments and Arrears) Regulations

3.—(1) The Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009(**17**) are modified, 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 as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008, as if they had been amended as follows.

(2) In regulation 2 (interpretation) after paragraph (2) add—

"(3) For the purposes of regulations 3 and 3A there are "arrangements for direct pay" where the Department has specified that payments of child support maintenance shall be made by the non-resident parent to the person caring for the child in question.".

(3) In regulation 3(1) (arrears notices)—

(a) in paragraph (a) for "; and" substitute " or there are arrangements for direct pay;"; and

(**13**) Paragraph (3) was added by regulation 3(6)(d) of S.R. 2001 No. 15
(**14**) Regulation 17 was substituted by regulation 4(8) of S.R. 1995 No. 162 and paragraph (1) is amended by regulation 3(13) of S.R. 2001 No. 15
(**15**) Paragraph (1) was substituted by regulation 4(9) of S.R. 1995 No. 162 and sub-paragraph (f) is amended by regulation 3(14) of S.R. 2001 No. 15
(**16**) Paragraph (2) is amended by regulation 3(17) of S.R. 2001 No. 15
(**17**) S.R. 2009 No. 422

(b) after paragraph (b) add—

"and

(c) regulation 3A(1) does not apply or regulation 3A(1) does apply but the notice referred to in paragraph (2) of that regulation has not been given.".

(4) After regulation 3 insert—

"**Notice of consequences of failure to pay child support maintenance due**

3A.—(1) This paragraph applies to a case where—

(a) either—

(i) there are arrangements for direct pay, or

(ii) the Department is arranging for the collection of child support maintenance under Article 29 of the Order but there are no arrangements for enforcement under that Order; and

(b) the non-resident parent has failed to make one or more payments of child support maintenance due.

(2) Where paragraph (1) applies to a case, the Department may only start making arrangements for collection under Article 29 of the Order or arrangements for enforcement under that Order (or both) where the non-resident parent has been given a notice, within the preceding 12 month period, setting out that the Department will consider making such arrangements where there is a failure to make one or more payments of child support maintenance due.".

(5) In regulation 11 (recovery of arrears from a deceased person's estate) after "maintenance" insert "and collection fees (payable under regulation 3 of the Child Support Fees Regulations (Northern Ireland) 2014)".

Amendment of the Child Support Maintenance Calculation Regulations

4.—(1) The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(**18**) are amended as follows.

(2) In regulation 11 (notice of application)—

(a) in paragraph (1) for "the Department must, as soon as reasonably practicable," substitute ", and the requirement in paragraph (3) is satisfied, the Department must";

(b) in paragraph (2) after "parent" insert "(as ascertained and verified in accordance with paragraph (3))"; and

(c) after paragraph (2) add—

"(3) The requirement is that the address of the non-resident parent in relation to the application has been ascertained and verified.

(4) Except where paragraph (5) or (6) applies to an application, notice must be given as soon as is reasonably practicable.

(5) Where—

(a) there is an existing case related to the application; or

(b) the applicant—

(i) has been required to choose in an existing case whether or not to stay in the statutory scheme (under Schedule 2 to the 2008 Act

(**18**) S.R. 2012 No. 427