STATUTORY RULES OF NORTHERN IRELAND

1999 No. 246 (C. 20)

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT

The Social Security (1998 Order) (Commencement No. 6 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Made - - - - 28th May 1999

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) and (4) of the Social Security (Northern Ireland) Order 1998(**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 Social Security (1998 Order) (Commencement No. 6 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999.

(2) In this Order "the Order" means the Social Security (Northern Ireland) Order 1998.

Appointed day

2. In so far as they are not already in operation, the day appointed for the coming into operation of the provisions of the Order specified in Schedule 1 is 1st June 1999.

Commencement

3.—(1) Subject to paragraphs (2) and (3), this Article and Articles 4 to 25 and 26(2) shall come into operation on 1st June 1999.

(2) Article 9(9)(c) and (f) shall come into operation on 4th October 1999.

(3) Article 7(7)(b) shall come into operation on 29th November 1999.

(4) Any provision of this Order which is due to come into operation on the same day as a provision of the Regulations set out in paragraph (5) shall come into operation immediately after that provision.

(**1**) S.I. 1998/1506 (N.I. 10)

(5) The provisions referred to in paragraph (4) are—

(a) regulation 4(5)(a) and (d) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1999(**2**); and

(b) regulation 2(9)(c)(i), (12), (18) and (22) of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999(**3**).

CONSEQUENTIAL AMENDMENTS

Amendment of the Family Credit (General) Regulations

4. In regulation 51A of the Family Credit (General) Regulations (Northern Ireland) 1987(**4**) (reduced benefit direction)—

(a) in paragraph (1)(a) "given by a child support officer" shall be omitted; and

(b) paragraph (2)(a) shall be omitted.

Amendment of the Social Security (Claims and Payments) Regulations

5. In paragraph 7A(1) of Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**5**) (payments in place of payments of child support maintenance) for "a child support officer (within the meaning of Article 15 of the Child Support (Northern Ireland) Order 1991)" there shall be substituted "the Department".

Amendment of the Disability Working Allowance (General) Regulations

6. In regulation 56A of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(**6**) (reduced benefit direction)—

(a) in paragraph (1)(a) "given by a child support officer" shall be omitted; and

(b) paragraph (2)(a) shall be omitted.

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

7.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(**7**) shall be amended in accordance with paragraphs (2) to (8).

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

(a) for paragraph (1) there shall be substituted the following paragraph—

"(1) A person falling within a category listed in paragraph (2) shall furnish such information or evidence—

(a) with respect to the matter or matters specified in that paragraph in relation to that category; and

(b) which is in his possession or which he can reasonably be expected to acquire,

as is required by the Department to enable a decision to be made under Article 13, 14, 18 or 19 of the Order."; and

(b) in paragraph (2)—

(**2**) S.R. 1999 No. 152
(**3**) S.R. 1999 No. 167
(**4**) S.R. 1987 No. 463; relevant amending regulations are S.R. 1993 No. 120
(**5**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 67, S.R. 1993 No. 146 and S.R. 1996 No. 65
(**6**) S.R. 1992 No. 78; relevant amending regulations are S.R. 1993 No. 120
(**7**) S.R. 1992 No. 339; relevant amending regulations are S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 541, S.R. 1998 No. 8 and S.R. 1999 No. 152

(i) in sub-paragraph (b) "in respect of which a child support officer is conducting or proposing to conduct a review" shall be omitted, and

(ii) in sub-paragraphs (c) and (cc)(**8**) "and a child support officer is conducting or proposing to conduct a review of that assessment" shall be omitted.

(3) In regulation 3(1) (purposes for which information or evidence may be required)—

(a) "or a child support officer" shall be omitted; and

(b) in sub-paragraph (b) for "a child support officer" there shall be substituted "the Department".

(4) For regulation 3A(**9**) (contents of request for information or evidence) there shall be substituted the following regulation—

"**Contents of request for information or evidence**

3A. Any request by the Department in accordance with regulations 2 and 3 for the provision of information or evidence shall set out the possible consequences of failure to provide such information or evidence.".

(5) In regulation 5(**10**) (time within which information or evidence is to be furnished)—

(a) in paragraph (1) "paragraph (2) and" shall be omitted and for ", 6(1) and 16(5)" there shall be substituted "and 6(1)"; and

(b) paragraph (2) shall be omitted.

(6) In regulation 6 (continuing duty of persons with care) "or a child support officer" shall be omitted.

(7) In regulation 8 (disclosure of information to a court or tribunal)—

(a) in paragraphs (1) and (3)(**11**) "or a child support officer" shall be omitted and for "them" there shall be substituted "it";

(b) paragraph (1)(c) shall be omitted; and

(c) in paragraph (2)(**12**) for "a child support appeal tribunal" there shall be substituted "an appeal tribunal".

(8) In regulation 9A(**13**) (disclosure of information to other persons)—

(a) in paragraphs (1), (3) and (4) "or a child support officer" in each place where it occurs shall be omitted;

(b) in paragraph (1)—

(i) for "them" there shall be substituted "it", and

(ii) in sub-paragraph (a) for "review under Article 19 or 20 of the Order" there shall be substituted "revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision";

(c) in paragraph (2)—

(i) in sub-paragraph (b) for "regulation 3A of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993" there shall be substituted

(**8**) Sub-paragraph (cc) was inserted by regulation 6(2) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475
(**9**) Regulation 3A was inserted by regulation 2(4) of S.R. 1995 No. 475
(**10**) Regulation 5 was substituted by regulation 2(5) of S.R. 1995 No. 475
(**11**) Paragraph (3) was added by regulation 2(3)(b) of S.R. 1998 No. 8
(**12**) Paragraph (2) was added by regulation 49(2)(b) of S.R. 1996 No. 541
(**13**) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475, S.R. 1996 No. 541, S.R. 1998 No. 8 and S.R. 1999 No. 152

"regulation 34 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**14**))", and

(ii) in sub-paragraph (c) for head (i) there shall be substituted the following head—

"(i) a revision, supersession or appeal was pending at the date of death of that person and the personal representative is dealing with that revision, supersession or appeal on behalf of that person, or"; and

(d) in paragraph (4)(a) for "the child support officer concerned" there shall be substituted "the officer concerned who is exercising functions of the Department under the Order".

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

8.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**15**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 8(3)(d)(**16**) (categories of interim maintenance assessment) for "him" in the first place where it occurs there shall be substituted "it".

(3) In regulation 10(2) (notification of a new or a fresh maintenance assessment) after "Article 13, 18 or 19" there shall be inserted "of the Order".

(4) In regulation 22(17)(**17**) (date from which a superseding decision takes effect) "or (d)" shall be omitted.

(5) In regulation 34(b)(**18**) (periods for compliance with obligations imposed by Article 9 of the Order) for "she"and "her" in each place where they occur there shall be substituted "that parent".

(6) In regulation 40(c)(ii)(**19**) (termination of reduced benefit direction) for "her" there shall be substituted "that other parent's".

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

9.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**20**) shall be amended in accordance with paragraphs (2) to (13).

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

(a) in the definition of "day to day care"(**21**)—

(i) in paragraph (b) for "the child support officer, a period other than 12 months but ending with the relevant week" there shall be substituted "the Department, a period other than 12 months", and

(ii) for sub-paragraphs (iii) and (iv) there shall be substituted the following sub-paragraph—

"(iii) in a case where notification is given under regulation 23 of the Maintenance Assessment Procedure Regulations to the relevant persons on different dates, "relevant week" means the period of 7 days immediately preceding the date of the latest notification;";

(**14**) S.R. 1999 No. 162
(**15**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 No. 475 and S.R. 1999 No. 167
(**16**) Regulation 8 was substituted by regulation 3(3) of S.R. 1995 No. 475
(**17**) Regulation 22 is substituted by regulation 2(12) of S.R. 1999 No. 167
(**18**) Regulation 34 is substituted by regulation 2(18) of S.R. 1999 No. 167
(**19**) Regulation 40 is substituted by regulation 2(22) of S.R. 1999 No. 167
(**20**) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 Nos. 164 and 191, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 590, S.R. 1998 No. 8 and S.R. 1999 No. 152
(**21**) The definition of "day to day care" was substituted by regulation 9(2)(a) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

(b) in the definition of "home" for "the child support officer" and "that officer" there shall be substituted "the Department"; and

(c) for the definition of "relevant week"(**22**) there shall be substituted the following definition —

""relevant week" means—

(a) in relation to an application for child support maintenance—

(i) in the case of the applicant, the period of 7 days immediately preceding the date on which the appropriate maintenance assessment application form (being an effective application within the meaning of regulation 2(4) of the Maintenance Assessment Procedure Regulations) is submitted to the Department, or

(ii) in the case of a person to whom a maintenance assessment enquiry form is given or sent as the result of such an application, the period of 7 days immediately preceding the date on which that form is given or sent to him or, as the case may be, the date on which it is treated as having been given or sent to him under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;

(b) where a decision ("the original decision") is to be—

(i) revised under Article 18 of the Order, or

(ii) superseded by a decision under Article 19 of the Order on the basis that the original decision was made in ignorance of, or was based on a mistake as to, some material fact or was erroneous in point of law,

(c) the period of 7 days which was the relevant week for the purposes of the original decision;

(d) where a decision ("the original decision") is to be superseded by a decision under Article 19 of the Order—

(i) on an application made for the purpose on the basis that a material change of circumstances has occurred since the original decision was made, the period of 7 days immediately preceding the date on which that application was made,

(ii) subject to paragraph (b), in a case where a relevant person is given notice under regulation 23 of the Maintenance Assessment Procedure Regulations, the period of 7 days immediately preceding the date of that notification,

except that where, under paragraph 15 of Schedule 1 to the Order, the Department makes separate maintenance assessments in respect of different periods in a particular case, because it is aware of one or more changes of circumstances which occurred after the date which is applicable to that case under paragraph (a), (b) or (c), the relevant week for the purposes of each separate maintenance assessment made to take account of each such change of circumstances, shall be the period of 7 days immediately preceding the date on which notification was given to the Department of the change of circumstances relevant to that separate maintenance assessment;".

(**22**) The definition of "relevant week" was substituted by regulation 5(2)(f) of S.R. 1993 No. 164 and amended by S.R. 1995 No. 475 and S.R. 1998 No. 8