STATUTORY RULES OF NORTHERN IRELAND

2009 No. 286

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2009

Made - - - - *28th July 2009*

Coming into operation *3rd August 2009*

Approved by resolution of the Assembly on 16th November 2009

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 32A(4)(a), 32C, 32D(1)(b), 32E(2)(a) and (8)(a), 32F(1)(b), 32H(6), 32I(1) to (4), 32J, 32K(1)(b), 47(1) and (2)(h) and (i), and 48(2) and (4) of, and paragraph 10 of Schedule 1 to, 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 2009 and shall come into operation on 3rd August 2009.

Amendment of the Child Support (Collection and Enforcement) Regulations

2. After Part III of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**3**) insert—

"PART IIIA

Deduction Orders

Interpretation of Parts IIIA to IIID

25A.—(1) In Parts IIIA to IIID—

(**1**) S.I. 1991/2628 (N.I. 23). Articles 32A, 32C and 32D were inserted by section 14 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10)(N.I.) ("the 2008 Act"). Articles 32E, 32F, 32I, 32J and 32K were inserted by section 15 of the 2008 Act. Article 48(2) is amended by paragraph 13 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and Schedule 5 to the 2008 Act. For certain cases only, Article 48(2) has been substituted by section 24(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)(N.I.) and amended by Schedule 5 to the 2008 Act

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

(**3**) S.R. 1992 No. 390

"assessable income" means the amount calculated in accordance with paragraph 5 of Schedule 1 as it applies to an old scheme case and regulations made for the purposes of that paragraph;

"attachment of debts order" means an order made in accordance with the provisions of Article 69 of the Judgments Enforcement (Northern Ireland) Order 1981(**4**);

"deduction period" means the period of a week, a month or other period at which deductions are to be made from the amount (if any) standing to the credit of the account specified in a regular deduction order;

"lump sum deduction order" means an order under Article 32E(1) or, as the case may be, 32F(1);

"net weekly income" has the meaning given in the Schedule to the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**5**);

"regular deduction order" means an order under Article 32A(1);

"working day" means any day other than a Saturday, a Sunday, Christmas Day or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(**6**) in the part of the United Kingdom where a copy of a regular deduction order or a lump sum deduction order is served or a notification sent by the Department is received.

(2) Any person against whom an order under Article 32A(1) may be made by the Department is referred to in this Part and Parts IIIB and IIID as "the liable person".

(3) Where a copy of a regular deduction order or a lump sum deduction order is served by the Department in accordance with Article 32A(7), 32E(6) or 32F(6)—

(a) on a deposit-taker—

(i) where that copy of the order is sent by electronic communication or fax to the deposit-taker's last notified address for electronic communication or, as the case may be, fax number, it is to be treated as having been served at the end of the first working day after the day it was sent by the Department, or

(ii) where that copy of the order is sent by post to the deposit-taker's last notified address, it is to be treated as having been served at the end of the second working day after the day it was posted by the Department; or

(b) on a liable person, where that copy of the order is sent by post to that person's last known or notified address, it is to be treated as having been served at the end of the day on which the copy of the order is posted.

(4) Any notification sent by the Department in accordance with this Part to a deposit-taker or a liable person is to be treated as having been received at the same time as an order is treated as having been served in accordance with the provisions of paragraph (3).

(5) Where a copy of a regular deduction order or a lump sum deduction order or any notification has been sent by electronic communication in accordance with paragraph (3)(a)(i) the record held on an official computer system is conclusive evidence—

(a) that a copy of that order has been sent; and

(b) of the content of that order.

(**4**) S.I. 1981/226 (N.I. 6)
(**5**) S.R. 2001 No. 18. The Schedule has been amended by regulation 8(a) of S.R. 2002 No. 164; regulation 9(4) of S.R. 2003 No. 84; regulation 7(3) of S.R. 2004 No. 428; regulation 6(5) of S.R. 2005 No. 125; regulation 5(2) and (3) of S.R. 2007 No. 347 and regulation 6 of S.R. 2008 No. 409
(**6**) 1971 (c. 80)

(6) These Parts apply to an old scheme case in the same way as they apply to a new scheme case and—

(a) any references to expressions in the Order (including "maintenance calculation") or to regulations made under the Order are to be read, in relation to an old scheme case, with the necessary modifications; and

(b) any reference in these Parts to "net weekly income" is to be read as if it were a reference to "assessable income" where these Regulations apply to an old scheme case.

(7) In this regulation—

(a) "electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000(**7**);

(b) "an official computer system" means a computer system maintained by or on behalf of the Department for sending an order or any notification;

(c) "new scheme case" means a case in respect of which the provisions of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**8**) have been brought into operation in accordance with Article 3 of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 9) Order (Northern Ireland) 2003(**9**); and

(d) "old scheme case" means a case in respect of which those provisions have not been brought into operation.

(8) In these Parts, any reference to a numbered Article or Schedule is a reference to an Article of, or Schedule to, the Child Support (Northern Ireland) Order 1991, unless the context requires otherwise.

PART IIIB

Regular Deduction Orders

Regular deduction orders

25B.—(1) A regular deduction order must specify—

(a) the amount of the regular deduction; and

(b) the dates on which regular deductions (referred to in this Part as "deduction dates") are due to be made.

(2) Where the date on which the regular deduction is due to be made is not a working day, the deduction must be made on the first working day after the date specified in the order.

Maximum deduction rate

25C.—(1) The deduction rate under a regular deduction order in respect of any deduction period—

(a) is not to exceed 40% of the liable person's net weekly income in respect of that period as calculated—

(i) at the date of the current maintenance calculation, or

(**7**) 2000 (c. 7). Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21)
(**8**) 2000 (c. 4)(N.I.)
(**9**) S.R. 2003 No. 53 (C. 4)

(ii) where a maintenance calculation has been in force and there are arrears of child support maintenance, at the date of the most recent previous maintenance calculation; or

(b) where a default maintenance decision has been made, is not to exceed £80 per week.

(2) In this Part, "previous maintenance calculation" means a maintenance calculation which is no longer in force.

Minimum amount

25D.—(1) A deduction must not be made where the amount standing to the credit of the account specified in the regular deduction order is below the minimum amount on the date a deduction is due to be made.

(2) The minimum amount (for the purposes of these Parts) is, where the deduction period is—

(a) monthly, £40;

(b) weekly, £10; or

(c) for any other period, £10 for each whole week in that period plus £1 for each additional day in that period,

plus the amount of administrative costs authorised by regulation 25Z(a).

Notification by the deposit-taker to the Department

25E.—(1) A deposit-taker at which a regular deduction order is directed must notify the Department in writing, within seven days—

(a) of a copy of the order or the order as varied being served; or

(b) of notification being received by the deposit-taker that an order has been revived,

of the matters set out in paragraph (2).

(2) The matters are—

(a) if the account specified in the order does not exist; and

(b) where the name of the liable person specified in the order is different to the name in which the account specified in the order is held—

(i) whether the account was previously held in the name of the liable person specified in the order, and

(ii) if so, the new name in which the account is held,

only where the liable person named in the order is the same person as the person in whose name the account specified in the order is held.

(3) A deposit-taker at which a regular deduction order is directed must notify the Department within seven days of notification being received that an order has lapsed or has been discharged—

(a) if the account specified in the order does not exist; and

(b) where the name of the liable person specified in the order is different to the name in which the account specified in the order is held—

(i) whether the account was previously held in the name of the liable person specified in the order, and

(ii) if so, the new name in which the account is held,

only where the liable person named in the order is the same person as the person in whose name the account specified in the order is held.

(4) The deposit-taker at which a regular deduction order is directed must notify the Department within seven days starting on the date on which a deduction is due to be made—

(a) if the account specified in the order has been closed;

(b) if the amount standing to the credit of the account specified in the order is less than the minimum amount; and

(c) where the name of the liable person specified in the order is different to the name in which the account specified in the order is held—

(i) whether the account was previously held in the name of the liable person specified in the order, and

(ii) if so, the new name in which the account is held,

only where the liable person named in the order is the same person as the person in whose name the account specified in the order is held.

(5) The deposit-taker at which a regular deduction order is directed must notify the Department within seven days of receipt of a request made by the Department of the details of any other account held by the liable person with that deposit-taker and the details of that account, including—

(a) the number and sort code of that account; and

(b) the type of account.

(6) The requirements of this regulation apply only in so far as the deposit-taker has the information or can reasonably be expected to acquire it.

Notification by the Department to the deposit-taker

25F. The Department must notify the deposit-taker within seven days of making a decision that a regular deduction order has—

(a) been varied by virtue of regulation 25I;

(b) lapsed under regulation 25J;

(c) been revived under regulation 25K; or

(d) ceased to have effect by virtue of regulation 25L.

Review of a regular deduction order

25G.—(1) A deposit-taker at which a regular deduction order is directed or the liable person against whom the order is made may apply to the Department for a review of the order.

(2) The circumstances in which an application may be made under paragraph (1) are that—

(a) the liable person or the deposit-taker satisfies the Department that some or all of the amount standing to the credit of the account specified in the order is not an amount in which the liable person has a beneficial interest;

(b) there has been a change in the amount of the maintenance calculation in question;

(c) any amounts payable under the order have been paid;

(d) the maximum deduction rate has been calculated in accordance with regulation 25C(1)(a)(ii) and there has been a change in the liable person's