Regulations made by the Department for Social Development and laid before the Assembly under Article 48(2) of the Child Support (Northern Ireland) Order 1991, for approval by resolution of the Assembly before the expiration of 6 months from the date of their coming into operation:

STATUTORY RULES OF NORTHERN IRELAND

2002 No. 164

FAMILY LAW
SOCIAL SECURITY
CHILD SUPPORT

The Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2002

Made - - - - 29th April 2002

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 16(1), 18(1) and (4), 19(5), 22(4), 28B(2)(*c*), 28E(1), 28G, 43(10), 47, 48(4) and 50 of, and paragraphs 5, 10 and 11 of Schedule 1 and paragraphs 3, 4 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 Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2002 and, subject to paragraph (2), shall come into operation on 30th April 2002.

(**1**) S.I.1991/2628 (N.I. 23); Article 16(1) was amended by paragraph 3 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and paragraph 14 of Schedule 6 and Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); Articles 18 and 19 were substituted respectively, by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998; Articles 22 and 28B are substituted respectively, by sections 10 and 5(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 28E was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 and amended by section 5(4) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Articles 28G and 43 are substituted respectively, by sections 7 and 18 of that Act; Article 47 was amended by paragraph 31 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and paragraph 10 of Schedule 1 and Schedule 4B are substituted respectively, by section 1(3) of, and Schedule 1 to, and section 6(2) of, and 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(3)(*a*) and 6 shall come into operation in relation to a particular case on the day on which sections 1(2), 8, 9 and 10 of, and paragraphs 12 and 27 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 come into operation for the purposes of that type of case.

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

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(**4**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement and interpretation) for the definition of "appropriate authority" there shall be substituted the following definition—

""appropriate authority" means an authority administering housing benefit;".

(3) In regulation 2(2) (persons under a duty to furnish information or evidence)—

(a) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(aa) where regulation 8(1) of the Maintenance Calculations and Special Cases Regulations applies (persons treated as non-resident parents), a parent of or a person who provides day to day care for the child in respect of whom a maintenance calculation has been applied for or has been treated as applied for or is or has been in force, with respect to the matter listed in sub-paragraph (*l*) of regulation 3(1);"; and

(b) in sub-paragraph (*h*)(**5**)—

(i) in head (i) after "1981" there shall be inserted ", sections 97 to 99A of the Road Traffic Act 1988(**6**)", and

(ii) in head (ii) after "under" there shall be inserted "the Prison Act 1952(**7**)," and after "1953" there shall be inserted "or the Prisons (Scotland) Act 1989(**8**)".

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

3. In the heading to regulation 31A of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**9**) (notification of intention to cancel a maintenance assessment) and in paragraph (1) for "16(4A)" there shall be substituted "16(5)".

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

4. In regulation 9(1) of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**10**) (exempt income: calculation or estimation of E)—

(a) in sub-paragraph (*e*) after head (ii) there shall be added the following head—

"(iii) if the parent were a claimant, the conditions in paragraph 13A of the relevant Schedule(**11**) (income support enhanced disability premium) would be

(**4**) S.R. 1992 No. 339; relevant amending regulations are S.R. 2001 No. 16
(**5**) Sub-paragraph (*h*) was added by regulation 2(5)(*d*) of S.R. 2001 No. 16
(**6**) 1988 c. 52; sections 97 to 99A were amended by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22), the Road Traffic Act 1991 (c. 40), the Driving Licence (Community Driving Licence) Regulations (S.I. 1990/144), the Driving Licence (Community Driving Licence) Regulations 1996 (S.I. 1996/1974) and the Driving Licence (Community Driving Licence) Regulations 1998 (S.I. 1998/1420)
(**7**) 1952 c. 52
(**8**) 1989 c. 45
(**9**) 1992 No. 340; regulation 31A was inserted by regulation 3(21) of S.R. 1995 No. 475 and amended by regulation 2(16) of S.R. 1999 No. 167
(**10**) S.R. 1992 No. 341; to which there are amendments not relevant to these Regulations
(**11**) Paragraph 13A was substituted by regulation 2(*c*)(ii) of S.R. 2000 No. 367

satisfied in respect of him, an amount equal to the amount specified in column (2) of paragraph 15(8)(*b*) of that Schedule(**12**);"; and

(b) in sub-paragraph (*g*) after head (ii) there shall be added the following head—

"(iii) if the conditions set out in paragraph 13A of the relevant Schedule (income support enhanced disability premium) are satisfied in respect of that child, an amount equal to the amount specified in column (2) of paragraph 15(8)(*a*) of that Schedule or, where paragraph (2) applies, half that amount;".

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

5. In regulation 23(2) of the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**13**) (assets capable of producing income or higher income) after sub-paragraph (*b*) there shall be added—

"; or

(c) if the non-applicant were a claimant, paragraph 59 of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987(**14**) (treatment of relevant trust payments) would apply to the asset referred to in that paragraph.".

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

6.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**15**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 3A(**16**) (revision of child support decisions)—

(a) in paragraph (1)—

(i) after sub-paragraph (*c*) there shall be inserted the following sub-paragraph—

"(cc) if an appeal is made under Article 22 of the Child Support Order against a decision within the time prescribed in regulation 31, or in a case to which regulation 32 applies within the time prescribed in that regulation, but the appeal has not been determined;"; and

(ii) after sub-paragraph (*e*) there shall be added—

"; or

(f) if the grounds for revision are that a person with respect to whom a maintenance calculation was made was not, at the time the calculation was made, a parent of a child to whom the calculation relates.";

(b) for paragraph (3) there shall be substituted the following paragraph—

"(3) In paragraphs (1), (2) and (5A) and in regulation 4(3) "decision" means a decision of the Department under Article 13, 14 or 43 of the Child Support Order(**17**), or a determination of an appeal tribunal on a referral under Article 28D(1)(*b*) of that

(**12**) Sub-paragraph (8) was added by regulation 2(*c*)(iii) of S.R. 2000 No. 367
(**13**) S.R. 1996 No. 541; to which there are amendments not relevant to these Regulations
(**14**) S.R. 1987 No. 459; paragraph 59 was inserted by regulation 2(1) of S.R. 2001 No. 150
(**15**) S.R. 1999 No. 162; relevant amending regulations are S.R. 2001 No. 23
(**16**) Regulation 3A is inserted by regulation 2(4) of S.R. 2001 No. 23
(**17**) Articles 13 and 14 are substituted respectively, by sections 1 and 4 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Order(**18**), or any supersession of a decision under Article 19 of that Order, whether as originally made or as revised under Article 18 of that Order."; and

(c) after paragraph (5) there shall be inserted the following paragraph—

"(5A) Where—

(a) the Department makes a decision ("decision A") and there is an appeal;

(b) there is a further decision in relation to the appellant ("decision B") after the appeal but before the appeal results in a decision by an appeal tribunal ("decision C"); and

(c) the Department would have made decision B differently if it had been aware of decision C at the time it made decision B,

decision B may be revised at any time.".

(3) In regulation 6B(4)(*e*)(**19**) (circumstances in which a child support decision may not be superseded) ", (19)" shall be omitted.

(4) In regulation 7B(**20**) (date from which a decision superseded under Article 19 of the Child Support Order takes effect)—

(a) after paragraph (1) there shall be inserted the following paragraph—

"(1A) Where a decision is superseded by a decision made by the Department in a case to which regulation 6A(2)(*a*) or (3)(**21**) applies and the relevant circumstance is that—

(a) paragraph 4(2) of Schedule 1 to the Child Support Order(**22**) applies, the decision shall take effect from the first day of the maintenance period on or after—

(i) the date on which the non-resident parent becomes the partner of a non-resident parent, or

(ii) where a maintenance calculation is first made in respect of the non-resident parent's partner, the date on which that calculation takes effect for the purposes of the Child Support Order; or

(b) paragraph 4(2) of Schedule 1 to the Child Support Order ceases to apply, the decision shall take effect from the first day of the maintenance period on or after the date on which—

(i) the non-resident parent or his partner ceases to be a non-resident parent, or

(ii) the non-resident parent ceases to be the partner of a non-resident parent."; and

(b) paragraph (19) shall be omitted.

(5) In regulation 31(2) (time within which appeals are to be brought) after "regulation 3(1) or (3)" in both places where it occurs, there shall be inserted "or 3A(1)".

(**18**) Article 28D was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 and paragraph (1) is substituted by section 5(3)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**19**) Regulation 6B was inserted by regulation 2(7) of S.R. 2001 No. 23

(**20**) Regulation 7B was inserted by regulation 2(8) of S.R. 2001 No. 23

(**21**) Regulation 6A was inserted by regulation 2(7) of S.R. 2001 No. 23

(**22**) Paragraph 4 is substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

7.—(1) The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(**23**) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(1) (citation, commencement and interpretation) for "paragraph 27" there shall be substituted "paragraphs 12 and 27".

(3) After regulation 9 (period within which reasons are to be given) there shall be inserted the following regulation—

"**Period for parent to state if request still stands**

9A. The period to be specified for the purposes of Article 43(6) of the Order(**24**) (period for the parent to state if the request still stands) is 4 weeks from the date on which the Department serves notice under that paragraph.".

(4) In regulation 25(1) (effective dates of maintenance calculations — maintenance order and application under Article 7) for sub-paragraph (*c*) there shall be substituted the following sub-paragraph—

"(c) there is a maintenance order which—

(i) is in force and was made on or after the date prescribed for the purposes of Article 7(10)(*a*) of the Order(**25**);

(ii) relates to the person with care, the non-resident parent and all the children to whom the application referred to in sub-paragraph (*b*) relates, and

(iii) has been in force for at least one year prior to the date of the application referred to in sub-paragraph (*b*).".

(5) In regulation 26(1) (effective dates of maintenance calculations — maintenance order and application under Article 9) in sub-paragraph (*c*) for "and the non-resident parent" there shall be substituted ", the non-resident parent and all the children to whom the application referred to in sub-paragraph (*b*) relates".

(6) In regulation 27(*b*) (effective dates of maintenance calculations — maintenance order ceases) for "24 or 25" there shall be substituted "25 or 26".

(7) In regulation 28 (effective dates of maintenance calculations in specified cases) after paragraph (*b*) there shall be added the following paragraph—

"(c) except where the parent with care has made a request under Article 9(5) of the Order(**26**), where—

(i) in the period of 8 weeks immediately preceding the date the application is made, or treated as made under regulation 3, a maintenance calculation ("the previous maintenance calculation") has been in force and has ceased to have effect;

(ii) the parent with care in respect of the previous maintenance calculation is the non-resident parent in respect of the application;

(iii) the non-resident parent in respect of the previous maintenance calculation is the parent with care in respect of the application, and

(iv) the application relates to the same qualifying child, or all of the same qualifying children, and no others, as the previous maintenance calculation,

(**23**) S.R. 2001 No. 17
(**24**) Article 43 is substituted by section 18 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
(**25**) Paragraph (10) was inserted by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and sub-paragraph (*a*) is amended by section 2(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
(**26**) Article 9 is substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000