STATUTORY RULES OF NORTHERN IRELAND

2001 No. 15

FAMILY LAW
CHILD SUPPORT

The Child Support (Collection and Enforcement and Miscellaneous Amendments) 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(2) and (3)

The Department for Social Development, in exercise of the powers conferred by Articles 28J(3), 29(2) and (3), 30(1) and (4), 31(8), 32(1) to (5) and (7) to (9), 34(1), 36, 37(11), 37A(11), 38(2), 38A(1) and (4), 44, 47 and 48(4) of 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:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001.

(2) Regulations 3(8)(*b*), (19) and (22), 5(3) and 6 and, for the purposes of those provisions, this regulation, shall come into operation on 2nd April 2001.

(3) The remainder of these Regulations shall come into operation in relation to a particular case on the day on which sections 1(2) and (3), 4, 17(1) and (2) and 19(1) of, and paragraphs 11 and 24 of Schedule 3 to, the Act come into operation for the purposes of that type of case.

(4) In these Regulations "the Act" means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**3**).

(**1**) S.I.1991/2628 (N.I. 23); Articles 28J and 37A were inserted by sections 19 and 16(3) respectively of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I)), Article 38(2) was substituted by paragraph 9 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)), Article 38A was substituted by section 17 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 47 was amended by paragraph 37 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))
(**2**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**3**) 2000 (c. 4) (N.I.)

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

2.—(1) The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(**4**) shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 1(2) (interpretation)—

(a) the definitions of "absent parent", "due date", "Maintenance Assessments and Special Cases Regulations" and "Maintenance Assessment Procedure Regulations" shall be omitted;

(b) after the definition of "arrears notice" there shall be inserted the following definitions—

> ""Maintenance Calculation Procedure Regulations" means the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(**5**);
>
> "non-resident parent" includes a person treated as such under regulation 8 of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**6**);"; and

(c) in the definition of "relevant person" for "Maintenance Assessment Procedure Regulations" there shall be substituted "Maintenance Calculation Procedure Regulations".

(3) In Part II (arrears of child support maintenance and interest on arrears), in the heading "and interest on arrears" shall be omitted.

(4) In regulation 2 (applicability of provisions as to arrears and interest and arrears notices)—

(a) in the heading "and interest" shall be omitted;

(b) in paragraphs (1) and (3)(*b*) for "regulations 3 to 9" there shall be substituted "regulations 5 and 8";

(c) in paragraphs (2), (3)(*c*) and (4) for "absent parent" there shall be substituted "non-resident parent";

(d) in paragraph (3)(*b*) "and interest" shall be omitted.

(5) Regulations 3(**7**) (liability to make payments of interest with respect to arrears), 4(**8**) (circumstances in which no liability to pay interest arises), 6(**9**) (rate of interest and calculation of interest) and 7(**10**) (receipt and retention of interest paid) shall be omitted.

(6) In regulation 5 (payment of arrears by agreement)—

(a) in paragraph (1)(**11**) for "an absent parent" there shall be substituted "a non-resident parent" and for "the absent parent" there shall be substituted "the non-resident parent";

(b) paragraphs (3), (4) and (6) shall be omitted; and

(c) in paragraph (5) for "absent parent" there shall be substituted "non-resident parent".

(7) In regulation 8(**12**) (retention of arrears)—

(a) in paragraph (1)(*a*) for "an absent parent" there shall be substituted "a non-resident parent"; and

(**4**) S.R. 1992 No. 342; relevant amending rules are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 289 and S.R. 1999 No. 246 (C. 20)
(**5**) S.R. 2001 No. 17
(**6**) S.R. 2001 No. 18
(**7**) Regulation 3 was amended by Article 10(2) of S.R. 1999 No. 246 (C. 20)
(**8**) Regulation 4 was amended by regulation 2(3) of S.R. 1993 No. 164, regulation 3(2) of S.R. 1995 No. 162 and Article 10(3) of S.R. 1999 No. 246 (C. 20)
(**9**) Regulation 6 was amended by regulation 2(5) of S.R. 1993 No. 164
(**10**) Regulation 7 was amended by regulation 22(2)(*a*) of S.R. 1996 No. 289
(**11**) Paragraph (1) was substituted by regulation 2(4) of S.R. 1993 No.164
(**12**) Regulation 8 was substituted by regulation 5(2) of S.R.1995 No.475 and amended by regulation 22(2)(*b*) of S.R. 1996 No. 289

(b) in paragraph (2) for "absent parent" there shall be substituted "non-resident parent" and for "assessment" there shall be substituted "calculation".

(8) In the headings to Part III (attribution of payments and adjustment of the amount payable under a maintenance assessment) and to regulation 10 (adjustment of the amount payable under a maintenance assessment) for "assessment" there shall be substituted "calculation".

(9) In regulation 9 (attribution of payments) for "assessment" there shall be substituted "calculation" and for "an absent parent" there shall be substituted "a non-resident parent".

(10) In regulation 10(**13**) (adjustment of the amount payable under a maintenance assessment)—

(a) in paragraph (1)—

(i) "new or a fresh" shall be omitted and for "assessment" wherever it appears there shall be substituted "calculation";

(ii) in sub-paragraph (*b*)(i) for "absent parent" there shall be substituted "non-resident parent";

(b) after paragraph (3) there shall be inserted the following paragraph—

"(3A) Where there has been a voluntary payment, the Department may—

(a) apply the amount of the voluntary payment to reduce any arrears of child support maintenance due under any previous maintenance calculation made in respect of the same relevant persons; or

(b) where there is no previous relevant maintenance calculation or an amount of the voluntary payment remains after the application of sub-paragraph (*a*), and subject to paragraph (4), adjust the amount payable under a current maintenance calculation by such amount as it considers appropriate in all the circumstances of the case having regard in particular to—

(i) the circumstances of the non-resident parent and the person with care;

(ii) the amount of the voluntary payment in relation to the amount due under the current maintenance calculation, and

(iii) the period over which it would be reasonable for the voluntary payment to be taken into account."; and

(c) in paragraph (4)—

(i) for "(2) or (3)" there shall be substituted "(3A) or regulation 15D of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**14**)";

(ii) for "assessment" there shall be substituted "calculation", and

(iii) for "the minimum amount prescribed under paragraph 7" there shall be substituted "an amount equivalent to a flat rate fixed by paragraph 4(1)".

(11) In regulation 10A(1)(**15**) (reimbursement of a repayment of overpaid child maintenance)—

(a) for "an absent parent" there shall be substituted "a non-resident parent";

(b) in sub-paragraph (*a*) for "assessment" there shall be substituted "calculation" and "family credit or disability working allowance" shall be omitted; and

(c) sub-paragraph (*b*) shall be omitted.

(12) After regulation 10A there shall be inserted the following regulation—

(**13**) Regulation 10 was substituted by regulation 3(3) of S.R. 1995 No.162 and amended by Article 10(4) of S.R. 1999 No. 246 (C. 20)

(**14**) S.R. 1999 No. 162; regulation 15D is inserted by regulation 2(9) of S.R. 2001 No. 23

(**15**) Regulation 10A was inserted by regulation 5(3) of S.R. 1995 No. 475 and amended by regulation 22(2)(*c*) of S.R. 1996 No. 289

"**Repayment of a reimbursement of a voluntary payment**

10B. The Department may require a relevant person to repay the whole or any part of any payment by way of reimbursement made to a non-resident parent under Article 38B(2) of the Order(**16**) where—

(a) a voluntary payment was made;

(b) Article 38B(1A)(*b*) applies; and

income support or income-based jobseeker's allowance was not in payment to that person at any time during the period in which the voluntary payment was made or at the date or dates on which the payment by way of reimbursement was made.".

Amendment of the Child Support (Collection and Enforcement) Regulations

3.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**17**) shall be amended in accordance with paragraphs (2) to (22).

(2) In regulation 1 (interpretation)—

(a) in paragraph (2)—

(i) after the definition of "the Order" there shall be inserted the following definition—

""interest" means interest which has become payable under Article 38 of the Order before its amendment by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;", and

(ii) after the definition of "liable person" there shall be inserted the following definition —

""voluntary payment" means a payment as defined in Article 28J of the Order(**18**) and Regulations made under that Article.";

(b) after paragraph (2) there shall be inserted the following paragraph—

"(2A) Except in relation to regulation 8(3)(*a*) and Schedule 2, "fee" means an assessment fee or a collection fee, which for these purposes have the same meaning as in the Child Support Fees Regulations (Northern Ireland) 1993(**19**) prior to their revocation by the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001(**20**).."; and

(c) in paragraph (3)(*b*) for the words from "the second day" to the end there shall be substituted "the day that it is posted.".

(3) In regulation 2 (payment of child support maintenance) for "assessment" there shall be substituted "calculation".

(4) In regulation 3 (method of payment)—

(a) in paragraph (1)—

(i) after "child support maintenance" there shall be inserted ", penalty payments, interest and fees";

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

"(f) by debit card.";

(**16**) Article 38B was inserted by Article 16 of the Child Support (Northern Ireland) Order 1995 and paragraph (1A) was inserted by section 19(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**17**) S.R. 1992 No. 390; relevant amending regulations are S.R. 1995 No. 162 and S.R. 1996 No. 317

(**18**) Article 28J was inserted by section 19(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**19**) S.R. 1993 No. 73; relevant amending regulations are S.R. 1994 No. 37, S.R. 1995 No. 162, S.R. 1996 Nos. 289 and 590 and S.R. 1999 No. 152

(**20**) S.R. 2001 No. 15

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

"(1A) In paragraph (1) "debit card" means a card, operating as a substitute for a cheque that can be used to obtain cash or to make a payment at a point of sale whereby the card holder's bank or building society account is debited without deferment of payment.";

(c) in paragraph (2) for "assessment" there shall be substituted "calculation".

(5) After regulation 5 (transmission of payments) there shall be inserted the following regulation —

"**Voluntary payments**

5A.—(1) Regulation 5(1) shall apply in relation to voluntary payments as if—

(a) for "Payments of child support maintenance" there were substituted "Voluntary payments"; and

(b) "or other specified person" were omitted.

(2) In determining when the Department shall transmit a voluntary payment to the person entitled to it, the Department shall have regard to the factor in regulation 4(2)(*c*)(**21**).".

(6) In regulation 7 (notice to liable person as to requirements about payment)—

(a) in paragraph (1)—

(i) at the beginning there shall be inserted "In the case of child support maintenance,";

(ii) after sub-paragraph (*d*) there shall be added the following sub-paragraph—

"(e) the amount of any payment of child support maintenance which is overdue and which remains outstanding.";

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

"(1A) In the case of penalty payments, interest or fees, the Department shall send the liable person a notice stating—

(a) the amount of child support maintenance payable;

(b) the amount of arrears;

(c) the amount of the penalty payment, interest or fees to be paid, as the case may be;

(d) the method of payment;

(e) the day by which payment is to be made; and

(f) information as to the provisions of Articles 18 and 22 of the Order(**22**).";

(c) in paragraph (2)(*a*) for "assessment" there shall be substituted "calculation";

(d) after paragraph (2) there shall be added the following paragraph—

"(3) A notice under paragraph (1A) shall be sent to the liable person as soon as reasonably practicable after the decision to require a payment of the penalty payment, interest or fees has been made.".

(7) After Part II (collection of child support maintenance) there shall be inserted the following Part—

(**21**) Paragraph (2) was substituted by regulation 4(2) of S.R. 1995 No. 162

(**22**) Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 and amended by section 8 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 22 is substituted by section 10 of that Act