STATUTORY RULES OF NORTHERN IRELAND

2013 No. 182

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2013

Made - - - - 3rd July 2013
Coming into operation in accordance with regulation 1(2) to (4)

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 3(1)(b), 28G(3), 39, 47(1) and 48(4) of and paragraphs 10(1) and (2)(b) and 10C(2)(b) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(**1**), and now vested in it(**2**), and sections 36(1) and 38(2) of the Child Maintenance Act (Northern Ireland) 2008(**3**).

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2013.

(2) This regulation and regulations 2, 3, 5 to 7, 8(4), (5), (7) and 9 come into operation on 30th September 2013.

(3) Regulation 4 comes into operation in relation to a case to which the new calculation rules apply on 30th September 2013.

(4) Regulation 8(1) to (3) and (6) comes into operation in relation to a case to which the new calculation rules apply on the day on which paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 (calculation by reference to gross weekly income) comes into operation for all purposes.

(5) In this regulation, "a case to which the new calculation rules apply" means a case in which liability to pay child support maintenance is calculated in accordance with Part 1 of Schedule 1 to

(**1**) S.I. 1991/2628 (N.I. 23); Article 3 was substituted by section 26 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.)); Article 28G was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and is substituted by section 7 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c 4 (N.I.)); Article 39 is amended by paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and is amended by section 28 of the Child Maintenance Act (Northern Ireland) 2008; Part 1 of Schedule 1 is substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 10(1) is amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008

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

(**3**) 2008 c. 10 (N.I.)

the Child Support (Northern Ireland) Order 1991 as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**4**) are amended as follows.

(2) In Schedule 1 (meaning of "child" for the purposes of the Order)—

(a) for the heading to paragraph 1(**5**) substitute—

"Conditions prescribed for the purposes of Article 3(1)"; and

(b) after paragraph 7 (education otherwise than at a recognised educational establishment) (**6**) add—

"**Person in respect of whom child benefit is payable**

8. For the purposes of paragraphs 1(3) and 4(2), a person in respect of whom child benefit is payable includes a person in respect of whom an election has been made under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992(**7**)for payments of child benefit not to be made."

(3) After paragraph 2(11) of Schedule 2(**8**) (multiple applications), add—

"(12) For the purposes of sub-paragraph (9)(c), where a person has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made in respect of a child, that person is to be treated as the person to whom child benefit is being paid in respect of that child.".

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations

3. In regulation 1 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**9**) (citation, commencement and interpretation), after paragraph (2A)(**10**) insert—

"(2B) For the purposes of these Regulations, where a person has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made—

(a) that person is to be treated as being in receipt of child benefit; and

(b) the amount of child benefit that would be otherwise paid in respect of the relevant child is to be treated as being in payment.".

Amendment of the Child Support (Collection and Enforcement) Regulations

4.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**11**) are amended as follows.

(**4**) S.R. 1992 No. 340; relevant amending Regulations are S.R. 1999 No. 167, S.R. 2008 No. 404 and S.R. 2012 No. 438
(**5**) Paragraph 1 was substituted by regulation 2(a) of S.R. 2012 No. 438
(**6**) Paragraph 7 was substituted by regulation 2(e) of S.R. 2012 No. 438
(**7**) 1992 c. 8 (N.I.); section 11A was inserted by paragraph 4 of Schedule 1 to, the Finance Act 2012 (c. 14 (N.I.))
(**8**) Paragraph 2 was amended by regulation 2(26)(a) of S.R. 1999 No. 167 and regulation 2(10)(b) of S.R. 2008 No. 404
(**9**) S.R. 1992 No. 341; relevant amending Regulations are S.R. 1993 No. 164
(**10**) Paragraph (2A) was inserted by regulation 5(2)(h) of S.R. 1993 No. 164
(**11**) S.R. 1992 No. 390; relevant amending Regulations are S.R. 2009 No. 286 and S.R. 2012 No. 438

(2) In regulation 25A(1)(**12**) (interpretation of Parts IIIA to IIID)—

(a) after the definition of "attachment of debts order" insert—

""current income" has the meaning given in regulation 36 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(**13**);";

(b) after the definition of "deduction period" insert—

""gross weekly income" means income calculated under Chapter 1 of Part 4 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012;";

(c) omit the definition of "net weekly income".

(3) In regulation 25A omit paragraph (6)(b).

(4) In regulation 25C(1)(a)(**14**) (maximum deduction rate), omit "in respect of that period".

(5) In regulation 25G(2)(d)(**15**) (review of a regular deduction order), for "gross weekly" substitute "current".

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

5. After regulation 18(8)(b) of the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**16**) (costs incurred in supporting certain children), add—

"(c) where a person has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made, the amount of child benefit that would be otherwise paid in respect of the relevant child is to be treated as being payable."

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

6.—(1) The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(**17**) are amended as follows.

(2) In Schedule 1(meaning of "child" for the purposes of the Order)—

(a) for the heading to paragraph 1(**18**) substitute—

"Conditions prescribed for the purposes of Article 3(1)"; and

(b) after paragraph 7(**19**) (education otherwise than at a recognised educational establishment) add—

"**Person in respect of whom child benefit is payable**

8. For the purposes of paragraphs 1(3) and 4(2), a person in respect of whom child benefit is payable includes a person in respect of whom an election has been made under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made."

(**12**) Regulation 25A was inserted by regulation 2 of S.R. 2009 No. 286
(**13**) S.R. 2012 No. 427
(**14**) Regulation 25C was inserted by 2 of S.R. 2009 No. 286 and is amended by regulation 4(6) of S.R. 2012 No. 438
(**15**) Regulation 25G was inserted by 2 of S.R. 2009 No. 286 and is amended by regulation 4(6) of S.R. 2012 No. 438
(**16**) S.R. 1996 No. 541; regulation 18(8) was amended by regulation 9(8)(i) of S.R. 1998 No. 8
(**17**) S.R. 2001 No. 17; relevant amending Regulations are S.R. 2008 No. 404 and S.R. 2012 No. 438
(**18**) Paragraph 1 was substituted by regulation 3(a) of S.R. 2012 No. 438
(**19**) Paragraph 7 was substituted by regulation 3(e) of S.R. 2012 No. 438

(3) After paragraph 2(11) of Schedule 2(**20**) (multiple applications), add—

"(12) For the purposes of sub-paragraph (8), where a person has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made in respect of a child, that person is to be treated as the person to whom child benefit is being paid in respect of that child.".

(4) After paragraph 2(11)(**21**) of Schedule 3 (multiple applications – transitional provisions), add—

"(12) For the purposes of sub-paragraph (8), where a person has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made in respect of a child, that person is to be treated as the person to whom child benefit is being paid in respect of that child.".

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations

7.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**22**) are amended as follows.

(2) For regulation 1(3) (citation, commencement and interpretation) substitute—

"(3) For the purposes of paragraph 10C(2)(b) of Schedule 1 to the Order (which provides for other descriptions of relevant children to be prescribed) "relevant other children" includes a child, other than a qualifying child, in respect of whom the non-resident parent or the non-resident parent's partner—

(a) would receive child benefit under Part IX of the Contributions and Benefits Act, but in respect of whom they do not do so, solely because the conditions set out in section 142 of that Act are not met; or

(b) has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made.".

(3) In regulation 8(3)(**23**) (persons treated as non-resident parents), the words from ""child benefit"" to the end become sub-paragraph (a), and after that sub-paragraph add—

"; and

(b) where a person has made an election under section 11A(1) of the Social Security Administration (Northern Ireland) Act 1992 for payments of child benefit not to be made, that person is to be treated as being in receipt of child benefit.".

Amendment of the Child Support Maintenance Calculation Regulations

8.—(1) The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(**24**) are amended as follows.

(2) In regulation 33 (the general rule for determining gross weekly income)—

(a) in paragraph (2)—

(i) in sub-paragraph (b) omit "the amount of historic income is nil or";

(ii) after sub-paragraph (b), add—

"; or

(**20**) Paragraph 2 was amended by regulation 5(11)(b) of S.R. 2008 No. 404
(**21**) Paragraph 2 was amended by regulation 5(12)(b) of S.R. 2008 No. 404
(**22**) S.R. 2001 No. 18; relevant amending Regulations are S.R. 2003 No. 84 and S.R. 2008 No. 404
(**23**) Regulation 8 was amended by regulation 9(3) of S.R. 2003 No. 84 and by Regulation 6(3) of S.R. 2008 No. 404
(**24**) S.R. 2012 No. 427