STATUTORY RULES OF NORTHERN IRELAND

2009 No. 363

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2009

Made - - - - 9th November 2009

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 3(1)(c)(ii), (3), (6) and (7), 19(3) and (5), 41(3)(a), 47(1), (2)(b) and 48(4) of the Child Support (Northern Ireland) Order 1991(**1**), and now vested in it(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2009 and shall come into operation on 10th November 2009 except for regulations 2(2) and (3) and 3 which shall come into operation on 4th December 2009.

(2) In these Regulations—

"the Order" means the Child Support (Northern Ireland) Order 1991.

`Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**3**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 19(**4**) (supersession of decisions), after paragraph (3) insert—

(**1**) 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 is amended by section 9 of, and Part 1 to, Schedule 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and was amended by Schedule 5 to the Child Maintenance Act (Northern Ireland) 2008 (c.10 (N.I.)); Article 41 is amended by section 21(4) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 47(2)(b) was amended by paragraph 31(b) of Schedule 6 to Social Security (Northern Ireland) Order 1998 and is amended by section 27(b) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

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

(**3**) S.R. 1992 No. 340; relevant amending Regulations are S.R. 1999 Nos. 152 and 167, S.R. 2003 No. 224, S.R. 2005 No. 125 and S.R. 2009 No. 133

(**4**) Regulation 19 was substituted by regulation 2(12) of S.R. 1999 No. 167 and paragraph (3) was amended by regulation 4(4) of S.R. 2000 No. 215 and regulation 2(4) of S.R. 2005 No. 125

"(3A) For the purposes of paragraph 2 of Schedule 4C to the Order(**5**) (decisions and appeals: departure directions and reduced benefit directions, etc.), the circumstances in which a decision may be superseded under paragraph (2) or (3) include where the material change of circumstances causes the maintenance assessment to cease by virtue of paragraph 16(1) of Schedule 1 to the Order(**6**) (maintenance assessments) or where the Department no longer has jurisdiction by virtue of Article 41 of the Order(**7**) (jurisdiction)."

(3) In regulation 22(**8**) (date from which a superseding decision takes effect) after paragraph (21), insert—

"(21A) Where a superseding decision is made in a case to which regulation 19(3A) applies and the material circumstance is—

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

(b) the person with care ceases to be a person with care in relation to a qualifying child; or

(c) the person with care, the absent parent or a qualifying child ceases to be habitually resident in the United Kingdom,

the decision takes effect from the first day of the maintenance period in which the change occurred.".

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

(a) for paragraph 1(**9**) (persons of 16 or 17 years of age who are not in full-time non-advanced education), substitute—

"**Persons of 16 or 17 years of age who are not in full-time non-advanced education**

1. The conditions which must be satisfied for a person to be a child within Article 3(1)(c) of the Order are that the person—

(a) is registered for training with a qualifying body; and

(b) is a person in respect of whom child benefit is payable.

Period for which a person is to be treated as continuing to fall within Article 3(1) of the Order

1A. Where a person ("P") has ceased to fall within Article 3(1) of the Order, P is to be treated as continuing to fall within that paragraph for any period during which P is a person in respect of whom child benefit is payable.";

(b) for paragraph 2(**10**) (meaning of "advanced education" for the purposes of Article 3 of the Order), substitute—

(**5**) Schedule 4C was inserted by paragraph 37 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and paragraph (2) was amended by paragraph 1(29)(c)(i) of Schedule 4 to the Child Maintenance Act (Northern Ireland) 2008

(**6**) Paragraph 16(1) was amended by paragraph 32(5) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and is amended by section 1(2) of, and paragraph 11 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and was amended by paragraph 1(29)(b) of Schedule 4 to the Child Maintenance Act (Northern Ireland) 2008

(**7**) Article 41 was amended by paragraph 26 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and is amended by sections 1(2)(a) and 21 of, and paragraph 11 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**8**) Regulation 22 was substituted by regulation 2(12) of S.R. 1999 No. 167 and paragraph (21) was added by regulation 2(5) of S.R. 2005 No. 125

(**9**) Paragraph 1 was amended by regulation 3(a) of S.R. 1999 No. 152 and regulation 2(3) of S.R. 2009 No. 133

(**10**) Paragraph 2 was amended by regulation 4(15) of S.R. 1993 No. 164

"**Meaning of "advanced education" for the purposes of Article 3 of the Order**

2. For the purposes of Article 3 of the Order "advanced education" means education for the purposes of—

(a) a course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education or a higher national diploma; or

(b) any other course which is of a standard above advanced GNVQ, or equivalent, including a course which is of a standard above a general certificate of education (advanced level), a Scottish national qualification (higher or advanced higher).";

(c) in paragraph 4(**11**) (interruption of full-time education) for sub-paragraph (2), substitute—

"(2) The provisions of sub-paragraph (1) do not apply to any period of interruption of a person's full-time education which is followed immediately by a period during which child benefit ceases to be payable in respect of that person.";

(d) omit paragraph 5 (circumstances in which a person who has ceased to receive full-time education is to be treated as continuing to fall within Article 3(1) of the Order);

(e) for paragraph 6(**12**) (interpretation), substitute—

"**Interpretation**

6. In this Schedule "qualifying body" has the same meaning as in regulation 5(4) of the Child Benefit (General) Regulations 2006(**13**) (extension period: 16 and 17 year olds).".

Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations

3. Omit regulation 7 of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(**14**) (cancellation of a maintenance assessment on grounds of lack of jurisdiction).

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

4.—(1) Schedule 1 to the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(**15**) (meaning of "child" for the purposes of the Order) is amended in accordance with paragraphs (2) to (6).

(2) For paragraph 1(**16**) (persons of 16 or 17 years of age who are not in full-time non-advanced education), substitute—

(**11**) Paragraph 4 was amended by regulation 3(a) of S.R. 1999 No. 152 and regulation 2(25) of S.R. 1999 No. 167
(**12**) Paragraph 6 was amended by regulation 3(b) of S.R. 1999 No. 152
(**13**) S.I. 2006/223.
(**14**) S.R. 1992 No. 466: regulation 7 was amended by regulation 3(2) of S.R. 1993 No. 164, Article 13(4) of S.R. 1999 No. 246 (C. 20) and regulation 3(7) of S.R. 2001 No. 16
(**15**) S.R. 2001 No. 17; relevant amending Regulations are S.R. 2008 No. 286.
(**16**) Paragraph 1 was amended by regulation 25 of S.R. 2008 No. 286