STATUTORY RULES OF NORTHERN IRELAND

2005 No. 125

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Made - - - - 16th March 2005

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 12(1), 19(3) and (5), 28B(2)(c), 39(1), 47 and 48(4) of, and paragraphs 4(1)(b), 5, 6(2), (4) and (6), 7(3), 9(d) and 10(1) of Schedule 1 and paragraphs 2 and 4(1) of Schedule 4B to, the Child Support (Northern Ireland) Order 1991(**1**) and now vested in it(**2**), and section 28 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and, subject to paragraphs (2) and (3), shall come into operation on 17th March 2005.

(2) Regulation 4 shall come into operation, for the purposes of any type of case which is not one in relation to which 3rd March 2003 is the day appointed for the coming into operation of section 1(2)

(**1**) S.I. 1991/2628 (N.I. 23); Article 12(1) is amended by section 1(2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); Article 28B was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)), is substituted by section 5(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and is modified by regulations made under Article 28G(2)(b) of the Child Support (Northern Ireland) Order 1991, as substituted by section 7 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 47 was amended by paragraph 31 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and is amended by section 1(2) of, and paragraph 27 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; paragraph 5 of Schedule 1 was amended by paragraph 4(7) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)); paragraph 9 of Schedule 1 was amended by paragraph 32(2) of Schedule 6 to the Social Security (Northern Ireland) Order 1998; Part I of Schedule 1 is substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Schedule 4B was inserted by Schedule 2 to the Child Support (Northern Ireland) Order 1995 and is substituted by Part II of Schedule 2 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

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

(**3**) 2000 c. 4 (N.I.)

(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**4**), on the day on which that provision comes into operation in relation to that type of case.

(3) Regulation 8(2), (4), (5) and (6) shall come into operation on 6th April 2005.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**5**) shall be amended in accordance with paragraphs (2) to (5).

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

(a) after the definition of "effective date" there shall be inserted the following definition –

> ""family" has the same meaning as in the Maintenance Assessments and Special Cases Regulations(**6**);"; and

(b) after the definition of "the parent concerned" there shall be inserted the following definition –

> ""partner" has the same meaning as in the Maintenance Assessments and Special Cases Regulations;".

(3) In regulation 8(**7**) (categories of interim maintenance assessment) paragraph (4) shall be omitted.

(4) In regulation 19(3)(**8**) (supersession of decisions) after "where paragraph (8) applies," there shall be inserted "but subject to regulation 22(22),".

(5) In regulation 22(**9**) (date from which a superseding decision takes effect) after paragraph (20) there shall be added the following paragraphs –

> "(21) Where a superseding decision is made in a case to which regulation 19(2)(a) or (3) applies, and the relevant circumstance is that a person has ceased to be a person with care in relation to a qualifying child in respect of whom the maintenance assessment was made, the decision shall take effect from the first day of the maintenance period in which that person ceased to be that person with care in relation to that qualifying child.
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> (22) Regulation 20 shall not apply where a superseding decision is made under regulation 19(3) in the circumstances set out in paragraph (19) or (21).".

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

3.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**10**) shall be amended in accordance with paragraphs (2) to (4).

(2) In Schedule 1 (calculation of N and M) –

(**4**) *See*S.R. 2003 No. 53 (C. 4), to which there is an amendment not relevant to these regulations
(**5**) S.R. 1992 No. 340; relevant amending rules are S.R. 1995 No. 475, S.R. 1999 Nos. 167 and 246 (C. 20), S.R. 2000 No. 215 and S.R. 2003 No. 224; S.R. 1992 No. 340 is revoked, with savings, by regulation 29 of S.R. 2001 No. 17
(**6**) The definition of "family" in S.R. 1992 No. 341 was substituted by regulation 4(2) of S.R. 1996 No. 317 and amended by regulation 3(2)(a)(iii) of S.R. 1996 No. 590
(**7**) Regulation 8 was substituted by regulation 3(3) of S.R. 1995 No. 475 and amended by regulation 2(4) of S.R. 1999 No. 167 and Article 8(2) of S.R. 1999 No. 246 (C. 20)
(**8**) Regulation 19 was substituted by regulation 2(12) of S.R. 1999 No. 167 and amended by regulation 4(4) of S.R. 2000 No. 215 and regulation 5(2) of S.R. 2003 No. 224
(**9**) Regulation 22 was substituted by regulation 2(12) of S.R. 1999 No. 167 and amended by Article 8(4) of S.R. 1999 No. 246 (C. 20), regulation 4(5) of S.R. 2000 No. 215 and regulation 5(3) of S.R. 2003 No. 224
(**10**) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 No. 162, S.R. 1996 Nos. 65 and 590, S.R. 1998 No. 8, S.R. 1999 No. 152, S.R. 2002 No. 323 and S.R. 2003 No. 84; S.R. 1992 No. 341 is revoked, with savings, by regulation 15 of S.R. 2001 No. 18

(a) in paragraph 2A(3)(a)(**11**) for "equivalent to any personal allowance" there shall be substituted "calculated as if it were equivalent to any personal allowance which would be"; and

(b) in paragraph 3(5)(a)(**12**) for "equivalent to any personal allowance" there shall be substituted "calculated as if it were equivalent to any personal allowance which would be".

(3) In Schedule 2 (amounts to be disregarded when calculating or estimating N and M) –

(a) after paragraph 18 there shall be inserted the following paragraph –

"**18A.** Subject to paragraph 20(**13**), and to the extent that it does not exceed £10·00, a payment made in respect of a parent under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(**14**) (compensation schemes for armed and reserve forces).";

(b) in paragraph 20 for "18 and 19(1)", wherever it occurs, there shall be substituted "18 to 19(1)"; and

(c) in paragraph 25(**15**) for the words from "a scheme approved" to "allowances to adopters)" there shall be substituted "any regulations made under Article 59A or pursuant to Article 59A(6) of the Adoption (Northern Ireland) Order 1987(**16**) (permitted allowances)".

(4) In Schedule 4(**17**) (cases where child support maintenance is not to be payable) in paragraph (b) –

(a) at the end of sub-paragraph (ix) the word "and" shall be omitted; and

(b) after sub-paragraph (ix) there shall be added the following sub-paragraph –

"(x) the Armed Forces (Pensions and Compensation) Act 2004; and".

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

4. After regulation 8 of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(**18**) (maintenance calculations and maintenance orders made in error) there shall be inserted the following regulation –

"**Maintenance calculations and maintenance orders – payments**

8A. Where –

(a) a maintenance calculation has been made with respect to a qualifying child in response to an application made under Article 7 of the Order(**19**);

(b) at the time that maintenance calculation was made a maintenance order was in force with respect to that child;

(**11**) Paragraph 2A was inserted by regulation 4(5)(a) of S.R. 1999 No. 152
(**12**) Paragraph 3(5) was substituted by regulation 3(7)(c) of S.R. 1996 No. 590 and amended by regulation 4(14)(b)(ii) of S.R. 1998 No. 8
(**13**) Paragraph 20 was amended by regulation 2(3)(b) of S.R. 1996 No. 65
(**14**) 2004 c. 32
(**15**) Paragraph 25 was amended by regulation 5(12)(b) of S.R. 1993 No. 164
(**16**) S.I. 1987/2203 (N.I. 22); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))
(**17**) Schedule 4 was amended by regulation 5(14) of S.R. 1993 No. 164, regulation 9(18) of S.R. 1995 No. 162, paragraph 1(l) of the Schedule to S.R. 2002 No. 323 and regulation 3(7) of S.R. 2003 No. 84
(**18**) S.R. 1992 No. 466; relevant amending regulations are S.R. 1995 No. 162, S.R. 1998 No. 8 and S.R. 2001 No. 16
(**19**) Article 7 was amended by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and Schedule 7 to the Social Security (Northern Ireland) Order 1998 and is amended by sections 1(2) and 2 of, and paragraphs 11 and 13 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(c) the maintenance order has ceased to have effect by virtue of the provisions of regulation 3(**20**); and

(d) the non-resident parent had made payments of maintenance due under that order after the date on which the maintenance calculation took effect in accordance with regulation 25 of the Maintenance Calculation Procedure Regulations(**21**),

the payments made under the maintenance order shall be treated as payments of child support maintenance.".

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

5. Regulation 10 of the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(**22**) (circumstances in which a reduced benefit decision shall not be given) shall be renumbered as paragraph (1) of that regulation and after that paragraph there shall be added the following paragraph –

"(2) In paragraph (1)(c) "family" has the same meaning as in the Maintenance Calculations and Special Cases Regulations.".

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

6.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**23**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(1)(**24**) (flat rate) –

(a) after sub-paragraphs (d) and (e) the word "and" shall be omitted; and

(b) after sub-paragraph (f) there shall be added –

"; and

(g) a payment under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (compensation schemes for armed and reserve forces).".

(3) After regulation 5(1)(gg)(**25**) (nil rate) there shall be inserted "or".

(4) In regulation 11(1) (non-resident parent liable to pay maintenance under a maintenance order) for the words after "pay maintenance" there shall be substituted –

"for that child –

(i) under a maintenance order;

(ii) in accordance with the terms of an order made by a court outside Northern Ireland, or

(iii) under the legislation of a jurisdiction outside the United Kingdom,

that case shall be treated as a special case for the purpose of the Order.".

(5) In the Schedule (net weekly income) in paragraph 7(4)(a) for "equivalent to any personal allowance" there shall be substituted "calculated as if it were equivalent to any personal allowance which would be".

(**20**) Regulation 3 was amended by regulation 7(4)(a) of S.R. 1995 No. 162, regulation 7 of S.R. 1998 No. 8 and is amended by regulation 3(3) and (5) of S.R. 2001 No. 16

(**21**) Regulation 25 was amended by regulation 7(4) of S.R. 2002 No. 164. The definition of "Maintenance Calculation Procedure Regulations" is substituted for the definition of "Maintenance Assessment Procedure Regulations" in regulation 1(2) of S.R. 1992 No. 466 by regulation 3(4) of S.R. 2001 No. 16

(**22**) S.R. 2001 No. 17; regulation 10 was amended by regulation 8(3) of S.R. 2003 No. 84

(**23**) S.R. 2001 No. 18; relevant amending regulations are S.R. 2002 No. 323 and S.R. 2003 Nos. 191, 261 and 469

(**24**) Regulation 4(1) was amended by paragraph 1(t) of the Schedule to S.R. 2002 No. 323 and regulation 6(3) of S.R. 2003 No. 469

(**25**) Regulation 5(1)(gg) was inserted by regulation 33(4) of S.R. 2003 No. 191 and amended by regulation 6(b) of S.R. 2003 No. 261