STATUTORY RULES OF NORTHERN IRELAND

2012 No. 163

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2012

Made - - - -	*6th April 2012*
Coming into operation	*30th April 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 19(3) and (5), 29(2) and (3), 47(1) and (2)(i) and 48(4) of, and paragraph 10(1) and (2) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991 [F1], and now vested in it [F2].

F1 S.I. 1991/2628 (N.I. 23); Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and Article 29(2) and (3) was amended and Part 1 of Schedule 1 was substituted by section 1(2) and (3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)). *See also* Article 3 of S.R. 2003 No. 53 (C. 4)

F2 *See* Article 8(b) of S.R. 1999 No. 481

Citation and commencement

1. These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and shall come into operation on 30th April 2012.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2. **[**[F3]In regulation 22 of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 [F4] (date from which a superseding decision takes effect) for paragraph (19) substitute—

"(19) Where a superseding decision is made in a case to which regulation 19(2)(a) or (3) applies and the material circumstance is—

(a) a qualifying child dies or ceases to be a qualifying child;

(b) a relevant child dies or ceases to be a relevant child; or

(c) a child who is a member of the family of the absent parent for the purposes of regulation 11(1)(g) of the Child Support (Maintenance Assessments and Special

Cases) Regulations (Northern Ireland) 1992, dies or ceases to be a member of the family of the absent parent for those purposes,

the decision shall take effect as from the first day of the maintenance period in which the change occurred.".**]**

F3 Reg. 3 revoked (10.12.2012 for specified purposes) by The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012 (S.R. 2012/438), regs. 1(1)(c), 9(2), **Sch.** (See SR 2012/440, art. 2(1))

F4 S.R. 1992 No. 340; regulation 22 was substituted by regulation 2(12) of S.R. 1999 No. 167 and paragraph 19 was substituted by regulation 2(4)(b) of S.R. 2011 No. 226

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

3. **[**[F3]In Schedule 1 to the Child Support (Maintenance Assessment and Special Cases) Regulations (Northern Ireland) 1992 [F5] (calculation of N and M) after paragraph 5A insert—

"CHAPTER 3

Estimate of earnings where insufficient information available

5B.—(1) Where the Department is calculating earnings of an employed earner or a self-employed earner under this Part and the information available in relation to those earnings is insufficient or unreliable, the Department may estimate those earnings and, in doing so, may make any assumptions as to any fact.

(2) Where the Department is satisfied that the person is engaged in a particular occupation, whether as an employee or a self-employed person, the assumptions referred to in sub-paragraph (1) may include an assumption that the person has the average weekly earnings of a person engaged in that occupation in the United Kingdom or in any part of the United Kingdom.".**]**

F3 Reg. 3 revoked (10.12.2012 for specified purposes) by The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012 (S.R. 2012/438), regs. 1(1)(c), 9(2), **Sch.** (See SR 2012/440, art. 2(1))

F5 S.R. 1992 No. 341; paragraph 5A was inserted by regulation 4(5)(d) of S.R. 1999 No. 152 and amended by regulation 3(6) of S.R. 2007 No. 347

Amendment of the Child Support (Collection and Enforcement) Regulations

4. In regulation 5 of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 [F6] (transmission of payments) for paragraph (1) substitute—

"(1) Payments of child support maintenance made through the Department or other specified person shall be transmitted to the person entitled to receive them—

(a) by transfer of credit to an account nominated by the person entitled to receive the payments; or

(b) by means other than by transfer of credit as determined by the Department, where it appears to the Department to be necessary to do so in the circumstances of the particular case.".

F6 S.R. 1992 No. 390

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

5.—[F7](1) The Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001 F8 are amended in accordance with paragraphs (2) and (3).

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

(a) for the definition of "employed earner" substitute—

""employed earner" has the same meaning as in section 2(1)(a) of the Contributions and Benefits Act except that it includes a person—

(a) gainfully employed in Great Britain;

(b) to whom Article 41(2A) of the Order F9 applies; and

(c) gainfully employed outside the United Kingdom if the person's income from that employment is chargeable to tax under the Income Tax (Earnings and Pensions) Act 2003 F10 or would be were it not for any double taxation arrangements under Part 2 of the Taxation (International and Other Provisions) Act 2010 F11."; and

(b) for the definition of "self-employed earner" substitute—

""self-employed earner" has the same meaning as in section 2(1)(b) of the Contributions and Benefits Act except that it includes a person gainfully employed otherwise than in employed earner's employment (whether or not he is also employed in such employment)—

(a) in Great Britain; or

(b) outside the United Kingdom if the person's income from that gainful employment is chargeable to tax under the Income Tax (Trading and Other Income) Act 2005 F12 or would be were it not for any double taxation arrangements made under Part 2 of the Taxation (International and Other Provisions) Act 2010.".

(3) In the Schedule (net weekly income)—

(a) in paragraph 5(deductions)—

(i) in sub-paragraph (2) after "For the purposes of sub-paragraph (1)(a)," insert " except for cases falling within sub-paragraph (3), ".

(ii) for sub-paragraph (3) substitute—

"(3) For the purposes of sub-paragraph (1)(a), where an employed earner is gainfully employed outside of the United Kingdom, amounts deducted by way of income tax shall be—

(a) the amounts actually deducted in respect to income tax applicable to the income in question, whether that is paid in full in Northern Ireland or outside Northern Ireland, or partly paid both in Northern Ireland and outside of Northern Ireland; or

(b) where insufficient or unreliable evidence or information is provided by the non-resident parent as to the actual amounts deducted, the amounts that would have been deducted had that employed earner been gainfully employed in Northern Ireland.

(4) For the purposes of sub-paragraph(1)(b), where an employed earner is gainfully employed outside the United Kingdom, amounts deducted by way of primary Class 1 contributions shall be the amounts actually deducted under the Contributions and Benefits Act or under the Great Britain Contributions and Benefits