STATUTORY RULES OF NORTHERN IRELAND

1996 No. 590

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1996

Made - - - - 19th December 1996

Coming into operation 13th January 1997

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 4(3), 14(2) and (3), 19(6) and (7), 23(2) and (3), 39, 43(11), 44, 47 and 48 of, and paragraphs 5(1), (2) and (4), 6(4), 8, 9 and 11 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 No. 2) Regulations (Northern Ireland) 1996 and shall come into operation on 13th January 1997.

(2) In these Regulations "the Maintenance Assessment Procedure Regulations" means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**2**).

Amendment of the Maintenance Assessment Procedure Regulations

2.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(6)(*b*) (citation, commencement and interpretation) after "to any" there shall be inserted "other".

(3) In regulation 8D(**3**) (miscellaneous provisions in relation to interim maintenance assessments) for paragraph (8) there shall be substituted the following paragraph—

> "(8) Where the information or evidence referred to in paragraph (6)(*a*) or (*b*) is that there has been an award of income support or an income-based jobseeker's allowance, the Department shall be treated as having received that information or evidence on the first day

(**1**) S.I.1991/2628 (N.I. 23); Article 19 was amended by Article 6 of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))
(**2**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164, S.R. 1994 No. 65 and S.R. 1995 No. 475
(**3**) Regulation 8D was inserted by regulation 3(3) of S.R. 1995 No. 475

in respect of which income support or an income-based jobseeker's allowance was payable under that award.".

(4) In regulation 19 (fresh assessments following a review on a change of circumstances)—

(a) in paragraph (1)(**4**) for "(4)" there shall be substituted "(5)";

(b) after paragraph (4)(**5**) there shall be added the following paragraph—

"(5) Where a child support officer, on completing a review under Article 19 of the Order of a case falling within paragraph 5(4) of Schedule 1 to the Order, determines that the case no longer falls within that paragraph, he shall make a fresh assessment.".

(5) In regulation 29A(**6**) (effective dates of new maintenance assessments in particular cases)—

(a) for paragraph (2) there shall be substituted the following paragraph—

"(2) Where a child support officer receives the information or evidence to enable him to make a maintenance assessment, calculated in accordance with the provisions of Part I of Schedule 1 to the Order, for the period from the date set by regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations(**7**) or regulation 29(2)(*a*) or (*b*)(**8**), as the case may be, to the effective date of the maintenance assessment referred to in paragraph (1), the maintenance assessment first referred to in this paragraph shall, subject to regulation 32(7)(**9**), have effect for that period.";

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

"(3) The effective date of a new maintenance assessment made in respect of a person with care and an absent parent shall, where the circumstances set out in paragraph (4) apply, be the first day of the first maintenance period after the child support officer has received the information or evidence referred to in paragraph (4)(*c*) or 13th January 1997, whichever is the later.

(4) The circumstances referred to in paragraph (3) are where—

(a) paragraphs (1) and (2) do not apply to that person with care and that absent parent;

(b) no maintenance assessment made in accordance with the provisions of Part I of Schedule 1 to the Order is in force in relation to that person with care and that absent parent; and

(c) on or after 13th January 1997, a child support officer has sufficient information to enable him to make a new maintenance assessment, calculated in accordance with the provisions of Part I of Schedule 1 to the Order, in relation to that person with care and that absent parent but in respect only of a period beginning after the effective date applicable in their case by virtue of regulation 29(2).

(5) Where the information or evidence referred to in paragraph (3) is that there has been an award of income support or an income-based jobseeker's allowance, the Department shall be treated as having received the information or evidence which enables a child support officer to make the assessment referred to in that paragraph on the first day in respect of which income support or an income-based jobseeker's allowance was payable under that award.

(**4**) Paragraph (1) was amended by regulation 4(8)(*a*) of S.R. 1993 No. 164 and further amended by regulation 3(13)(*a*) of S.R. 1995 No. 475
(**5**) Paragraph (4) was added by regulation 4(8)(*b*) of S.R. 1993 No. 164
(**6**) Regulation 29A was inserted by regulation 3(19) of S.R. 1995 No. 475
(**7**) Paragraph (6) was added by regulation 3 of S.R. 1995 No. 19
(**8**) Paragraph (2) was substituted by regulation 8(10)(*b*) of S.R. 1995 No. 162
(**9**) Paragraph (7) was added by regulation 3(22)(*b*) of S.R. 1995 No. 475

(6) Where, in a case falling within paragraph (3), a child support officer receives the information or evidence to enable him to make a maintenance assessment calculated in accordance with the provisions of Part I of Schedule 1 to the Order, for the period from the effective date applicable to that case under regulation 29(2)(*a*) or (*b*), as the case may be, to the effective date of the assessment referred to in paragraph (3), the maintenance assessment first referred to in this paragraph shall have effect for that period.

(7) Paragraphs (3) to (6) shall not apply where a case falls within regulation 32(7), or regulation 3 of the Maintenance Arrangements and Jurisdiction Regulations(**10**) (relationship between maintenance assessments and certain court orders).".

(6) For regulation 49(**11**) (persons who are not persons with care) there shall be substituted the following regulation—

"**Persons who are not persons with care**

49.—(1) For the purposes of the Order the following categories of person shall not be persons with care—

(a) an authority;

(b) a person with whom a child who is looked after by an authority is placed by that authority under the provisions of the Children (Northern Ireland) Order 1995(**12**) except where that person is a parent of such a child and the authority allow the child to live with that parent under Article 25 of that Order.

(2) In paragraph (1)—

"authority" has the same meaning as in Article 2 of the Children (Northern Ireland) Order 1995;

"a child who is looked after by an authority" has the same meaning as in Article 25 of the Children (Northern Ireland) Order 1995.".

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

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

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

(a) in paragraph (2)—

(i) after the definition of "the 1972 Order" there shall be inserted the following definitions—

""the Great Britain Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992(**14**);

"the Children Order" means the Children (Northern Ireland) Order 1995;";

(ii) after the definition of "the Jobseekers Order"(**15**) there shall be inserted the following definition—

""an authority" has the same meaning as in Article 2 of the Children Order;";

(**10**) Regulation 3 was amended by regulation 3 of S.R. 1995 No. 19, regulation 7(4) of S.R. 1995 No. 162 and regulation 7(2) of S.R. 1995 No. 475
(**11**) Regulation 49 was amended by regulation 4(13) of S.R. 1993 No. 164 and paragraph 1 of Schedule 21 to S.R. 1994 No. 65
(**12**) S.I. 1995/755 (N.I. 2)
(**13**) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 No. 164, S.R. 1994 Nos. 37 and 65, S.R. 1995 No. 162 and S.R. 1996 Nos. 289 and 317
(**14**) 1992 c. 4
(**15**) The definition of "the Jobseekers Order" was inserted by regulation 21(2) of S.R. 1996 No. 289

(iii) in the definition of "family"(**16**) for the words from "in the care of" to the end there shall be substituted "being looked after by an authority within the meaning of Article 25 of the Children Order;"

(iv) the definitions of "Health and Social Services Board" and "HSS trust"(**17**) shall be omitted;

(v) in the definition of "person"(**18**) for "a Health and Social Services Board or an HSS trust" there shall be substituted "an authority";

(vi) in the definition of "personal pension scheme" for "Article 2(2) of the Social Security (Northern Ireland) Order 1986" there shall be substituted "section 1 of the Pensions Schemes (Northern Ireland) Act 1993(**19**)", and

(vii) after the definition of "prisoner" there shall be inserted the following definition—

""profit-related pay" means any payment by an employer calculated by reference to actual or anticipated profits;";

(b) in paragraph (2A)(**20**)—

(i) after "Benefits Act" there shall be inserted "or, as the case may be, the Great Britain Contributions and Benefits Act";

(ii) in sub-paragraph (*b*) after "Benefit Acts" there shall be inserted "or, as the case may be, the Great Britain Contributions and Benefits Act", and

(iii) in sub-paragraph (*e*)(ii) for "or under the Social Security Contributions and Benefits Act 1992" there shall be substituted "or, as the case may be, the Great Britain Contributions and Benefits Act".

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

"**Assessable income: family credit or disability working allowance paid to or in respect of a parent with care or an absent parent**

10A.—(1) Subject to paragraph (2), where family credit or disability working allowance is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Order, be taken to have no assessable income.

(2) Paragraph (1) shall apply to an absent parent only if—

(a) he is also a parent with care; and

(b) either—

(i) a maintenance assessment in respect of a child in relation to whom he is a parent with care is in force, or

(ii) the child support officer is considering an application for such an assessment to be made.".

(4) In regulation 12(1)(**21**) (disposable income)—

(a) in sub-paragraph (*a*) at the end "and" shall be omitted;

(b) in sub-paragraph (*b*)—

(i) at the beginning there shall be inserted "subject to sub-paragraph (*c*),", and

(**16**) The definition of "family" was substituted by regulation 4(2) of S.R. 1996 No. 317
(**17**) The definition of "HSS trust" was inserted by paragraph 1(*b*) of Schedule 19 to S.R. 1994 No. 65
(**18**) The definition of "person" was amended by paragraph 1(*c*) of Schedule 19 to S.R. 1994 No. 65
(**19**) 1993 c. 49
(**20**) Paragraph (2A) was inserted by regulation 5(2)(*h*) of S.R. 1993 No. 164 and amended by regulation 9(2)(*d*) of S.R. 1995 No. 162
(**21**) Paragraph (1) was substituted by regulation 9(8) of S.R. 1995 No. 162

(ii) at the end there shall be added "and" and the following sub-paragraph—

"(c) in a case to which regulation 11(5A)(**22**) applies and the absent parent is paying maintenance under an order of a kind mentioned in regulation 11(2)(*a*)(ii) or (v)(**23**), his net income as calculated in accordance with regulation 7 less the amount of maintenance he is paying under that order.".

(5) For regulation 25(**24**) (care provided in part by a Health and Social Services Board) there shall be substituted the following regulation—

"**Care provided in part by an authority**

25.—(1) Where the circumstances of a case are that an authority and a person each provide day to day care for the same qualifying child, that case shall be treated as a special case for the purposes of the Order.

(2) Subject to paragraph (3), in a case where this regulation applies—

(a) child support maintenance shall be calculated in respect of that child as if this regulation did not apply;

(b) the amount so calculated shall be divided by 7 so as to produce a daily amount;

(c) in respect of each night for which day to day care for that child is provided by a person other than an authority, the daily amount relating to that period shall be payable by the absent parent (or, as the case may be, by the person treated as an absent parent under regulation 20(2));

(d) child support maintenance shall not be payable in respect of any night for which an authority provides day to day care for that qualifying child.

(3) In a case where more than one qualifying child is included in a child support maintenance assessment application and where this regulation applies to at least one of those children, child support maintenance shall be calculated by applying the formula—

$$S \times \left(\frac{A}{7} \times B \right)$$

where—

S is the total amount of child support maintenance in respect of all qualifying children included in that maintenance assessment application, calculated as if this regulation did not apply;

A is the aggregate of the number of nights of day to day care for all qualifying children included in that maintenance assessment application provided in each week by a person other than an authority;

B is the number of qualifying children in respect of whom the maintenance assessment application has been made.".

(6) For regulation 27A(**25**) there shall be substituted the following regulation—

(**22**) Paragraph (5A) was inserted by regulation 9(7)(*c*) of S.R. 1995 No. 162
(**23**) Head (v) was added by regulation 4(5)(*b*) of S.R. 1995 No. 475
(**24**) Regulation 25 was amended by paragraph 1(*d*) of Schedule 19 to S.R. 1994 No. 65 and regulation 9(12) of S.R. 1995 No. 162
(**25**) Regulation 27A was inserted by regulation 5(9) of S.R. 1993 No. 164