STATUTORY RULES OF NORTHERN IRELAND

2003 No. 53 (C. 4)

FAMILY LAW
CHILD SUPPORT

The Child Support, Pensions and Social Security (2000 Act) (Commencement No. 9) Order (Northern Ireland) 2003

Made - - - - 5th February 2003

The Department for Social Development, in exercise of the powers conferred on it by section 68(2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**1**) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 9) Order (Northern Ireland) 2003.

(2) In this Order –

"the Act" means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and, except where otherwise stated, references to sections and Schedules are references to sections of, and Schedules to, the Act;

"absent parent" has the meaning given in the Child Support Order before its amendment by the Act;

"the Arrangements and Jurisdiction Regulations" means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(**2**) as in operation immediately before 3rd March 2003;

"the Assessment Procedure Regulations" means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**3**) as in operation immediately before 3rd March 2003;

"effective date", in relation to a maintenance assessment or a maintenance calculation, has the meaning given in Article 8;

"existing assessment" means a maintenance assessment which is in force with an effective date which is before 3rd March 2003;

(**1**) 2000 c. 4 (N.I.)
(**2**) S.R. 1992 No. 466; relevant amending regulations are S.R. 1995 Nos. 19, 162 and 475
(**3**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 590, S.R. 1998 No. 8 and S.R. 1999 No. 167

"maintenance assessment" has the meaning given in the Child Support Order before its amendment by the Act;

"maintenance calculation" has the meaning given in the Child Support Order as amended by the Act;

"non-resident parent" has the meaning given in the Child Support Order as amended by the Act;

"partner" has the meaning given in paragraph 10C(4) of Part I of Schedule 1 to the Child Support Order as amended by the Act;

"person with care" has the meaning given in the Child Support Order;

"prescribed benefit" means a benefit prescribed for the purposes of paragraph 4(1)(c) of Part I of Schedule 1 to the Child Support Order as amended by the Act(**4**);

"qualifying child" has the meaning given in the Child Support Order;

"relevant person" means, in relation to a maintenance assessment, the absent parent or person with care and, in relation to a maintenance calculation, the non-resident parent or person with care.

Appointed day for the coming into operation of section 2(1) and (2) for the purpose of making regulations

2. 7th February 2003 is the day appointed for the coming into operation of section 2(1) and (2) (applications under Article 7 of the Child Support Order), for the purpose only of authorising the making of regulations.

Appointed day for the coming into operation of provisions specified in the Schedule to this Order

3.—(1) 3rd March 2003 is the day appointed for the coming into operation of the provisions of the Act specified in the Schedule to this Order, in so far as not already in operation, for the purpose of –

(a) cases where an application for child support maintenance is made to the Department (whether or not in writing) and the effective date would be on or after 3rd March 2003;

(b) cases where there is an existing assessment and a related decision falls to be made; and

(c) cases where there is an existing assessment and where –

(i) an application is made or treated as made which would but for that assessment result in a maintenance calculation being made,

(ii) the non-resident parent in relation to the application referred to in head (i) is the absent parent in relation to the existing assessment, and

(iii) the person with care in relation to the application referred to in head (i) is a different person to the person with care in relation to the existing assessment.

(2) For the purposes of paragraph (1)(b) "a related decision" is –

(a) a maintenance calculation which falls to be made with respect to a person who is a relevant person in relation to the existing assessment, whether or not with respect to a different qualifying child;

(b) a maintenance calculation which falls to be made with respect to the partner ("A") of a person ("B") who is a relevant person in relation to the existing assessment, where A or B is in receipt of a prescribed benefit and either –

(i) A is the non-resident parent in relation to the maintenance calculation and B is the absent parent in relation to the existing assessment, or

(**4**) *See* regulation 4(2) of S.R. 2001 No. 18

(ii) A is the person with care in relation to the maintenance calculation and B is the person with care in relation to the existing assessment;

(c) a decision which falls to be made in a case where –

(i) the existing assessment is in force in relation to a person ("C") and a maintenance calculation is in force in relation to another person ("D"),

(ii) C or D is in receipt of a prescribed benefit,

(iii) either –

(aa) C is the absent parent in relation to the existing assessment and D is the non-resident parent in relation to the maintenance calculation, or

(bb) C is the person with care in relation to the existing assessment and D is the person with care in relation to the maintenance calculation, and

(iv) a decision relating to the prescribed benefit referred to in head (ii) is superseded on the ground that C is the partner of D; or

(d) a decision which falls to be made in a case where a person ("E") and another person ("F") become entitled to a prescribed benefit as partners, and where –

(i) E is the absent parent in relation to the existing assessment and F is the non-resident parent in relation to a maintenance calculation, or

(ii) E is the person with care in relation to the existing assessment and F is the person with care in relation to the maintenance calculation.

Appointed day for the coming into operation of sections 3 and 18

4. 3rd March 2003 is the day appointed for the coming into operation of sections 3 (applications by persons claiming or receiving benefit) and 18 (reduced benefit decisions), in so far as not already in operation, for the purpose of the following cases –

(a) where, on or after 3rd March 2003, income support, an income-based jobseeker's allowance or any other benefit prescribed for the purposes of Article 9 of the Child Support Order as substituted by section 3 is claimed by or in respect of, or paid to or in respect of, the parent of a qualifying child who is also the person with care of the child, and when the claim is made –

(i) there is no maintenance assessment or maintenance calculation in force in respect of that parent, and

(ii) there has been no maintenance assessment in force during the previous 8 weeks in respect of that child;

(b) where –

(i) before 3rd March 2003, Article 9(1) of the Child Support Order, before its substitution by the Act, applied to the parent with care,

(ii) a maintenance assessment has been made with an effective date which is before 3rd March 2003, and

(iii) on or after 3rd March 2003 the parent with care withdraws his authorisation under that Article 9(1) at a date when he continues to fall within that Article 9(1);

(c) where, immediately before 3rd March 2003, paragraph (1) of Article 9 of the Child Support Order, before its substitution by the Act, applied to the parent with care, and a maintenance assessment has not been made because –

(i) the Department was in the process of considering whether the parent with care should be required to give the authorisation referred to in that paragraph,

(ii) paragraph (2) of that Article applied,

(iii) paragraph (2) of that Article did not apply and a reduced benefit direction was given under Article 43(5) of the Child Support Order before its substitution by the Act; or

(iv) the parent with care failed to comply with a requirement imposed on him under paragraph (1) of that Article and the Department was in the process of serving a notice or considering reasons given by the parent with care under Article 43(2) or (3) of the Child Support Order before its substitution by the Act.

Appointed day for the coming into operation of section 19

5. 3rd March 2003 is the day appointed for the coming into operation of section 19 (voluntary payments), in so far as not already in operation, for the purposes of cases where an application for child support maintenance is made to the Department (whether or not in writing) and the effective date would be on or after 3rd March 2003.

Appointed day for the coming into operation of section 22, and an associated repeal

6.—(1) 3rd March 2003 is the day appointed for the coming into operation of –

(a) section 22 (abolition of the child maintenance bonus); and

(b) Part I of Schedule 9 in so far as it relates to the repeal of Article 4 of the Child Support (Northern Ireland) Order 1995(**5**) and section 67 in so far as it relates to that repeal,

for the purposes of the cases specified in paragraph (2).

(2) Those cases are –

(a) the cases referred to in sub-paragraphs (a), (b) and (c) of Article (3)(1); and

(b) cases where maintenance is, on or after 3rd March 2003, paid or payable –

(i) by the parent of a child to a person who has the care of the child in the United Kingdom, and

(ii) under an agreement between the parent and that person (whether enforceable or not) or by virtue of an order of the court.

Appointed day for the coming into operation of section 28, and paragraph 23 of Schedule 3

7. 3rd March 2003 is the day appointed for the coming into operation of –

(a) section 28 (transitional provisions, savings, etc.) in so far as not already in operation; and

(b) paragraph 23 of Schedule 3 (which substitutes paragraph (2) of Article 30 of the Child Support Order(**6**)) and section 25 in so far as it relates to that paragraph.

The effective date

8.—(1) For the purposes of this Order "the effective date" means, in relation to any case, the date which would be the effective date of a maintenance assessment under regulation 29 (effective dates of new maintenance assessments) or 32(7) (maintenance periods) of the Assessment Procedure Regulations(**7**) or regulation 3(4), (6) or (7) of the Arrangements and Jurisdiction Regulations(**8**)

(**5**) S.I.1995/2702 (N.I. 13)
(**6**) Article 30(2) is not yet in operation
(**7**) Regulation 29 was amended by regulation 8(10) of S.R. 1995 No. 162, regulation 3(18) of S.R. 1995 No. 475 and regulation 2(13) of S.R. 1999 No. 167 and regulation 32(7) was added by regulation 3(22)(b) of S.R. 1995 No. 475
(**8**) Paragraph (4) was amended by regulation 7(2) of S.R. 1995 No. 475, paragraph (6) was added by regulation 3 of S.R. 1995 No. 19 and paragraph (7) was added by regulation 7(4)(b) of S.R. 1995 No. 162 and amended by regulation 7(2) of S.R. 1995 No. 475

(relationship between maintenance assessments and certain court orders), whichever would apply to the case in question, or would have applied had the effective date not fallen to be determined under regulation 8C (effective date of an interim maintenance assessment) or 29A (effective dates of new maintenance assessments in particular cases) of the Assessment Procedure Regulations(**9**); and paragraphs (2) and (3) shall apply in relation to the application of those Regulations for this purpose.

(2) In the application of the Assessment Procedure Regulations for the purposes of paragraph (1), where, on or after 3rd March 2003, no maintenance enquiry form, as defined in those Regulations, is given or sent to the absent parent, those Regulations shall be applied as if references in regulation 29 –

(a) to the date when the maintenance enquiry form was given or sent to the absent parent were references to the date on which the absent parent is first notified by the Department (whether or not in writing) that an application for child support maintenance has been made in respect of which he is named as the absent parent, and

(b) to the return by the absent parent of the maintenance enquiry form containing his name, address and written confirmation that he is the parent of the child or children in respect of whom the application was made were references to the provision of this information by the absent parent.

(3) In the application of the Arrangements and Jurisdiction Regulations for the purposes of paragraph (1), where, on or after 3rd March 2003, no maintenance enquiry form, as defined in the Assessment Procedure Regulations, is given or sent to the absent parent, regulation 3(7) of the Arrangements and Jurisdiction Regulations shall be applied as if the reference to the date when the maintenance enquiry form was given or sent to the absent parent were to the date on which the absent parent is first notified by the Department (whether or not in writing) that an application for child support maintenance has been made in respect of which he is named as the absent parent.

Sealed with the Official Seal of the Department for Social Development on 5th February 2003.

John O'Neill
Senior Officer of the
Department for Social Development

(**9**) Regulation 8C was inserted by regulation 3(3) of S.R. 1995 No. 475 and amended by regulation 2(6) of S.R. 1999 No. 167 and 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