STATUTORY RULES OF NORTHERN IRELAND

1999 No. 152

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1999

Made - - - - 26th March 1999
Coming into operation in accordance with regulation 1(2) and (3)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3, 16(3), 32(8) and (9), 39(1), 44, 47 and 48(4) of, and paragraph 5(1) and (2) of Schedule 1 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1999.

(2) Subject to paragraph (3), these Regulations shall come into operation on 6th April 1999.

(3) Regulations 2(2) and 4(2)(a) and (5)(a) to (d) shall come into operation on 4th October 1999.

(4) In these Regulations—

"the first commencement day" means 6th April 1999;

"the second commencement day" means 4th October 1999.

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

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

(2) In regulation 3(2)(h) (purposes for which information or evidence may be required) after "name," there shall be inserted "the total taxable profits derived from his employment as a self-employed earner, as submitted to, or as issued to him by, the Board of Commissioners of Inland Revenue,".

(**1**) S.I. 1991/2628 (N.I. 23); Article 44 was amended by paragraph 11 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))
(**2**) S.R. 1992 No. 339; relevant amending regulations are S.R. 1995 Nos. 162 and 475

(3) Regulation 9 (disclosure of information to an appropriate authority for use in the exercise of housing benefit functions) is hereby revoked.

(4) In regulation 9A(1)(**3**) (disclosure of information to other persons) for "given to them by" there shall be substituted "held by them for the purposes of the Order relating to".

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

3. In Schedule 1 to the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**4**) (meaning of "child" for the purposes of the Order)—

(a) in paragraphs 1(1)(a) and (3)(a) and 4(2)(a) after "youth training" there shall be inserted "or work-based training for young people";

(b) in paragraph 6—

(i) for the definition of "youth training" there shall be substituted the following definition—

""youth training" means—

(a) Jobskills provision or arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950(**5**) (general functions of Department of Economic Development as to employment and training for employment); or

(b) for the purposes of the application of Council Regulation (EEC) No. 1408/71, any corresponding provisions operated in another member State,

for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.";

(ii) after the definition of "youth training" there shall be added the following definition —

""work-based training for young people" means arrangements made by the Secretary of State for Defence for persons enlisted in Her Majesty's forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966(**6**) (power of Defence Council to make regulations as to engagement of persons in regular forces) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.".

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

4.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**7**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in the definition of "earnings" for "1 or 3" there shall be substituted "1, 2A or 3";

(b) after the definition of "the Independent Living (Extension) Fund"(**8**) there shall be inserted the following definition—

(**3**) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No. 162 and amended by regulation 2(6) of S.R. 1995 No. 475
(**4**) S.R. 1992 No. 340; to which there are amendments not relevant to these Regulations
(**5**) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))
(**6**) 1966 c. 45; section 2 was amended by section 2 of the Army Act 1992 (c. 39)
(**7**) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 No. 162, S.R. 1996 Nos. 289 and 590
(**8**) The definition of "the Independent Living (Extension) Fund" was inserted by regulation 5(2)(e) of S.R. 1993 No. 164

""the Inland Revenue" means the Board of Commissioners of Inland Revenue;";

(c) for the definition of "youth training" there shall be substituted the following definition—

""youth training" means Jobskills provision or arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950 (general functions of Department of Economic Development as to employment and training for employment) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.";

(d) after the definition of "youth training" there shall be added the following definition—

""work-based training for young people" means arrangements made by the Secretary of State for Defence for persons enlisted in Her Majesty's forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966 (power of Defence Council to make regulations as to engagement of persons in regular forces) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.".

(3) In regulation 7(3)(a) (net income: calculation or estimation of N) after "youth training" there shall be inserted "or work-based training for young people".

(4) In regulation 19(4) (both parents are absent) for "parent." there shall be substituted "parent, or, from the effective date as determined by regulation 29(2) of the Maintenance Assessment Procedure Regulations(**9**), whichever is the later.".

(5) In Schedule 1 (calculation of N and M)—

(a) at the beginning of Chapter 2 (earnings of a self-employed earner) there shall be inserted the following paragraphs—

"**2A.**—(1) Subject to paragraphs 2B, 2C, 4 and 5A, "earnings" in the case of employment as a self-employed earner shall have the meaning given in sub-paragraphs (2) to (4).

(2) "Earnings" means the total taxable profits from self-employment of that earner as submitted to the Inland Revenue, less the following amounts—

(a) any income tax relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (3);

(b) any National Insurance Contributions relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (4);

(c) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the self-employed earner's home, 37·5 per centum of the contributions payable.

(3) For the purposes of sub-paragraph (2)(a) the income tax to be deducted from the total taxable profits shall be determined in accordance with the following provisions—

(a) subject to head (d), an amount of earnings equivalent to any personal allowance applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988(**10**) (personal reliefs) shall be disregarded;

(b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the earnings remaining following the application of head (a) (the "remaining earnings");

(**9**) Paragraph (2) was substituted by regulation 8(10)(b) of S.R. 1995 No. 162
(**10**) 1988 c. 1

(c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings relate to a period greater or less than one year;

(d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the taxable profits bears to the period of one year.

(4) For the purposes of sub-paragraph (2)(b) the amount to be deducted in respect of National Insurance Contributions shall be the total of—

(a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, (3), of the Contributions and Benefits Act(**11**); and

(b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,

at the rates applicable at the effective date.

2B.—(1) Where—

(a) a self-employed earner cannot provide the child support officer with the total taxable profit figure from self-employment for the period concerned as submitted to the Inland Revenue, but can provide a copy of his tax calculation notice; or

(b) the child support officer becomes aware that the total taxable profit figure from the self-employment submitted by the self-employed earner has been revised by the Inland Revenue,

the earnings of that earner shall be calculated by reference to the income from employment as a self-employment earner as set out in the tax calculation notice issued in relation to his case, and if a revision of the figures included in that notice has occurred, by reference to the revised notice.

(2) In this paragraph and elsewhere in this Schedule—

"submitted to" means submitted to the Inland Revenue in accordance with its requirements by or on behalf of the self-employed earner;

a "tax calculation notice" means a document issued by the Inland Revenue containing information as to the income of a self-employed earner;

a "revision of the figures" means the revision of the figures relating to the total taxable profit of a self-employed earner following an enquiry under section 9A of the Taxes Management Act 1970(**12**) or otherwise by the Inland Revenue.

2C. Where the child support officer accepts that it is not reasonably practicable for the self-employed earner to provide information relating to his total taxable profits from self-employment in the form submitted to, or (where paragraph 2B applies) as issued or revised by, the Inland Revenue, "earnings" in relation to that earner shall have the meaning given by paragraph 3.";

(b) in paragraph 3(1) for "Subject" there shall be substituted "Where paragraph 2C applies, and subject";

(**11**) Section 11(1) was amended by S.R. 1999 No. 51

(**12**) 1970 c. 9; section 9A was inserted by sections 180 and 199(1) and (2)(a) of the Finance Act 1994 (c. 9) and amended by section 133 of, and paragraph 2 of Schedule 19 to the Finance Act 1996 (c. 8)