STATUTORY RULES OF NORTHERN IRELAND

2008 No. 403

FAMILY LAW

CHILD SUPPORT

The Child Support Information Regulations (Northern Ireland) 2008

Made - - - - *2nd October 2008*

Coming into operation *27th October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 7(4), 16(1) and (3), 46(5), 47(1), 48(4) and 50(1) and (2) of, and paragraph 16(11) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(**1**), and now vested in it(**2**).

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Child Support Information Regulations (Northern Ireland) 2008 and shall come into operation on 27th October 2008.

Interpretation

2.—(1) In these Regulations—

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

"appropriate authority" means an authority administering housing benefit;

(**1**) S.I. 1991/2628 (N.I. 23). Article 7(4) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), and paragraphs 11 and 13 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 16(1) and (3) was amended by section 12 of, and paragraph 16 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, and paragraph 14(b) of Schedule 6, and Schedule 7 to the Social Security (Northern Ireland) Order 1998; Article 46(5) was amended by paragraph 30 of Schedule 6 to the Social Security (Northern Ireland) Order 1998; Article 47 was amended by paragraph 31 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, and section 1(2) of, and paragraph 27 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; paragraph 16(11) of Schedule 1 was substituted 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 28(2) of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

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

"Health and Social Services Board" means a Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**3**);

"HSS trust" means a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**4**), by which functions are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994(**5**);

"Maintenance Calculation Procedure Regulations" means the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(**6**).

(2) These Regulations apply to an old scheme case in the same way as they apply to a new scheme case, and any references to expressions in the Order (including "non-resident parent" and "maintenance calculation") or to regulations made under that Order are to be read, in relation to an old scheme case, with the necessary modifications.

(3) In paragraph (2)—

(a) "new scheme case" means a case in respect of which the provisions of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**7**) 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(**8**); and

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

(4) References in these Regulations to a non-resident parent are to a person who is the non-resident parent in relation to an application for a maintenance calculation, or in relation to a maintenance calculation that is or has been in force, and includes a person treated as a non-resident parent by virtue of regulations made under Article 39 of the Order.

PART 2

DUTY TO PROVIDE INFORMATION

Information from the applicant

3. A person who has made an application for a maintenance calculation under Article 7 of the Order must furnish such information as the Department requires to enable—

(a) the non-resident parent to be identified or traced (where that is necessary);

(b) the amount of child support maintenance payable by the non-resident parent to be calculated; or

(c) that amount to be recovered from the non-resident parent.

Information from other persons

4.—(1) The persons listed in paragraph (2) must furnish such information or evidence as is required by the Department and is needed—

(**3**) S.I. 1972/1265 (N.I. 14)
(**4**) S.I. 1991/194 (N.I. 1). Article 10 was amended by section 43(1) of the Health and Social Services Act (Northern Ireland) 2001 c. 3 (N.I.)
(**5**) S.I. 1994/429 (N.I. 2)
(**6**) S.R. 2001 No. 17
(**7**) 2000 c. 4 (N.I.)
(**8**) S.R. 2003 No. 53 (C. 4)

(a) for the determination of any application made under the Order or any question arising in connection with such an application;

(b) for the making of any decision, or in connection with the imposition of any condition or requirement, under that Order; or

(c) in connection with the collection or enforcement of child support or other maintenance under that Order.

(2) The persons required to furnish information or evidence are—

(a) subject to regulation 5, the non-resident parent;

(b) a current or previous employer of the non-resident parent;

(c) a person for whom the non-resident parent is providing or has provided services under a contract for services;

(d) a person who acts or has acted as an accountant for the non-resident parent;

(e) a person, other than the applicant, who provides day to day care for a child in respect of whom an application for a maintenance calculation has been made or in respect of whom a maintenance calculation is or has been in force;

(f) a credit reference agency within the meaning given by the Consumer Credit Act 1974(**9**);

(g) the appropriate authority, the Health and Social Services Board or the HSS trust in whose area the non-resident parent or the person with care resides or has resided;

(h) persons employed in the service of the Crown or otherwise in the discharge of Crown functions—

(i) under the Road Traffic (Northern Ireland) Order 1981(**10**), sections 97 to 99A of the Road Traffic Act 1988(**11**) or Part II of the Vehicle Excise and Registration Act 1994(**12**), or

(ii) under the Prison Act 1952(**13**), the Prison Act (Northern Ireland) 1953(**14**) or the Prisons (Scotland) Act 1989(**15**);

(i) a person who, in the course of business, may lawfully accept deposits in the United Kingdom;

(j) a person who, within the meaning of Article 10(1) of the Electricity (Northern Ireland) Order 1992(**16**), distributes or supplies electricity;

(k) a person who is the holder of a licence under Article 8(1) of the Gas (Northern Ireland) Order 1996(**17**) to convey or supply gas through pipes.

(3) The persons mentioned in paragraph (2)(b) and (c) include persons employed in the service of the Crown or otherwise in the discharge of Crown functions.

(**9**) 1974 c. 39
(**10**) S.I. 1981/154 (N.I. 1)
(**11**) 1988 c. 52; sections 97 to 99A were amended by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22), the Road Traffic Act 1991 (c. 40), the Driving Licences (Community Driving Licence) Regulations (S.I. 1990/144), the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974), the Driving Licences (Community Driving Licence) Regulations 1998 (S.I. 1998/1420), the Road Traffic (New Drivers) Act 1995 (c. 13) and the Transport Act 2000 (c. 38)
(**12**) 1994 c. 22; Part II was amended by the Finance Act 1995 (c. 4), the Finance Act 1996 (c. 8), the Finance Act 1997 (c. 16), the Finance (No. 2) Act 1997 (c. 58), the Finance Act 1998 (c. 36), the Vehicles (Crime) Act 2001 (c. 3), the Finance Act 2002 (c. 23), the Finance Act 2003 (c. 14) and the Serious Organised Crime and Police Act 2005 (c. 15)
(**13**) 1952 c. 52
(**14**) 1953 c. 18
(**15**) 1989 c. 45
(**16**) S.I. 1992/231 (N.I. 1)
(**17**) S.I. 1996/275 (N.I. 2)

Information from persons denying parentage

5. Where a person is alleged to be, but denies being, the parent of a child in respect of whom an application for a maintenance calculation has been made, unless the case falls within one of those set out in Article 27(2) of the Order, the information or evidence which that person may be required to furnish is limited to what is needed for the purposes of enabling the non-resident parent to be identified, or to enable a decision to be made as to whether the Department has jurisdiction under Article 41 of the Order to make a maintenance calculation.

Information from a court

6.—(1) Where there is or has been a relevant court order, or there have been proceedings in which such an order was sought or where such proceedings are pending, the persons mentioned in paragraph (2) must furnish such information or evidence in relation to that order or those proceedings as is required by the Department and is needed for any of the purposes mentioned in regulation 4(1).

(2) The persons who are required to furnish information or evidence are—

(a) in relation to the High Court, the Master (Probate and Matrimonial) or the Master (Care and Protection);

(b) in relation to the county court, the chief clerk;

(c) in relation to a court of summary jurisdiction, the clerk of petty sessions.

(3) In paragraph (1), "relevant court order" means—

(a) an order as to periodical or capital provision or as to variation of property rights made under a statutory provision specified in paragraphs (b) to (dd) of Article 10(11) of the Order, or prescribed under Article 10(11) of that Order in relation to a person who has made an application for a maintenance calculation, or a qualifying child, person with care or non-resident parent in relation to such an application;

(b) an order under Part III of the Children (Northern Ireland) Order 1995(**18**) (Orders with Respect to Children In Family Proceedings) in relation to a qualifying child.

Duty of persons from whom information requested

7.—(1) Persons required to furnish information or evidence under regulations 3 to 6 must furnish the information or evidence requested if it is in their possession, or they can reasonably be expected to acquire it.

(2) The information must be furnished as soon as is reasonably practicable in the particular circumstances of the case.

(3) Paragraph (2) is subject to regulation 3(4) of the Maintenance Calculation Procedure Regulations (which provides for a time limit where additional information is requested in relation to an ineffective application).

Department to warn of consequences of failing to provide information or providing false information

8. A request by the Department under regulations 3 to 6 must set out the possible consequences of failure to provide the information or evidence, including details of the offences provided for in Article 16A(**19**) of the Order for failing to provide, or providing false, information.

(**18**) S.I. 1995/755 (N.I. 2)
(**19**) Article 16A was inserted by section 13 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 c. 4 (N.I.)

Duty to notify change of address

9. Persons who are liable to make payments of child support maintenance must, if they change their address, notify the Department of their new address within seven days of the change.

Continuing duty of person with care

10. Where a person with care with respect to whom a maintenance calculation has been made believes that, by virtue of Article 3 or 41 of, or paragraph 16 of Schedule 1 to, the Order, the calculation has ceased to have effect, that person must, as soon as is reasonably practicable, inform the Department of that belief, and of the reasons for it, and must provide such other information as the Department may reasonably require, with a view to assisting the Department in determining whether the calculation has ceased to have effect.

Powers of inspectors in relation to Crown premises

11. Subject to Her Majesty not being in residence, an inspector appointed under Article 17 of the Order may enter any Crown premises for the purposes of exercising any powers conferred on him by that Article.

PART 3

DISCLOSURE OF INFORMATION

Disclosure of information to a court or tribunal

12.—(1) The Department may disclose any information held for the purposes of the Order to—

(a) a court;

(b) any tribunal or other body or person mentioned in the Order;

(c) a person with a right of appeal under the Order to an appeal tribunal,

where such disclosure is made for the purposes of any proceedings before any of those bodies relating to the Order, the benefit Acts, the Jobseekers (Northern Ireland) Order 1995(**20**) or Part 1 of the Welfare Reform Act (Northern Ireland) 2007(**21**).

(2) For the purposes of this regulation "proceedings" includes the determination of an application referred to an appeal tribunal under Article 28D(1)(b)(**22**) of the Order.

(3) The Department may disclose information held for the purposes of the Order to a court in any case where—

(a) that court has exercised any power it has to make, vary or revive a maintenance order or to vary a maintenance agreement; and

(b) such disclosure is made for the purposes of any proceedings before that court in relation to that maintenance order or that maintenance agreement or for the purposes of any matters arising out of those proceedings.

(**20**) S.I. 1995/2705 (N.I. 15)
(**21**) 2007 c. 2 (N.I.)
(**22**) Article 28D was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)). Paragraph 1(b) was amended by paragraph 21 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and is substituted by section 5(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 c. 4 (N.I.)