STATUTORY RULES OF NORTHERN IRELAND

2003 No. 469

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2003

Made - - - - 4th November 2003

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 14(2), 18(1), 19(3), 28E(5), 39, 43, 47 and 48(4) of, and paragraphs 4, 5, 6, 10(1) and 11 of Schedule 1 and paragraphs 2, 3(1)(b), 4(1)(b) and 5 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) 2003 and, subject to paragraph (2), shall come into operation on 5th November 2003.

(**1**) S.I. 1991/2628 (N.I. 23); Article 14 was amended by paragraph 12 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 and is amended by section 8 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 and is amended by section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 28E was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)); Article 39 is amended by paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 43 was amended by paragraph 10 of Schedule 3 to the Child Support (Northern Ireland) Order 1995, paragraph 4(5) of Schedule 2 to the Jobseekers Allowance (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), paragraph 28 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and Schedule 6 to the Tax Credits Act 1999 (c. 10) and is substituted by section 18 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 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 and 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.)

(2) Regulations 2(2), (4)(b) and (f) and (5)(b) and (f), 3(2)(a) to (d), (3) and (5), 5(2), (3)(b) and (f) and (4)(b) and (f), 6(2)(a) to (c) and (e) and (4), 9 (in so far as it relates to those provisions of regulations 2 and 5) and 10(e) to (f) shall come into operation on the day on which Articles 10 and 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**4**) come into operation (or, if those Articles come into operation on different days, whichever day is the later).

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(3)(**6**) (citation, commencement and interpretation) –

(a) in sub-paragraph (a) for the words after "payable, or" there shall be substituted "the circumstances in regulation 39(3)(**7**) or regulation 39ZA(4)(**8**), as the case may be, apply;"; and

(b) in sub-paragraph (b) for the words after "given," there shall be substituted "the circumstances in regulation 39(3) or regulation 39ZA(4), as the case may be, apply; or".

(3) In regulations 8D(8)(**9**) (miscellaneous provisions in relation to interim maintenance assessments) and 29A(5)(**10**) (effective dates of new maintenance assessments in particular cases) after "income support", wherever it occurs, there shall be inserted ", state pension credit".

(4) In regulation 39 (suspension of a reduced benefit direction when a modified applicable amount is payable) –

(a) in the heading for the words after "direction" there shall be substituted "(income support)";

(b) in paragraph (1) –

(i) for the words from "concerned" to "paragraph (3)" there shall be substituted "concerned but the circumstances in paragraph (3) apply to that parent", and

(ii) for the words from "so long as" to "that paragraph" there shall be substituted "so long as those circumstances apply";

(c) paragraph (1A) shall be omitted;

(d) in paragraph (2) the words "or (1A)" shall be omitted;

(e) paragraph (3)(c) shall be omitted; and

(f) for paragraph (3) there shall be substituted the following paragraphs –

"(3) The circumstances referred to in paragraph (1) are that –

(a) that parent is resident in a residential care home, nursing home or an independent hospital; or

(**4**) S.I. 2003/431 (N.I. 9)
(**5**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 Nos. 289 and 590, S.R. 1998 No. 8 and S.R. 1999 No. 167; S.R. 1992 No. 340 is revoked, with savings, by regulation 29 of S.R. 2001 No. 17
(**6**) Regulation 1(3) was amended by regulation 3(2) of S.R. 1995 No. 475 and regulation 20(2)(b) of S.R. 1996 No. 289
(**7**) Regulation 39 was amended by regulation 4(11) of S.R. 1993 No. 164 and regulation 8(13) of S.R. 1995 No. 162
(**8**) Regulation 39ZA was inserted by regulation 20(9) of S.R. 1996 No. 289
(**9**) Regulations 8 to 8D were substituted for regulation 8 by regulation 3(3) of S.R. 1995 No. 475 and regulation 8D was amended by regulation 2(3) of S.R. 1996 No. 590, regulation 3(3) of S.R. 1998 No. 8 and regulation 2(7) of S.R. 1999 No. 167
(**10**) Regulation 29A was inserted by regulation 3(19) of S.R. 1995 No. 475 and amended by regulation 2(5) of S.R. 1996 No. 590, regulation 3(7) of S.R. 1998 No. 8 and regulation 2(14) of S.R. 1999 No. 167

(b) that parent's applicable amount falls to be calculated under regulation 21 of, and any of paragraphs 1 to 3 of Schedule 7 to, the Income Support Regulations(**11**) (patients).

(4) In paragraph (3) –

"independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"nursing home" has the meaning assigned to it by Article 11 of that Order; and

"residential care home" has the meaning assigned to it by Article 10 of that Order.".

(5) In regulation 39ZA (suspension of a reduced benefit direction in the case of modified applicable amounts in jobseeker's allowance) –

(a) in the heading for the words after "direction" there shall be substituted "(income-based jobseeker's allowance)";

(b) in paragraph (1) –

(i) for the words from "concerned" to "paragraph (4)" there shall be substituted "concerned but the circumstances in paragraph (4) apply to that parent", and

(ii) for the words from "so long as" to "those provisions" there shall be substituted "so long as those circumstances apply";

(c) paragraph (2) shall be omitted;

(d) in paragraph (3) the words "or (2)" shall be omitted;

(e) paragraph (4)(b) shall be omitted; and

(f) for paragraph (4) there shall be substituted the following paragraphs –

"(4) The circumstances referred to in paragraph (1) are that –

(a) that parent is resident in a residential care home, nursing home or an independent hospital; or

(b) that parent's applicable amount falls to be calculated under regulation 85 of, and paragraph 1 or 2 of Schedule 4 to, the Jobseeker's Allowance Regulations(**12**) (patients).

(5) In paragraph (4) –

"independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"nursing home" has the meaning assigned to it by Article 11 of that Order; and

"residential care home" has the meaning assigned to it by Article 10 of that Order.".

(**11**) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 318 and 431, S.R. 1990 No. 131, S.R. 1998 No. 81, S.R. 2002 No. 132 and S.R. 2003 Nos. 155, 195 and 261

(**12**) S.R. 1996 No. 198; relevant amending rules are S.R. 2003 Nos. 155, 195, 261 and 267

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(**13**) shall be amended in accordance with paragraphs (2) to (7).

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

(a) in the definition of "home"(**14**) for "a home for persons in need or a nursing home" there shall be substituted "a residential care home, nursing home or an independent hospital";

(b) after the definition of "Income Support Regulations" there shall be inserted the following definition –

> ""independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;";

(c) for the definition of "nursing home" there shall be substituted the following definition –

> ""nursing home" has the meaning assigned to it by Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;";

(d) for the definition of "residential care home"(**15**) there shall be substituted the following definition –

> ""residential care home" has the meaning assigned to it by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;"; and

(e) after the definition of "self-employed earner" there shall be inserted the following definition –

> ""state pension credit" means state pension credit under the State Pension Credit Act (Northern Ireland) 2002(**16**);".

(3) In regulation 9(1)(**17**) (exempt income: calculation or estimation of E) for sub-paragraph (h) there shall be substituted the following sub-paragraph –

"(h) where the absent parent or his partner is resident in a residential care home, nursing home or an independent hospital, the amount of fees paid in respect of that home or hospital, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home or hospital, as the case may be, the net amount of such fees after deduction of housing benefit;".

(4) After regulation 10A(**18**) (assessable income: working tax credit paid to or in respect of a parent with care or an absent parent) there shall be inserted the following regulation –

(**13**) S.R. 1992 No. 341; relevant amending rules are S.R. 1993 No. 164, S.R. 1994 No. 37, S.R. 1995 Nos. 162 and 475, S.R. 1996 Nos. 288, 289, 317 and 590, S.R. 1998 No. 8, S.R. 1999 Nos. 152, 246 (C. 20) and 385, S.R. 2002 Nos. 164 and 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

(**14**) The definition of "home" was amended by Article 9(2)(b) of S.R. 1999 No. 246 (C. 20)

(**15**) The definition of "residential care home" was inserted by regulation 5(2)(g) of S.R. 1993 No. 164

(**16**) 2002 c. 14 (N.I.)

(**17**) Regulation 9(1) was amended by regulation 5(3)(a) of S.R. 1993 No. 164, regulation 9(5)(a) of S.R. 1995 No. 162, regulation 4(4) of S.R. 1995 No. 475, regulation 7(6) of S.R. 1996 No. 288, regulation 4(3) of S.R. 1996 No. 317, regulation 5(2)(a) of S.R. 1998 No. 8, regulation 4 of S.R. 2002 No. 164 and paragraph 1(l) of the Schedule to S.R. 2002 No. 323

(**18**) Regulation 10A was inserted by regulation 3(3) of S.R. 1996 No. 590 and amended by Article 9(5) of S.R. 1999 No. 246 (C. 20) and regulation 3(3) of S.R. 2003 No. 84

"**Assessable income: state pension credit paid to or in respect of a parent with care or an absent parent**

10B. Where state pension credit is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Order, be taken to have no assessable income.".

(5) In regulation 11(1)(**19**) (protected income) for sub-paragraph (i) there shall be substituted the following sub-paragraph –

"(i) where the absent parent or his partner is resident in a residential care home, nursing home or an independent hospital, the amount of fees paid in respect of that home or hospital, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home or hospital, as the case may be, the net amount of such fees after deduction of housing benefit;".

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

(a) in paragraph 9A(2)(**20**) after "war widow's pension" there shall be inserted "and a war widower's pension"; and

(b) in paragraph 22A(2)(**21**) after "war widow's pension" there shall be inserted "and a war widower's pension".

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

(a) in paragraph 15(**22**) after "income support" there shall be inserted ", state pension credit";

(b) in paragraph 18(a) and (b)(ii) after "war widow's pension" there shall be inserted "or war widower's pension";

(c) paragraph 47E(**23**) shall be omitted; and

(d) after paragraph 47D(**24**) there shall be inserted the following paragraph –

"**47F.** Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(**25**) (pensions to widows and widowers) or under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(**26**) (pensions to widows and widowers).".

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

4.—(1) The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**27**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 9(**28**) (departure directions and persons in receipt of income support, income-based jobseeker's allowance or working tax credit) in the heading and in paragraphs (1)(a), (b) and

(**19**) Regulation 11(1) was amended by regulation 5(5) of S.R. 1993 No. 164, regulation 5(4) of S.R. 1994 No. 37, regulation 9(7)(a) of S.R. 1995 No. 162, regulation 4(5)(a) of S.R. 1995 No. 475, regulation 7(9) of S.R. 1996 No. 288, regulation 4(4)(a) of S.R. 1996 No. 317 and regulation 5(3)(a) of S.R. 1998 No. 8
(**20**) Paragraph 9A was inserted by regulation 4(5)(f) of S.R. 1999 No. 152
(**21**) Paragraph 22A was inserted by regulation 4(5)(h) of S.R. 1999 No. 152
(**22**) Paragraph 15 was amended by regulation 21(5) of S.R. 1996 No. 289
(**23**) Paragraph 47E was inserted by regulation 3(6)(c) of S.R. 2003 No. 84
(**24**) Paragraph 47D was inserted by regulation 3(6)(b) of S.R. 2003 No. 84
(**25**) S.I. 1983/883; article 29(1A) was inserted by S.I. 1994/1906 and amended by S.I. 2002/792 and S.I. 2003/434
(**26**) S.I. 1983/686; article 27(3) was added by S.I. 1994/2021. *See also*S.I. 2002/672
(**27**) S.R. 1996 No. 541; relevant amending regulations are S.R. 1998 No. 8 and S.R. 2003 No. 84; S.R. 1996 No. 541 is revoked, with savings, by regulation 33 of S.R. 2001 No. 20
(**28**) Regulation 9 was substituted by regulation 9(3) of S.R. 1998 No. 8 and amended by regulation 6(2) of S.R. 2003 No. 84