STATUTORY RULES OF NORTHERN IRELAND

1998 No. 8

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1998

Made - - - - 16th January 1998
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 12(1), 14(2), 16(1) and (3), 18(1), 23, 28A(3), 28G(4), 29, 32(1), 39, 40(1), 47 and 48(4) of, and paragraphs 1, 4 to 6, 8, 11 and 14 of Schedule 1, paragraphs 2, 6 and 10 of Schedule 4A, and paragraphs 2 to 6 of Schedule 4B 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) 1998.

(2) Subject to paragraph (3), these Regulations shall come into operation on 19th January 1998.

(3) Regulations 3(6)(*b*), 4(4) and (5), (10), (12), (13) and (14)(*d*), 5 and 10 shall come into operation on 6th April 1998.

(4) In these Regulations—

"Maintenance Assessments and Special Cases Regulations" means the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**2**);

"Departure Direction Regulations" means the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**3**).

(**1**) S.I.1991/2628 (N.I. 23); Articles 28A and 28G and Schedules 4A and 4B were inserted by the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))
(**2**) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 No. 475 and S.R. 1996 Nos. 288, 317, 541 and 590
(**3**) S.R. 1996 No. 541

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

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

(2) In regulation 3(2)(*p*) (purposes for which information or evidence may be required) for "assessable or disposable income" there shall be substituted "any application made under the Order or any question arising in connection with such an application".

(3) In regulation 8(**5**) (disclosure of information to a court or tribunal)—

(a) in paragraph (1) for "or to the benefits Acts" there shall be substituted ", to the benefits Acts or to the Jobseekers (Northern Ireland) Order 1995(**6**)";

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

"(3) The Department or a child support officer may disclose information held by them for the purposes of the Order to a court in any case where—

(a) that court has exercised any power it has to make, vary or revive a maintenance order or to vary a maintenance agreement; and

(b) such disclosure is made for the purposes of any proceedings before that court in relation to that maintenance order or that maintenance agreement or for the purposes of any matters arising out of those proceedings.".

(4) In regulation 9A(2)(*c*)(ii)(**7**) (disclosure of information to other persons) for "with that application on behalf of that person" there shall be substituted "on behalf of that person with any matters arising in connection with the determination of that application".

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

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

(2) In regulation 8A(**9**) (amount of an interim maintenance assessment) for paragraph (4) there shall be substituted the following paragraph—

"(4) Where a child support officer is unable to ascertain the income of other members of the family of an absent parent so that the disposable income of that absent parent can be calculated in accordance with regulation 12(1)(*a*) of the Maintenance Assessments and Special Cases Regulations, the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order on the assumption that the provisions of paragraph 6 of that Schedule do not apply to the absent parent.".

(3) In regulation 8D (miscellaneous provisions in relation to interim maintenance assessments) after paragraph (1) there shall be inserted the following paragraph—

"(1A) The reference in paragraph (1) to a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order shall include a maintenance assessment falling within regulation 29A(2)(**10**).".

(**4**) S.R. 1992 No. 339; relevant amending regulations are S.R. 1995 No. 162 and S.R. 1996 No. 541
(**5**) Regulation 8 was amended by regulation 49(2) of S.R. 1996 No. 541
(**6**) S.I. 1995/2705 (N.I. 15)
(**7**) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No 162 and amended by regulation 49(3) of S.R. 1996 No. 541
(**8**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475 and S.R. 1996 No. 590
(**9**) Regulations 8A and 8D were inserted by regulation 3(3) of S.R. 1995 No. 475
(**10**) Regulation 29A was inserted by regulation 3(19) of S.R. 1995 No. 475 and paragraph (2) was substituted by regulation 2(5)(*a*) of S.R. 1996 No. 590

(4) In regulation 9(14)(**11**) (cancellation of an interim maintenance assessment) for "on which the cancelled interim maintenance assessment ceased to have effect" there shall be substituted "set by the child support officer under paragraph (12) on which the cancellation referred to in that paragraph took effect".

(5) After regulation 10 (notification of a new or fresh maintenance assessment) there shall be inserted the following regulation—

"**Notification of increase or reduction in the amount of a maintenance assessment**

10A.—(1) Where, in a case falling within paragraph (2B) of regulation 22 of the Maintenance Assessments and Special Cases Regulations(**12**) (multiple applications relating to an absent parent), a child support officer has increased or reduced one or more of the other maintenance assessments referred to in that paragraph following the making of the fresh assessment referred to in sub-paragraph (*c*) of that paragraph, he shall, so far as that is reasonably practicable, immediately notify the relevant persons in respect of whom each maintenance assessment so increased or reduced was made, of—

(a) the making of that fresh assessment;

(b) the amount of the increase or reduction in that maintenance assessment; and

(c) the date on which that increase or reduction shall take effect,

and the notification shall include information as to the provisions of Article 20 of the Order.

(2) Except where a person gives written permission to the Department that the information in relation to him mentioned in sub-paragraphs (*a*) and (*b*) may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) shall not contain—

(a) the address of any person other than the recipient of the document in question (other than the address of the office of the child support officer concerned) or any other information the use of which could reasonably be expected to lead to any person being located;

(b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.".

(6) In regulation 16 (intervals between periodical reviews and notice of a periodical review)—

(a) in paragraph (2)(**13**) for the words from "the period between the effective date of the assessment that has been reviewed" to the end there shall be substituted

"the period between the effective date of the fresh assessment following the latest review carried out under sub-paragraph (*a*) or (*b*) and whichever is the later of—

(aa) the effective date of the assessment falling within paragraph (1)(*a*)(**14**); or

(bb) the effective date of the assessment made following the review referred to in paragraph (1)(*b*) or (*c*).";

(b) for paragraph (6) there shall be substituted the following paragraph—

"(6) The provisions of paragraph (5) shall not apply in relation to—

(a) any person to or in respect of whom income support or income-based jobseeker's allowance is payable;

(**11**) Regulation 9 was substituted by regulation 3(4) of S.R. 1995 No. 475

(**12**) Paragraph (2B) is inserted by regulation 4(11) of these Regulations

(**13**) Paragraph (2) was substituted by regulation 3(10)(*b*) of S.R. 1995 No. 475

(**14**) Paragraph (1) was substituted by regulation 4(6) of S.R. 1993 No. 164 and amended by regulation 8(8)(*a*) of S.R. 1995 No. 162 and regulation 3(10)(*a*) of S.R. 1995 No. 475

(b) a person with care where income support or income-based jobseeker's allowance is payable to or in respect of the absent parent;

(c) an absent parent or parent with care to whom regulation 10A of the Maintenance Assessments and Special Cases Regulations(**15**) applies; or

(d) a parent with care where that regulation applies to the absent parent.".

(7) In regulation 29A(3)(**16**) (effective dates of new maintenance assessments in particular cases) for "child support officer" there shall be substituted "Department".

(8) In paragraph 5 of Schedule 2 (maintenance assessment in force: subsequent application for a maintenance assessment in respect of additional children) for sub-paragraphs (1) and (2) there shall be substituted the following sub-paragraph—

"(1) Where there is in force a maintenance assessment made in response to an application under Article 7 of the Order by an absent parent or person with care and that assessment is not in respect of all of the absent parent's children who are in the care of the person with care with respect to whom that assessment was made—

(a) if that absent parent or that person with care makes an application under Article 7 of the Order with respect to the children in respect of whom the assessment currently in force was made and the additional child or one or more of the additional children in the care of that person with care who are children of that absent parent, an assessment made in response to that application shall replace the assessment currently in force;

(b) if that absent parent or that person with care makes an application under Article 7 of the Order in respect of an additional qualifying child or additional qualifying children of that absent parent in the care of that person with care, that application shall be treated as an application for a maintenance assessment in respect of all the qualifying children concerned and the assessment made shall replace the assessment currently in force.".

Amendment of the Maintenance Assessments and Special Cases Regulations

4.—(1) The Maintenance Assessments and Special Cases Regulations shall be amended in accordance with paragraphs (2) to (16).

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

(a) in paragraph (2)—

(i) for the definition of "employed earner" there shall be substituted the following definition—

""employed earner" means a person who is gainfully employed in Northern Ireland, Great Britain or the Republic of Ireland either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E or, as the case may be, chargeable under the legislation of the Republic of Ireland which is analogous to income tax under Schedule E;";

(ii) in the definition of "occupational pension scheme" for "Article 2(1) of the Social Security Pensions (Northern Ireland) Order 1975" there shall be substituted "section 1 of the Pensions Schemes (Northern Ireland) Act 1993(**17**)";

(**15**) Regulation 10A was inserted by regulation 3(3) of S.R. 1996 No. 590

(**16**) Regulation 29A was inserted by regulation 3(19) of S.R. 1995 No. 475 and paragraph (3) was added by regulation 2(5)(*b*) of S.R. 1996 No. 590

(**17**) 1993 c. 49

(iii) in the definition of "relevant week"(**18**) after paragraph (*f*) there shall be added—

"except that where, under paragraph 15 of Schedule 1 to the Order, a child support officer makes separate maintenance assessments in respect of different periods in a particular case, because he is aware of one or more changes of circumstances which occurred after the date which is applicable to that case under paragraphs (*a*) to (*f*), 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 the separate maintenance assessment;";

(iv) for the definition of "self-employed earner" there shall be substituted the following definition—

""self-employed earner" means a person who is gainfully employed in Northern Ireland, Great Britain or the Republic of Ireland otherwise than in employed earner's employment (whether or not he is also employed in such employment);";

(b) in paragraph (2A)(**19**) at the end of sub-paragraph (*a*) there shall be added "and the amount of income to which each tax rate applies shall be determined on the basis that the ratio of that amount to the full amount of the income to which each tax rate applies is the same as the ratio of the proportionate part of that personal relief to the full personal relief".

(3) In regulation 2(1) (calculation or estimation of amounts) for "falls to be taken into account for the purposes of these regulations" there shall be substituted "is to be considered in connection with any calculation made under these Regulations".

(4) In regulation 3(1) (calculation of AG) for sub-paragraph (*c*)(**20**) there shall be substituted the following sub-paragraph—

"(c) an amount equal to the amount specified in paragraph 3(1)(*b*) of the relevant Schedule.".

(5) In regulation 6(2)(*b*)(**21**) (the additional element) for "3(1)(*c*)(i)" there shall be substituted "3(1)(*c*)".

(6) In regulation 9(1) (exempt income: calculation or estimation of E)—

(a) in sub-paragraph (*c*) for head (ii)(**22**) there shall be substituted the following head—

"(ii) if he were a claimant, the rate of income support family premium specified in paragraph 3(*a*) of the relevant Schedule would be applicable to him because he is a lone parent and no premium is applicable to him under paragraph 11 of that Schedule,";

(b) in sub-paragraph (*f*)(**23**) for "but he is not a lone parent as defined in regulation 2(1) of the Income Support Regulations" there shall be substituted "but he is not a parent to whom sub-paragraph (*c*) applies";

(7) In regulation 11(1)(**24**) (protected income)—

(a) for sub-paragraph (*c*) there shall be substituted the following sub-paragraph—

(**18**) The definition of "relevant week" was substituted by regulation 5(2)(*f*) of S.R. 1993 No. 164 and amended by regulation 4(2)(*a*) of S.R. 1995 No. 475

(**19**) Paragraph (2A) was inserted by regulation 5(2)(*h*) of S.R. 1993 No. 164

(**20**) Sub-paragraph (*c*) was substituted by regulation 7(3)(*a*) of S.R. 1996 No. 288

(**21**) Sub-paragraph (*b*) was amended by regulation 7(5) of S.R. 1996 No. 288

(**22**) Head (ii) was substituted by regulation 7(6)(*a*) of S.R. 1996 No. 288

(**23**) Sub-paragraph (*f*) was amended by regulation 7(6)(*b*) of S.R. 1996 No. 288

(**24**) Sub-paragraph (*c*) was substituted by, and sub-paragraph (*f*) was amended by, regulation 7(9) of S.R. 1996 No. 288