STATUTORY RULES OF NORTHERN IRELAND

2001 No. 17

FAMILY LAW
CHILD SUPPORT

The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001

Made - - - - 23rd January 2001
Approved by resolution of the Assembly on - - - - 29th May 2001
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by Articles 3, 4(3), 8(3), 14(4) and (5)(*b*), 43(2), (5), (8) and (10), 47 and 48(4) of, and paragraphs 11 and 14 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(**1**) and now vested in it(**2**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001 and shall come into operation in relation to a particular case on the day on which sections 1(2), 3, 4 and 18 of, and paragraph 27 of Schedule 3 to, the Act come into operation in relation to that type of case.

(2) In these Regulations—

"the Order" means the Child Support (Northern Ireland) Order 1991;

"the Children Order" means the Children (Northern Ireland) Order 1995(**3**);

(**1**) S.I. 1991/2628 (N.I . 23); Article 14 was substituted by section 4 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), and Article 43 was substituted by section 18 of that Act
(**2**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**3**) S.I. 1995/755 (N.I. 2)

"the Act" means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**4**);

"date of notification to the non-resident parent" means the date on which the non-resident parent is first given notice of a maintenance application;

"effective application" means as provided for in regulation 3;

"date of receipt" means the day on which the information or document is actually received;

"effective date" means the date on which a maintenance calculation takes effect for the purposes of the Order;

"notice of a maintenance application" means notice by the Department under regulation 5(1) that an application for a maintenance calculation has been made, or treated as made, in relation to which the non-resident parent is named as a parent of the child to whom the application relates;

"the Maintenance Calculations and Special Cases Regulations" means the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**5**);

"maintenance period" has the same meaning as in Article 19(4A) of the Order(**6**);

"relevant person" means—

(a) a person with care;

(b) a non-resident parent;

(c) a parent who is treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations,

in respect of whom a maintenance calculation has been applied for, or has been treated as applied for under Article 9(3) of the Order, or is or has been in force.

(3) The provisions in Schedule 1 shall have effect to supplement the meaning of "child" in Article 3 of the Order.

Documents

2. Except where otherwise stated, where—

(a) any document is given or sent to the Department, that document shall be treated as having been so given or sent on the day that it is received by the Department; and

(b) any document is given or sent to any other person, that document shall, if sent by post to that person's last known or notified address, be treated as having been given or sent on the day that it is posted.

Part II

Applications for a Maintenance Calculation

Applications under Article 7 of the Order

3.—(1) A person who applies for a maintenance calculation under Article 7 of the Order(**7**) need not normally do so in writing, but if the Department directs that the application be made in

(**4**) 2000 c. 4 (N.I.)
(**5**) S.R. 2001 No. 18
(**6**) Article 19(4A) is inserted by section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
(**7**) Article 7 was amended by Article 12(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and section 2 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

writing, the application shall be made either by completing and returning, in accordance with the Department's instructions, a form provided for that purpose, or in such other written form as the Department may accept as sufficient in the circumstances of any particular case.

(2) An application for a maintenance calculation is effective if it complies with paragraph (1) and, subject to paragraph (4), is made on the date it is received.

(3) Where an application for a maintenance calculation is not effective the Department may request the person making the application to provide such additional information or evidence as the Department may specify and, where the application was made on a form, the Department may request that the information or evidence be provided on a fresh form.

(4) Where the additional information or evidence requested is received by the Department within 14 days of the date of its request, or at a later date in circumstances where the Department is satisfied that the delay was unavoidable, it shall treat the application as made on the date on which the earlier or earliest application would have been treated as made had it been effective.

(5) Where the Department receives the additional information or evidence requested by it more than 14 days from the date of the request and in circumstances where it is not satisfied that the delay was unavoidable, the Department shall treat the application as made on the date of receipt of the information or evidence.

(6) Subject to paragraph (7), a person who has made an effective application may amend or withdraw the application at any time before a maintenance calculation is made and such amendment or withdrawal need not be in writing unless, in any particular case, the Department requires it to be.

(7) No amendment made under paragraph (6) shall relate to any change of circumstances arising after the effective date of a maintenance calculation resulting from an effective application.

Multiple applications

4.—(1) The provisions of Schedule 2 shall apply in cases where there is more than one application for a maintenance calculation.

(2) The provisions of paragraphs 1, 2 and 3 of Schedule 2 relating to the treatment of two or more applications as a single application shall apply where no request is received for the Department to cease acting in relation to all but one of the applications.

(3) Where, under the provisions of paragraph 1, 2 or 3 of Schedule 2, two or more applications are to be treated as a single application, that application shall be treated as an application for a maintenance calculation to be made with respect to all of the qualifying children mentioned in the applications, and the effective date of that maintenance calculation shall be determined by reference to the earlier or earliest application.

Notice of an application for a maintenance calculation

5.—(1) Where an effective application has been made under Article 7 of the Order, or is treated as made under Article 9(3) of the Order(**8**), as the case may be, the Department shall as soon as is reasonably practicable notify, orally or in writing, the non-resident parent and any other relevant persons (other than the person who has made, or is treated as having made, the application) of that application and request such information as it may require to make the maintenance calculation in such form and manner as it may specify in the particular case.

(2) Where the person to whom notice is being given under paragraph (1) is a non-resident parent, that notice shall specify the effective date of the maintenance calculation if one is to be made, and the ability to make a default maintenance decision.

(**8**) Article 9 is substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(3) Subject to paragraph (4), a person who has provided information under paragraph (1) may amend the information he has provided at any time before a maintenance calculation is made and such information need not be in writing unless, in any particular case, the Department requires it to be.

(4) No amendment under paragraph (3) shall relate to any change of circumstances arising after the effective date of any maintenance calculation made in response to the application in relation to which the information was requested.

Death of a qualifying child

6.—(1) Where the Department is informed of the death of a qualifying child with respect to whom an application for a maintenance calculation has been made or has been treated as made, it shall—

(a) proceed with the application as if it had not been made with respect to that child if the Department has not yet made a maintenance calculation;

(b) treat any maintenance calculation already made by the Department as not having been made if the relevant persons have not been notified of it and proceed with the application as if it had not been made with respect to that child.

(2) Where all of the qualifying children with respect to whom an application for a maintenance calculation has been made have died, and either the calculation has not been made or the relevant persons have not been notified of it, the Department shall treat the application as not having been made.

Part III

Default Maintenance Decisions

Default rate

7.—(1) Where the Department makes a default maintenance decision under Article 14(1) of the Order (insufficient information to make a maintenance calculation or to make a decision under Article 18 or 19 of the Order(**9**)) the default rate is as set out in paragraph (2).

(2) The default rate for the purposes of Article 14(5)(*b*) of the Order shall be—

£30 where there is one qualifying child of the non-resident parent;

£40 where there are two qualifying children of the non-resident parent;

£50 where there are three or more qualifying children of the non-resident parent,

apportioned, where the non-resident parent has more than one qualifying child and in relation to them there is more than one person with care, as provided in paragraph 6(2) of Part I of Schedule 1 to the Order(**10**).

(3) Subject to paragraph (4), where any apportionment made under this regulation results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded.

(4) If, in making the apportionment required by this regulation, the effect of the application of paragraph (3) would be such that the aggregate amount of child support maintenance payable

(**9**) Articles 18 and 19 were substituted respectively by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and are amended respectively by sections 8 and 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

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

by a non-resident parent would be different from the aggregate amount payable before any apportionment, the Department shall adjust that apportionment so as to eliminate that difference; and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which each person with care would have received if no adjustment had been made under this paragraph.

Part IV

Reduced Benefit Decisions

Interpretation of Part IV

8.—(1) For the purposes of this Part—

"applicable amount", is to be construed in accordance with Part IV of the Income Support Regulations and regulations 83 to 86 of the Jobseeker's Allowance Regulations;

"benefit week", in relation to income support has the same meaning as in the Income Support Regulations, and in relation to jobseeker's allowance has the same meaning as in the Jobseeker's Allowance Regulations;

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**11**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**12**);

"parent concerned" means the parent with respect to whom a reduced benefit decision is given;

"reduced benefit decision" has the same meaning as in Article 43(10)(*b*) of the Order; and

"relevant benefit" has the same meaning as in Article 43(10)(*c*) of the Order.

(2) In this Part references to a reduced benefit decision as being "in operation", "suspended" or "in force" shall be construed as follows—

(a) a reduced benefit decision is "in operation" if, by virtue of that decision, relevant benefit is currently being reduced;

(b) a reduced benefit decision is "suspended" if—

(i) after that decision has been given, relevant benefit ceases to be payable, or becomes payable at one of the rates indicated in regulation 14(4) or, as the case may be, regulation 15(4);

(ii) at the time the reduced benefit decision is given, relevant benefit is payable at one of the rates indicated in regulation 15(4) or, as the case may be, regulation 16(4),

and these Regulations provide for relevant benefit payable from a later date to be reduced by virtue of the same reduced benefit decision; and

(c) a reduced benefit decision is "in force" if it is either in operation or suspended.

(**11**) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139 and 395, S.R. 1990 No. 131, S.R. 1991 Nos. 170 and 345, S.R. 1992 No. 403, S.R. 1993 Nos. 149, 165 and 373, S.R. 1994 Nos. 65, 77, 266 and 327, S.R. 1995 No. 86, S.R. 1996 Nos. 93, 199, 288, 375, 405, 489 and 499, S.R. 1997 No. 412, S.R. 1998 Nos. 2 and 81 and S.R. 2000 Nos. 38, 71 and 125

(**12**) S.R. 1996 No. 198; relevant amending rules are S.R. 1996 Nos. 288, 356, 358 and 503, S.R. 1997 Nos. 130 and 412, S.R. 1998 Nos. 2 and 81, S.R. 1999 No. 428 (C. 32) and S.R. 2000 Nos. 38, 71 and 125