STATUTORY RULES OF NORTHERN IRELAND

2007 No. 347

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2007

Made - - - - 27th July 2007

Coming into operation 1st August 2007

Approved by resolution of the Assembly on 22nd October 2007

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 16(1), 32(1), 34(1) and 48(4) of, and paragraphs 5(1), (2) and 10(1) 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) 2007 and shall come into operation on 1st August 2007.

Amendment of the Child Support (Information, Evidence and Disclosure) Regulations

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(**3**) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) at the end insert—

""taxable profits" means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005(**4**).".

(3) In regulation 3(2)(h)(**5**) (purposes for which information or evidence may be required) omit—

(**1**) S.I. 1991/2628 (N.I. 23); Section 1(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) ("the 2000 Act") substituted a new Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991 ("the 1991 Order"). This provision was commenced in relation to certain cases only on 3rd March 2003 (*See* Article 3 of S.R. 2003 No. 53 (C. 4)). Paragraph 5(1) and (2) of Schedule 1 to the 1991 Order relates only to cases for which the amendments in the 2000 Act have not been commenced. Paragraph 10(1) of Schedule 1 to the 1991 Order relates to cases for which the amendments in the 2000 Act have been commenced. Article 16(1) is amended by section 12 of, and paragraph 16 of Schedule 3 to, the 2000 Act in respect of certain cases commenced on 3rd March 2003 only. The power is exercised in these regulations both in its amended and unamended form

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

(**3**) S.R. 1992 No. 339; relevant amending Regulations are S.R. 1999 No. 152 and S.R. 2001 No. 16

(**4**) 2005 c. 5. This brings the definition of "taxable profits" for child support purposes into line with the definition for income tax purposes. Capital allowances will be deducted from, and balancing charges applied to, gross profits from self-employment to determine a self-employed person's earnings

(**5**) Regulation 3(2)(h) was amended by regulation 2(2) of S.R. 1999 No. 152 and regulation 2(2) and (6)(b) of S.R. 2001 No. 16

(a) "total"; and

(b) "as submitted to, or as issued to him by, the Board of Commissioners of Inland Revenue,".

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

3.—(1) Schedule 1 (calculation of N and M) to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**6**) is amended as follows.

(2) In paragraph 2A(**7**) (earnings of a self-employed earner)—

(a) in sub-paragraph (1) omit "2B";

(b) in sub-paragraph (2) omit "total" and "as submitted to the Inland Revenue,";

(c) in sub-paragraph (3) omit "total"; and

(d) after sub-paragraph (4) insert the following sub-paragraphs—

"(5) For the purposes of this sub-paragraph, "taxable profits" means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.

(6) A self-employed earner who is a person with care or an absent parent shall provide to the Department on demand a copy of—

(a) any tax calculation notice issued to him by Her Majesty's Revenue and Customs; and

(b) any revised notice issued to him by Her Majesty's Revenue and Customs.".

(3) Omit paragraph 2B(**8**).

(4) For paragraph 2C substitute—

"**2C.** Where the Department accepts that it is not reasonably practicable for a self-employed earner to provide any of the information specified in paragraph 2A(6), "earnings" in relation to that earner shall be calculated in accordance with paragraph 3.".

(5) In paragraph 3(4)(b) omit sub-heads (i), (iii), (iv), (v) and (vii).

(6) In paragraph 5A(**9**)—

(a) omit "total" in each place where it appears; and

(b) omit sub-paragraph (3).

Amendment of the Child Support (Collection and Enforcement) Regulations

4.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**10**) are amended as follows.

(2) In regulation 22 (appeals against deduction from earnings orders), for paragraph (2) substitute —

"(2) Any appeal shall be made within, either—

(a) 28 days of the date on which the matter appealed against arose, where the liable person is resident in the United Kingdom; or

(**6**) S.R. 1992 No. 341. Relevant amending provisions are S.R. 1999 Nos. 152 and 246 (C. 20) and S.R. 2005 No. 125

(**7**) Paragraphs 2A, 2B and 2C were inserted by regulation 4(5)(a) of S.R. 1999 No. 152. Paragraph 2A was amended by Article 9(9)(c) of S.R. 1999 No. 246 (C. 20) and regulation 3(2)(a) of S.R. 2005 No. 125

(**8**) Paragraphs 2B and 2C were amended by Article 9(9)(c) of S.R. 1999 No. 246 (C. 20)

(**9**) Paragraph 5A was inserted by regulation 4(5)(d) of S.R. 1999 No. 152 and amended by Article 9(9)(f) of S.R. 1999 No. 246 (C. 20)

(**10**) S.R. 1992 No. 390. Relevant amending provision is S.R. 2001 No. 15

(b) 56 days of the date on which the matter appealed against arose, where the liable person is not resident in the United Kingdom.".

(3) In regulation 26(**11**) (notice of intention to apply for a liability order)—

(a) at the beginning of paragraph (1) insert "Subject to paragraph (1A),";

(b) after paragraph (1) insert—

"(1A) Where the liable person is not resident in the United Kingdom, the Department shall give the liable person at least 28 days' notice of its intention to apply for a liability order under Article 33(2) of the Order.".

(4) In regulation 31(1)(**12**) (disqualification from driving order), omit "having jurisdiction for the area in which the liable person resides".

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

5.—(1) The Schedule to the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**13**) is amended as follows.

(2) In paragraph 7 (figures submitted to the Inland Revenue)—

(a) for the title "Figures submitted to the Inland Revenue", substitute "Net weekly income of non-resident parent as a self-employed earner";

(b) for sub-paragraph (1) substitute—

"(1) Subject to sub-paragraph (6) and to paragraph 8, the net weekly income of the non-resident parent as a self-employed earner shall be his gross earnings less the deductions to which sub-paragraph (3) applies.";

(c) after sub-paragraph (1) insert—

"(1A) In this paragraph and paragraph 8, a person's "gross earnings" are his taxable profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.";

(d) for sub-paragraph (2) substitute—

"(2) The non-resident parent shall provide to the Department on demand a copy of—

(a) any tax calculation notice issued to him by Her Majesty's Revenue and Customs; and

(b) any revised tax calculation notice issued to him by Her Majesty's Revenue and Customs."; and

(e) omit sub-paragraph (7).

(3) In paragraph 8 (figures calculated using gross receipts less deductions)—

(a) in sub-paragraph (1)—

(i) in head (b) after "Inland Revenue" omit "or", and

(ii) omit head (c);

(b) in sub-paragraph (3)(b) omit sub-heads (i), (iii), (iv), (v) and (vii).

(**11**) Regulation 26 is amended in certain cases by regulation 3(17) of S.R. 2001 No. 15

(**12**) Regulation 31 was added by regulation 3(19) of S.R. 2001 No. 15

(**13**) S.R. 2001 No. 18