STATUTORY RULES OF NORTHERN IRELAND

1996 No. 438

ADOPTION

The Adoption Allowance Regulations (Northern Ireland) 1996

Made - - - -	*20th September 1996*
Coming into operation	*4th November 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 10(1) and 59A of the Adoption (Northern Ireland) Order 1987(**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 Adoption Allowance Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations—

"the Order" means the Adoption (Northern Ireland) Order 1987;

"adopters" means the persons who have adopted, or intend to adopt, a child or, where there is only one such person, that person;

"adoption agency" means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**2**), an authorised HSS trust as defined in regulation 1 of the Adoption Agencies Regulations (Northern Ireland) 1989(**3**) or an adoption society registered under Article 4 of the Order;

"adoption panel" means a panel established in accordance with regulation 5 or regulation 5A of the Adoption Agencies Regulations (Northern Ireland) 1989;

"child benefit" means child benefit under section 137 of the Contributions and Benefits Act;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**4**);

"disability living allowance" means disability living allowance under section 71 of the Contributions and Benefits Act;

(**1**) S.I.1987/2203 (N.I. 22); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))
(**2**) S.I. 1972/1265 (N.I. 14)
(**3**) S.R. 1989 No. 253, as amended; the relevant amending Regulations are S.R. 1994 No. 65
(**4**) 1992 c. 7

"fostering allowance" means the amount of money paid by way of maintenance for a child placed with a foster parent pursuant to Article 27(2)(*a*) or Article 75(1)(*a*) of the Children (Northern Ireland) Order 1995(**5**) (placement with foster parents and others by authorities and voluntary organisations);

"incapacity benefit" means incapacity benefit under section 30A of the Contributions and Benefits Act(**6**);

"income support" means income support under section 122 of the Contributions and Benefits Act;

"invalid care allowance" means invalid care allowance under section 70 of the Contributions and Benefits Act;

"jobseeker's allowance" means jobseeker's allowance under Article 3 of the Jobseekers (Northern Ireland) Order 1995(**7**);

"maternity allowance" means maternity allowance under section 35 of the Contributions and Benefits Act;

"severe disablement allowance" means severe disablement allowance under section 68 of the Contributions and Benefits Act.

Circumstances in which an allowance may be paid

2.—(1) Without prejudice to paragraph (3), an allowance may be paid where one or more of the circumstances specified in paragraph (2) exists and the adoption agency—

(a) is making the arrangements for the child's adoption; and

(b) has decided—

(i) in accordance with regulation 11(1) of the Adoption Agencies Regulations (Northern Ireland) 1989 that the adoption by the adopters would be in the child's best interests, and

(ii) after considering the recommendation of the adoption panel, that such adoption is not practicable without payment of an allowance.

(2) The circumstances referred to in paragraph (1) are—

(a) where the adoption agency is satisfied that the child has established a strong and important relationship with the adopters before the adoption order is made;

(b) where it is desirable that the child be placed with the same adopters as his brothers or sisters, or with a child with whom he has previously shared a home;

(c) where at the time of the placement for adoption the child—

(i) is mentally or physically disabled or suffering from the effects of emotional or behavioural difficulties, and

(ii) needs special care which requires a greater expenditure of resources than would be required if the child were not so disabled, or suffering from the effects of emotional or behavioural difficulties;

(d) where at the time of the placement for the adoption the child was mentally or physically disabled, or suffering from the effects of emotional or behavioural difficulties, and as a result at a later date he requires more care and a greater expenditure of resources than were required at the time he was placed for adoption because there is—

(**5**) S.I. 1995/755 (N.I. 2)
(**6**) 1992 c. 7; section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))
(**7**) S.I. 1995/2705 (N.I. 15)

(i) a deterioration in the child's health or condition, or

(ii) an increase in his age; or

(e) where at the time of the placement for adoption it was known that there was a high risk that the child would develop an illness or disability and as a result at a later date he requires more care and a greater expenditure of resources than were required at the time he was placed for adoption because such illness or disability occurs.

(3) An allowance may be paid by the agency where before these Regulations come into operation—

(a) an allowance was being paid by the agency to the adopters in respect of a child in accordance with a scheme which is revoked by Article 59A(4) of the Order (revocation of schemes approved under Article 59(4) of the Order) and the adopters have agreed to receive (instead of such allowance) an allowance complying with these Regulations; or

(b) the agency decided that the adopters are eligible to receive an allowance in accordance with a scheme which is revoked by Article 59A(4) of the Order and—

(i) no payment has been made pursuant to that decision, and

(ii) any conditions to which the agency's decision to pay such an allowance is subject are satisfied.

(4) In each case before an allowance is payable the adoption agency shall require the adopters to agree to—

(a) inform the adoption agency immediately if—

(i) the child no longer has his home with them (or either of them),

(ii) they change their address,

(iii) the child dies, or

(iv) there is any change in their financial circumstances or the financial needs or resources of the child; and

(b) complete and supply the adoption agency with an annual statement of their financial circumstances and the financial circumstances of the child.

(5) An allowance may not be paid from a date before the date of placement for adoption and may be paid from such later date as may be determined by the adoption agency and notified to the adopters.

Amount of the allowance

3.—(1) The allowance shall be of such amount as the adoption agency determines in accordance with paragraphs (2) to (4).

(2) In determining the amount of allowance the adoption agency shall take into account—

(a) the financial resources available to the adopters, including any financial benefit which would be available in respect of the child when adopted;

(b) the amount required by the adopters in respect of their reasonable outgoings and commitments (excluding outgoings in respect of the child); and

(c) the financial needs and resources of the child.

(3) In assessing the income available to the adopters the adoption agency shall disregard disability living allowance payable in respect of the child and, where the adopters are in receipt of income support, child benefit.

(4) The allowance paid by the adoption agency shall not—