STATUTORY RULES OF NORTHERN IRELAND

1999 No. 167

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999

Made - - - - 31st March 1999

Coming into operation in accordance with regulation 1

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 14(2), 16(1), 18(1) and (4), 19(3) and (5), 22(4), 28G(3) and (4), 43(2) and 47 of, and paragraphs 4(2) and 10 of Schedule 4A, paragraph 2 of Schedule 4B and paragraphs 1 and 2 of Schedule 4C to, the Child Support (Northern Ireland) Order 1991(**1**) 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 Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999 and shall, subject to paragraphs (2) and (3), come into operation on 1st June 1999.

(2) Regulation 3(9) shall come into operation on 18th October 1999.

(3) Regulation 2(20)(a) shall come into operation on 29th November 1999.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**2**) shall be amended in accordance with paragraphs (2) to (26).

(2) In regulation 1 (interpretation)—

(**1**) S.I. 1991/2628 (N.I. 23); Articles 18, 19 and 22 were substituted by Articles 40, 41 and 42 respectively of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), Article 28G was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)), Article 47 was amended by paragraph 31 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, Schedules 4A and 4B were inserted by Schedules 1 and 2 respectively to the Child Support (Northern Ireland) Order 1995 and Schedule 4C was inserted by paragraph 37 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

(**2**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164, S.R. 1994 No. 37, S.R. 1995 Nos. 19, 162 and 475, S.R. 1996 Nos. 289, 317, 541 and 590 and S.R. 1998 Nos. 8 and 400

(a) in paragraph (2) after the definition of "obligation imposed by Article 9 of the Order" there shall be inserted the following definition—

> ""official error" means an error made by an officer of the Department acting as such which no person outside the Department caused or to which no person outside the Department materially contributed;"; and

(b) in paragraph (7) for "8(6), 23(2), 28(3) or 30(6)(a)" there shall be substituted "9(1) or 17(4)".

(3) In regulation 7 (death of a qualifying child)—

(a) in paragraph (1)—

(i) for "the child support officer concerned" there shall be substituted "the Department" and for "he" where it first occurs there shall be substituted "it";

(ii) in sub-paragraph (a) for "he" there shall be substituted "the Department"; and

(iii) in sub-paragraph (b) for "him" there shall be substituted "the Department"; and

(b) in paragraph (2) for "the child support officer" there shall be substituted "the Department".

(4) In regulation 8(**3**) (categories of interim maintenance assessment)—

(a) in paragraph (1)—

(i) for "a child support officer" there shall be substituted "the Department";

(ii) for "his" there shall be substituted "its"; and

(iii) for "he" there shall be substituted "it"; and

(b) in paragraph (3)—

(i) for "a child support officer" in each place where it occurs there shall be substituted "the Department";

(ii) in sub-paragraph (a) for "by him to enable him" there shall be substituted "by the Department to enable it";

(iii) in sub-paragraph (b) for "him" there shall be substituted "the Department" and, in head (ii), "or the child support officer" shall be omitted; and

(iv) in sub-paragraph (d) for "him" there shall be substituted "it".

(5) In regulation 8A(**4**) (amount of an interim maintenance assessment)—

(a) for "a child support officer" and "the child support officer" in each place where they occur there shall be substituted "the Department"; and

(b) for "he" in each place where it occurs there shall be substituted "it".

(6) In regulation 8C (effective date of an interim maintenance assessment)—

(a) in paragraph (1)—

(i) "9(9) or" shall be omitted;

(ii) in sub-paragraph (a) "and to regulations 8B and 9(2) and (3)" shall be omitted; and

(iii) in sub-paragraphs (b) and (c) "and to regulations 30 to 30C" shall be omitted;

(b) in paragraph (2)—

(i) for the words from the beginning to "regulations 30 to 30C" there shall be substituted "The effective date of an interim maintenance assessment made under Article 14(1)(b) of the Order shall, subject to regulation 32(7)"; and

(**3**) Regulations 8 to 8D were substituted for regulation 8 by regulation 3(3) of S.R. 1995 No. 475
(**4**) Regulation 8A was amended by regulation 3(2) of S.R. 1998 No. 8

(ii) for "is being reviewed" there shall be substituted "the Department is proposing to supersede with a decision under Article 19 of the Order"; and

(c) in paragraph (3) ", regulation 8B or 9(2), (3) or (9)," shall be omitted.

(7) In regulation 8D (miscellaneous provisions in relation to interim maintenance assessments)—

(a) paragraph (3) shall be omitted;

(b) in paragraph (4) for "28, 30 to 30C, 31, 32(5) and 53" there shall be substituted "31 and 32(5)";

(c) in paragraph (5)—

(i) "and to regulation 9(15)" shall be omitted; and

(ii) for "a child support officer" there shall be substituted "it";

(d) in paragraph (6) for "Subject to regulation 9(15), where a child support officer has insufficient information or evidence to enable him" there shall be substituted "Where the Department has insufficient information or evidence to enable it"; and

(e) in paragraph (7) for "a child support officer" there shall be substituted "the Department".

(8) For regulations 9 and 9A(**5**) there shall be substituted the following regulation—

"**Interim maintenance assessments which follow other interim maintenance assessments**

9.—(1) Where an interim maintenance assessment is being revised on the ground specified in regulation 16(1)(b) and the Department is satisfied—

(a) that another Category A, Category B or Category D maintenance assessment should be made; and

(b) that there has been unavoidable delay for part of the period during which the assessment which is being revised was in force,

the effective date of that other—

(i) Category A or Category D interim maintenance assessment shall be the first day of the maintenance period following the date on which, in the opinion of the Department, the delay became avoidable;

(ii) Category B interim maintenance assessment shall be the date set out in regulation 8C(1)(b).

(2) Where an interim maintenance assessment is revised on either of the grounds set out in regulation 16(4) or (5), payments made under that interim maintenance assessment before the revision shall be treated as payments made under the Category B interim maintenance assessment which replaces it.

(3) Subject to paragraphs (5) and (6), where the Department makes a Category B interim maintenance assessment following the revision of an interim maintenance assessment in accordance with regulation 16(4), the effective date of that Category B interim maintenance assessment shall be the date determined in accordance with regulation 8C(1)(b).

(4) Where the Department makes a fresh interim maintenance assessment following the supersession of an interim maintenance assessment in accordance with regulation 19(7), the effective date of that fresh interim maintenance assessment shall be the date from which that supersession took effect.

(**5**) Regulations 9 and 9A were substituted for regulation 9 by regulation 3(4) of S.R. 1995 No. 475; regulation 9 was amended by regulation 3(4) of S.R. 1998 No. 8 and regulation 2(3) of S.R. 1998 No. 400; regulation 9A was amended regulation 2(4) of S.R. 1998 No. 400

(5) Where the Department cancels on a revision an interim maintenance assessment in accordance with regulation 16(4) which caused a court order to cease to have effect in accordance with regulation 3(5) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in regulation 16(4) shall be the date on which that revision took effect.

(6) Where the revision of an interim maintenance assessment in accordance with regulation 16(5) caused a court order to cease to have effect in accordance with regulation 3(5) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in regulation 16(4) shall be the date on which that revision took effect.".

(9) In regulation 10(**6**) (notification of a new or a fresh maintenance assessment)—

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

"(1) A person with a right of appeal to an appeal tribunal under—

(a) Article 22 of the Order; and

(b) Article 22 of the Order as extended by paragraph 3(1)(b) of Schedule 4C to the Order,

shall be given notice of that right and of the decision to which that right relates.";

(b) paragraphs (1A) to (1C) shall be omitted;

(c) in paragraph (2)—

(i) after "paragraph (1)" there shall be inserted "of a new or fresh maintenance assessment made under Article 13, 18 or 19"; and

(ii) in sub-paragraph (i) "or (b)" shall be omitted;

(d) in paragraph (2A) for "a review under Article 18 of the Order of a maintenance assessment the effective date of which is on or before 8th December 1996 or a review under Article 21(1)" there shall be substituted "a revision of a maintenance assessment under Article 18 of the Order or a supersession of a maintenance assessment under Article 19";

(e) in paragraph (3)(a) for "of the child support officer concerned" there shall be substituted "of the officer concerned who is exercising functions of the Department under the Order"; and

(f) for paragraphs (4) to (6) there shall be substituted the following paragraph—

"(4) Where a decision as to a maintenance assessment is made under Article 13, 14, 18 or 19 of the Order, a notification under paragraph (1) shall include information as to the provisions of Articles 18 and 19 of the Order.".

(10) In regulation 10A(**7**) (notification of increase or reduction in the amount of a maintenance assessment)—

(a) in paragraph (1), for—

(i) "a child support officer" and "he" there shall be substituted "the Department"; and

(ii) "Article 20" there shall be substituted "Articles 18 and 19"; and

(b) in paragraph (2)(a) for "of the child support officer concerned" there shall be substituted "of the officer concerned who is exercising functions of the Department under the Order".

(**6**) Regulation 10 was amended by regulation 4(2) of S.R. 1994 No. 37, regulation 4(4) of S.R. 1995 No. 19, regulation 8(4) of S.R. 1995 No. 162, regulation 3(5) of S.R. 1995 No. 475, regulation 50 of S.R. 1996 No. 541 and regulation 2(5) of S.R. 1998 No. 400

(**7**) Regulation 10A was inserted by regulation 3(5) of S.R. 1998 No. 8

(11) For regulation 15B(**8**) (notification that an appeal has lapsed) there shall be substituted the following regulation—

"**Notification that an appeal has lapsed**

15B. Where an appeal lapses in accordance with Article 18(6) of the Order, the Department shall, so far as is reasonably practicable, notify the relevant persons that that appeal has lapsed.".

(12) For Parts V to VII of the Maintenance Assessment Procedure Regulations(**9**) there shall be substituted the following Part—

"PART V

REVISIONS AND SUPERSESSIONS

Revision of decisions

16.—(1) Subject to paragraphs (6) and (8), any decision may be revised by the Department —

(a) if the Department receives an application for the revision of a decision under Article 18 of the Order within one month of the date of notification of the decision or within such longer time as may be allowed under regulation 17;

(b) if—

(i) the Department notifies a person, who applied for a decision to be revised within the period specified in sub-paragraph (a), that the application is unsuccessful because the Department is not in possession of all of the information or evidence needed to make a decision; and

(ii) that person reapplies for a decision to be revised within one month of the notification described in head (i), or such longer period as the Department is satisfied is reasonable in the circumstances of the case, and provides in that application sufficient information or evidence to enable a decision to be made;

(c) if the decision arose from an official error;

(d) if the Department is satisfied that the original decision was erroneous due to a misrepresentation of, or failure to disclose, a material fact and that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error; or

(e) if the Department commences action leading to the revision of a decision within one month of the date of notification of the decision.

(2) A decision may be revised by the Department in consequence of a departure direction where that departure direction takes effect on the effective date.

(3) Subject to regulation 19(6), a decision of the Department under Article 14 of the Order may be revised where—

(a) the Department receives information which enables it to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order for the

(**8**) Regulation 15B was inserted by regulation 3(9) of S.R. 1995 No. 475
(**9**) Amended by S.R. 1993 No. 164, S.R. 1994 No. 37, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 590 and S.R. 1998 Nos. 8 and 400