STATUTORY RULES OF NORTHERN IRELAND

2012 No. 439

FAMILY LAW

CHILD SUPPORT

The Child Support (Management of Payments and Arrears) (Amendment) Regulations (Northern Ireland) 2012

Made - - - - 6th December 2012

Coming into operation in accordance with regulation 1

Approved by resolution of the Assembly on 13th May 2013

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 16(3), 38D(2) and (3), 38E, 47(1) and 48(4) of the Child Support (Northern Ireland) Order 1991(**1**), and now vested in it(**2**).

Citation and commencement

1. These Regulations may be cited as the Child Support (Management of Payments and Arrears) (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on the day on which sections 23 and 24 of the Child Maintenance Act (Northern Ireland) 2008(**3**) come into operation.

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

2. After Part 4 of the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009(**4**) (recovery from estates) insert—

"PART 4A

Part Payment of Arrears in Full and Final Satisfaction

Amounts owed to different persons to be treated separately

13A. Where the arrears of child support maintenance for which a person is liable comprise different amounts that have accrued in respect of—

(**1**) S.I. 1991/2628 (N.I. 23); Article 16(3) was amended by paragraph 14(b) of Schedule 6 and Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), and Articles 38D and 38E are inserted respectively by sections 23 and 24 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.))

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

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

(**4**) S.R. 2009 No. 422

(a) separate applications for a maintenance calculation; or

(b) one application but would, if recovered, be payable to different persons,

those amounts are to be treated as separate amounts of arrears for the purpose of exercising the power under Article 38D(1) of the Order.

Written consent

13B.—(1) The Department may not exercise the power under Article 38D(1) of the Order without the written consent of the person with care with respect to whom the maintenance calculation was made unless the Department would be entitled to retain—

(a) the whole of the arrears under Article 38(2) of the Order(**5**) if it recovered them; or

(b) part of the arrears under that Article if it recovered them, and the part of the arrears that the Department would not be entitled to retain is equal to or less than the payment accepted under Article 38D(1) of the Order.

(2) Where the written consent of the person with care is required, the Department must make available such information and guidance as it thinks appropriate for the purpose of helping that person decide whether to give that consent.

Agreement

13C.—(1) Where the Department proposes to exercise the power under Article 38D(1) of the Order, it must prepare a written agreement.

(2) The agreement must—

(a) name the non-resident parent and, where the consent of the person with care is required, name the person with care;

(b) specify the amount of arrears to which the agreement relates and the period of liability to which those arrears relate;

(c) state the amount that is agreed will be paid in satisfaction of those arrears;

(d) state the method of payment and to whom payment will be made; and

(e) state the day by which payment is to be made.

(3) The Department must send the non-resident parent and, where applicable, the person with care a copy of the agreement.

(4) The agreement does not take effect until—

(a) the non-resident parent has agreed in writing to its terms; and

(b) where applicable, the person with care has given written consent to the Department.

Where payment is received

13D.—(1) Unless the non-resident parent fails to comply with the terms of the agreement the Department must not take action to recover any of the arrears to which the agreement relates.

(**5**) Article 38(2) was substituted by paragraph 9 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and is amended by paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

(2) Where the non-resident parent has made full payment in accordance with the agreement all remaining liability in respect of the arrears of child support maintenance to which the agreement relates is extinguished.

(3) Where the non-resident parent fails to make any payment or only makes part payment or otherwise fails to adhere to the terms of the agreement, the non-resident parent remains liable to pay the full amount of any outstanding arrears to which the agreement relates and the Department may arrange to recover any of those outstanding arrears in accordance with the Order.

(4) Nothing in these Regulations prevents the Department from entering into a new agreement with the non-resident parent in respect of any of the arrears to which the previous agreement relates provided that the new agreement complies with the requirements set out in regulation 13C.

(5) Where the Department enters into a new agreement with the non-resident parent in respect of any of the arrears to which a previous agreement related, the previous agreement ceases to have effect on the coming into effect of that new agreement.

PART 4B

Write-Off of Arrears

Amounts owed to different persons to be treated separately

13E. Where the arrears of child support maintenance for which a person is liable comprise amounts that have accrued in respect of—

(a) separate applications for a maintenance calculation; or

(b) one application, but would, if recovered, be payable to different persons,

those amounts are to be treated as separate amounts of arrears for the purpose of exercising the power under Article 38E(1) of the Order.

Circumstances in which the Department may exercise the power in Article 38E of the Order

13F. The circumstances of the case specified for the purposes of Article 38E(1)(a) of the Order are that—

(a) the person with care has requested under Article 7(5) of the Order that the Department ceases to act in respect of the arrears;

(b) the non-resident parent died before 25th January 2010 or there is no further action that can be taken with regard to recovery of the arrears from the non-resident parent's estate under Part 4;

(c) the arrears relate to liability for child support maintenance for any period in respect of which an interim maintenance assessment was in force between 5th April 1993 and 18th April 1995; or

(d) the non-resident parent has been informed by the Department that no further action would ever be taken to recover those arrears.