STATUTORY RULES OF NORTHERN IRELAND

2003 No. 84

FAMILY LAW
CHILD SUPPORT
SOCIAL SECURITY

The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2003

Made - - - - 20th February 2003

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 19(5), 28B(2)(c), 28E(5), 31(8), 38(4)(a), 39, 43(5), 47 and 48(4) of, and paragraphs 5, 6, 7, 10 and 11 of Schedule 1 and paragraphs 2(2) and 5(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. These Regulations may be cited as the Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 and shall come into operation as follows –

(**1**) S.I.1991/2628 (N.I. 23); Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and is amended by section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 28B was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and amended by paragraph 20 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and is substituted by section 5(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and 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 28E was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 and is amended by section 5(4) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 43(5) was amended by paragraph 10 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 and paragraph 28(3) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 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; 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)) 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.)

(a) subject to paragraphs (b) to (d), these Regulations shall come into operation on 21st February 2003;

(b) regulation 7 shall come into operation in relation to a particular case on the day on which Article 19 of the Child Support (Northern Ireland) Order 1991, as amended by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, comes into operation in relation to that type of case;

(c) regulation 3(6)(c) shall come into operation on 1st April 2003; and

(d) regulations 2, 3(2) to (5), (6)(a) and (b) and (7), 5, 6, 8(3), 9(2) and (4), 11 and 12 shall come into operation on 6th April 2003.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2. In regulation 34A of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**4**) (circumstances in which a reduced benefit direction shall not be given) after paragraph (b) there shall be added – "or

(c) an amount prescribed under section 9(5)(c) of the Tax Credits Act 2002(**5**) (increased elements of child tax credit for children or young persons with a disability) is included in an award of child tax credit payable to the parent in question or a member of that parent's family living with him.".

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

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

(a) after the definition of "the Child Benefit Rates Regulations"(**7**) there shall be inserted the following definition –

""child tax credit" means a child tax credit under section 8 of the Tax Credits Act 2002;";

(b) the definition of "disabled person's tax credit"(**8**) shall be omitted; and

(c) for the definition of "working families' tax credit"(**9**) there shall be substituted the following definition –

""working tax credit" means a working tax credit under section 10 of the Tax Credits Act 2002;".

(3) In regulation 10A(**10**) (assessable income: working families' tax credit or disabled person's tax credit paid to or in respect of a parent with care or an absent parent) in the heading and in paragraph (1) for "working families' tax credit or disabled person's tax credit" there shall be substituted "working tax credit".

(**4**) S.R. 1992 No. 340; regulation 34A was inserted by regulation 3(23) of S.R. 1995 No. 475 and amended by regulation 20(5) of S.R. 1996 No. 289 and regulation 2(19) of S.R. 1999 No. 167; S.R. 1992 No. 340 is revoked, with savings, by regulation 29 of S.R. 2001 No. 17

(**5**) 2002 c. 21

(**6**) S.R. 1992 No. 341; relevant amending rules are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 Nos. 288, 317 and 590 and S.R. 1999 Nos. 246 (C. 20) and 385; S.R. 1992 No. 341 is revoked, with savings, by regulation 15 of S.R. 2001 No. 18

(**7**) The definition of "the Child Benefit Rates Regulations" was inserted by regulation 7(2) of S.R. 1996 No. 288

(**8**) The definition of "disabled person's tax credit" was substituted for the definition of "disability working allowance" by regulation 2(3)(a) of S.R. 1999 No. 385

(**9**) The definition of "working families' tax credit" was inserted by regulation 2(3)(b) of S.R. 1999 No. 385

(**10**) 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 2 of S.R. 1999 No. 385

(4) In regulation 11(2)(a)(**11**) (protected income) after head (v) there shall be added the following head –

"(vi) there shall be taken into account any child tax credit which is payable to the absent parent or his partner; and".

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

(a) in paragraphs 2(1A) and 5(5)(**12**) for "working families' tax credit or disabled person's tax credit" there shall be substituted "working tax credit or child tax credit";

(b) in paragraph 7 sub-paragraphs (2) to (5)(**13**) shall be omitted;

(c) in paragraph 12(e) for the words from "under" to the end there shall be substituted "under regulation 62(2A)(b) of the Income Support (General) Regulations (Northern Ireland) 1987(**14**) towards such costs;";

(d) after paragraph 14 there shall be inserted the following paragraph –

"**14A.**—(1) Subject to sub-paragraph (2), payments to a person of working tax credit shall be treated as the income of the parent who has qualified for them by his normal engagement in remunerative work at the rate payable at the effective date.

(2) Where working tax credit is payable and the amount which is payable has been calculated by reference to the earnings of the absent parent and another person –

(a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of working tax credit shall be treated as the income of that parent;

(b) if during that period the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of working tax credit shall be treated as the income of that parent; and

(c) if during that period the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of working tax credit shall not be treated as the income of that parent."; and

(e) paragraph 16 shall be amended as follows –

(i) in sub-paragraph (1) for "(6)" there shall be substituted "(7)", and

(ii) after sub-paragraph (6) there shall be added the following sub-paragraph –

"(7) This paragraph shall not apply to payments of working tax credit referred to in paragraph 14A.".

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

(a) in paragraph 22 for the words from "paragraph 19" to the end there shall be substituted "paragraph 19 of Schedule 9 to the Income Support (General) Regulations (Northern Ireland) 1987(**15**) which would have applied if he had been in receipt of income support.";

(b) after paragraph 47C(**16**) there shall be inserted the following paragraph –

(**11**) Regulation 11(2) was amended by regulation 9(7)(b) of S.R. 1995 No. 162 and regulation 4(5)(b) of S.R. 1995 No. 475

(**12**) Paragraph 2(1A) was inserted by regulation 3(7)(b)(ii) of S.R. 1996 No. 590 and amended by Article 9(9)(b)(i) of S.R. 1999 No. 246 (C. 20) and regulation 2 of S.R. 1999 No. 385; paragraph 5(5) was added by regulation 3(7)(d) of S.R. 1996 No. 590 and amended by Article 9(9)(e)(i) of S.R. 1999 No. 246 (C. 20) and regulation 2 of S.R. 1999 No. 385

(**13**) Sub-paragraphs (2) to (5) were amended by regulation 4(8)(b) of S.R. 1996 No. 317 and regulation 2(1) of S.R. 1999 No. 385

(**14**) S.R. 1987 No. 459; regulation 62(2A) was inserted by regulation 7(a) of S.R. 1992 No. 147, substituted by regulation 3(3)(b) of S.R. 1999 No. 317 and amended by regulation 3(2) of S.R. 2001 No. 278 and regulation 3 of S.R. 2002 No. 222

(**15**) Paragraph 19 was substituted by regulation 4(9)(b) of S.R. 1994 No. 77 and amended by regulation 2(12)(c) of S.R. 1995 No. 86 and Article 16(9) of S.R. 2002 No. 99

(**16**) Paragraph 47C was inserted by regulation 3(8)(e) of S.R. 1996 No. 590

"**47D.** Any payment of child tax credit."; and

(c) after paragraph 47D there shall be inserted the following paragraph—

"**47E.** Any payment made by an eligible person relating to housing support services in respect of which the Northern Ireland Housing Executive has paid a grant to that person under Article 4(1) of the Housing Support Services (Northern Ireland) Order 2002(**17**).".

(7) In Schedule 4(**18**) (cases where child support maintenance is not to be payable) paragraph (a)(xi) shall be omitted.

Amendment of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations

4. In regulation 6 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(**19**) (rate of interest and calculation of interest) –

(a) in paragraph (3) –

(i) for sub-paragraph (b) there shall be substituted the following sub-paragraph –

"(b) the reference banks are the seven largest persons for the time being who –

(i) have permission under Part IV of the Financial Services and Markets Act 2000(**20**) to accept deposits;

(ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits, and

(iii) quote a base rate in sterling; and", and

(ii) in sub-paragraph (c) for "an institution" there shall be substituted "a person referred to in sub-paragraph (b)" and for "its", in both places where it occurs, there shall be substituted "his";

(b) in paragraph (4) for "an institution" there shall be substituted "a person" and for "that institution" there shall be substituted "that person"; and

(c) after paragraph (5)(**21**) there shall be added the following paragraph –

"(6) Paragraph (3)(b) must be read with –

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.".

Amendment of the Child Support (Collection and Enforcement) Regulations

5. In regulation 8(4) of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**22**) (interpretation of Part III—deduction from earnings orders) after sub-paragraph (e) there shall be added the following sub-paragraph –

"(f) working tax credit payable under section 10 of the Tax Credits Act 2002.".

(**17**) S.I. 2002/3154 (N.I. 8)
(**18**) Schedule 4 was amended by regulation 5(14) of S.R. 1993 No. 164, regulation 9(18) of S.R. 1995 No. 162 and regulation 2(2) of S.R. 1999 No. 385
(**19**) S.R. 1992 No. 342; relevant amending regulations are S.R. 1993 No. 164; regulation 6 is omitted, with savings, by regulations 2(5) and 5 of S.R. 2001 No. 15
(**20**) 2000 c. 8
(**21**) Paragraph (5) was added by regulation 2(5) of S.R. 1993 No. 164
(**22**) S.R. 1992 No. 390; regulation 8(4) was amended by regulation 3(8)(b) of S.R. 2001 No. 15

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

6.—(1) The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**23**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 9(**24**) (departure directions and persons in receipt of income support, income-based jobseeker's allowance, working families' tax credit or disabled person's tax credit) in the heading and in paragraphs (1)(b) and (3)(b) for ", working families' tax credit or disabled person's tax credit" there shall be substituted "or working tax credit".

(3) In regulation 12(**25**) (meaning of "benefit" for the purposes of Article 28E of the Order) for "working families' tax credit, disabled person's tax credit" there shall be substituted "working tax credit".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

7. In regulation 7B of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**26**) (date from which a decision superseded under Article 19 of the Child Support Order takes effect) after paragraph (17) there shall be inserted the following paragraphs –

"(17A) Where a superseding decision is made in a case to which regulation 6A(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 calculation was made, the decision shall take effect from the first day of the maintenance period in which that person ceased to be a person with care in relation to that qualifying child.

(17B) Where a superseding decision is made in a case to which regulation 6A(3) applies, and the relevant circumstance is that there is a further qualifying child in respect of the non-resident parent and the person with care to whom the maintenance calculation being superseded relates, the superseding decision shall take effect from –

(a) subject to sub-paragraph (b), the first day of the maintenance period in respect of the maintenance calculation in force, following –

(i) where an effective application is made under Article 19(1) of the Child Support Order by the non-resident parent, the date on which that application is made, or

(ii) where the application made under Article 19(1) of that Order is made by the person with care, the date of notification to the non-resident parent of that application;

(b) the first day of the maintenance period in respect of the maintenance calculation in force where the date set out in head (i) or (ii) falls on the first day of that maintenance period.

(17C) For the purposes of paragraph (17B) –

(a) in sub-paragraph (a)(i), an application is effective if, were it an application for a maintenance calculation, it would comply with regulation 3(1) of the Maintenance Calculation Procedure Regulations;

(b) in sub-paragraph (a)(ii), notification to the non-resident parent shall take the same form in respect of an application for a supersession as it would in regulation 5 of

(**23**) S.R. 1996 No. 541; relevant amending regulations are S.R. 1998 No. 8 and S.R. 1999 No. 385; S.R. 1996 No. 541 is revoked, with savings, by regulation 33 of S.R. 2001 No. 20
(**24**) Regulation 9 was substituted by regulation 9(3) of S.R. 1998 No. 8 and amended by regulation 2 of S.R. 1999 No. 385
(**25**) Regulation 12 was amended by regulation 2 of S.R. 1999 No. 385
(**26**) S.R. 1999 No. 162; regulation 7B was inserted by regulation 2(8) of S.R. 2001 No. 23 and amended by regulation 6(4) of S.R. 2002 No. 164