STATUTORY RULES OF NORTHERN IRELAND

2014 No. 167

FAMILY LAW

CHILD SUPPORT

The Child Support (Great Britain Reciprocal Arrangements) (Amendment) Regulations (Northern Ireland) 2014

Made - - - -	*9th June 2014*
Coming into operation	*30th June 2014*

The Department for Social Development, being the Department having responsibility for social security, makes the following Regulations in exercise of the powers conferred by section 87(5) and (10) of the Northern Ireland Act 1998(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Great Britain Reciprocal Arrangements) (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on 30th June 2014.

(2) The Interpretation Act (Northern Ireland) 1954(**2**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Child Support (Great Britain Reciprocal Arrangements) Regulations

2.—(1) The Child Support (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1993(**3**) are amended as follows.

(2) In regulation 2(1)(**4**) for "and 1C" substitute ", 1C and 1D".

(3) After Schedule 1C(**5**) (exchange of letters) insert Schedule 1D as set out in the Schedule to these Regulations.

(**1**) 1998 c. 47
(**2**) 1954 c. 33 (N.I.)
(**3**) S.R. 1993 No. 117; relevant amending regulations are S.R. 1995 No. 475, S.R. 2002 No. 121 and S.R. 2012 No. 374
(**4**) Regulation 2(1) was amended by regulation 8(2) of S.R. 1995 No. 475, regulation 2(2)(a) of S.R. 2002 No. 121 and regulation 2(2) of S.R 2012 No. 374
(**5**) Schedule 1C was inserted by regulation 2(3) of S.R. 2012 No. 374

Sealed with the Official Seal of the Department for Social Development on 9th June 2014

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

SCHEDULE Regulation 2(3)

SCHEDULE TO BE INSERTED INTO THE CHILD SUPPORT (GREAT BRITAIN RECIPROCAL ARRANGEMENTS) REGULATIONS (NORTHERN IRELAND) 1993

"SCHEDULE 1D Regulation 2(1)

EXCHANGE OF LETTERS AMENDING THE MEMORANDUM OF ARRANGEMENTS RELATING TO THE PROVISION MADE FOR CHILD SUPPORT MAINTENANCE IN THE UNITED KINGDOM

No. 1

THE MINISTER OF STATE FOR WORK AND PENSIONS, WITH THE CONSENT OF THE TREASURY, TO THE MINISTER FOR SOCIAL DEVELOPMENT

14th May 2014

Sir,

I have the honour to refer to the Memorandum of Arrangements relating to the provision made for Child Support Maintenance between the Secretary of State for Social Security of the one part and the Department of Health and Social Services for Northern Ireland of the other part which came into effect on 5th April 1993, as amended in accordance with—

(a) the Exchange of Letters from the Secretary of State for Social Security to the Department of Health and Social Services for Northern Ireland of 7th November 1995 and from the Department of Health and Social Services for Northern Ireland to the Secretary of State for Social Security of 8th November 1995;

(b) the Exchange of Letters from the Parliamentary Under-Secretary of State for Work and Pensions to the Minister for Social Development of 11th March 2002 and from the Minister for Social Development to the Parliamentary Under-Secretary of State for Work and Pensions of 14th March 2002; and

(c) the Exchange of Letters from the Parliamentary Under-Secretary of State for Work and Pensions to the Minister for Social Development of 9th August 2012 and from the Minister for Social Development to the Parliamentary Under-Secretary of State for Work and Pensions of 10th September 2012,

(which Memorandum in its amended form is referred to in this letter as "the Principal Memorandum").

I refer also to recent discussions between the Department for Work and Pensions and the Department for Social Development concerning the need to amend the Principal Memorandum so as to make further provision in relation to child support matters.

I now have the honour, with the consent of the Treasury, to propose the following amendments to the Principal Memorandum:

In Article 5—

(a) for paragraph (8) substitute—

"(8) An application for a maintenance calculation which is to be determined in accordance with the new calculation rules shall be dealt with in, and in accordance with the provision made for, the territory in which the person who makes the application resides until—

(a) where the applicant resides in Great Britain—

(i) the application is taken to have been made for the purposes of regulation 9(2) (applications under section 4 or 7 of the Act) of the Child Support Maintenance Calculation Regulations 2012(**6**),

(ii) any application fee payable under regulation 3(1) of the Child Support Fees Regulations 2014(**7**) has been paid or waived in accordance with those Regulations,

(iii) the Secretary of State has ascertained and verified the address of the non-resident parent in relation to the application, and

(iv) where the application is one to which paragraph (8A) or (8B) applies, the condition in that paragraph is satisfied; or

(b) where the applicant resides in Northern Ireland—

(i) the application is taken to have been made for the purposes of regulation 9(2) (applications under Article 7) of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(**8**),

(ii) the Department has ascertained and verified the address of the non-resident parent in relation to the application, and

(iii) where the application is one to which paragraph (8A) or (8B) applies, the condition in that paragraph is satisfied,

from which point the case shall be dealt with in, and in accordance with the provision made for, the territory in which the non-resident parent in relation to the application resides.";

(b) after paragraph (8), insert—

"(8A) Where there is an existing case related to the application, in relation to which the interested parties have been required to choose whether or not to stay in the statutory scheme (under Schedule 5 to the 2008 Act(**9**) or Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008(**10**)) as a result of that application, the condition is that any liability end date in relation to that existing case must have passed.

(8B) Where the applicant has chosen to remain in the statutory scheme, in response to being required to choose in an existing case whether or not to stay in the statutory scheme (under Schedule 5 to the 2008 Act or Schedule 2 to the Child Maintenance

(**6**) S.I. 2012/2677
(**7**) S.I. 2014/612
(**8**) S.R. 2012 No. 427
(**9**) Schedule 5 was amended by section 136 of the Welfare Reform Act 2012
(**10**) 2008 c. 10 (N.I.)

Act (Northern Ireland) 2008, the condition is that the liability end date in relation to that existing case must have passed.

(8C) For the purposes of paragraph (8A), an existing case is related to an application if—

(a) the non-resident parent in relation to that application is also the non-resident parent in relation to the existing case and the person with care in relation to that application is not the person with care in relation to the existing case, or

(b) the non-resident parent in relation to that application is a partner of a non-resident parent in relation to the existing case and either or both are in receipt of a benefit prescribed by regulations made under paragraph 4(1)(c) (flat rate) of Schedule 1 to the Act(**11**) or paragraph 4(1)(c) (flat rate) of Schedule 1 to the Order(**12**).

(8D) For the purposes of paragraphs (8) and (8C), a non-resident parent includes a person who is treated as or alleged to be a non-resident parent.";

(c) paragraph (9) is omitted;

(d) in paragraph (10)—

(i) for "paragraphs" substitute "paragraph",

(ii) omit "and (9)";

(e) in paragraph (11)—

(i) before the definition of "existing case" insert—

""the 2008 Act" means the Child Maintenance and Other Payments Act 2008(**13**);",

(ii) insert the following definitions where they fall alphabetically—

""interested parties" means the non-resident parent, the person with care and, in the case of an application made by a qualifying child under section 7(1) of the Act, or a maintenance calculation or assessment made in response to an application under that section, the child in question;",

""liability end date" means the date determined in accordance with—

(a) regulations made under Schedule 5 (maintenance calculations: transfer of cases to new rules) to the 2008 Act as the date beyond which no further liability accrues in relation to the existing case for the purposes of paragraph 5(1) and (2) of that Schedule, or

(b) regulations made under Schedule 2 (maintenance calculations: transfer of cases to new rules) to the Child Maintenance Act (Northern Ireland) 2008 as the date beyond which no further liability accrues in relation to the existing case for the purposes of paragraph 5(1) and (2) of that Schedule;",

(**11**) The substitution of Part 1 of Schedule 1 to the Act by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act 2000 (c.19) was partially commenced for the types of cases specified in article 3 of the Child Support, Pensions and Social Security Act 2000 (Commencement No.12) Order 2003 (S.I. 2003/192)

(**12**) The substitution of Part 1 of Schedule 1 to the Order by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4 (N.I.)) was partially commenced for the types of cases specified in Article 3 of the Child Support, Pensions and Social Security (2000 Act) (Commencement No.9) Order (Northern Ireland) 2003 (S.R. 2003 No. 53)

(**13**) 2008 c. 6