STATUTORY RULES OF NORTHERN IRELAND

1996 No. 317

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1996

Made - - - - 24th July 1996
Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 16(1), 23(2), 32(1), 39(3), 43(11), 47 and 48(4) of, and paragraphs 5(1) and (2), 6, 8 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) Regulations (Northern Ireland) 1996 and shall come into operation as follows—

(a) this regulation and regulations 2, 3(1), (2) and (5), 4(1), (2) and (4) to (6) and 5(1) and (3) on 5th August 1996; and

(b) all other regulations on 7th October 1996.

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

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

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(**3**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(2)(*e*) (persons under a duty to furnish information or evidence) after "sub-paragraphs" there shall be inserted "(*aa*), (*ab*),".

(3) In regulation 3(1) (purposes for which information or evidence may be required) after sub-paragraph (*a*) there shall be inserted the following sub-paragraphs—

(**1**) S.I.1991/2628 (N.I. 23)
(**2**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 Nos. 162 and 475
(**3**) S.R. 1992 No. 339; relevant amending regulations are S.R. 1994 No. 65 and S.R. 1995 Nos. 19, 162 and 475

"(aa) a decision to be made as to whether there is in force a written maintenance agreement made before 5th April 1993, or a maintenance order, in relation to a qualifying child and the person who is at that time the absent parent of that child;

(ab) a decision to be made as to whether a person with care has parental responsibility for a qualifying child for the purposes of Article 8(1) of the Order;".

Amendment of the Maintenance Assessment Procedure Regulations

3.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (10).

(2) In regulation 15A(2)(**4**) (notification of reinstatement of a maintenance assessment) at the end there shall be added "and where the review is carried out under Article 21(1)(*d*) of the Order, except where that review is of the cancellation of a Category A or Category D interim maintenance assessment, as to the provisions of Article 20 of the Order and regulations 23(1) and 30A(8)".

(3) In regulation 30(**5**) (effective dates following a review under Article 18 or 19 of the Order) for paragraph (1) there shall be substituted the following paragraph—

"(1) Subject to paragraph (2), where a fresh maintenance assessment is made following a review under Article 18 of the Order, the effective date of that assessment shall be 104 weeks after the effective date of the previous assessment disregarding—

(a) any previous assessment made following a review under Article 19 of the Order, where, after 22nd January 1996, a child support officer decided, in accordance with Article 19(3) of the Order, to proceed with a review;

(b) any previous assessment made following a review under Article 20 or 21 of the Order;

(c) any interim maintenance assessment made under Article 14(1A)(*b*) or (*c*) of the Order, except a Category B interim maintenance assessment made under paragraph (1A)(*b*) or (*c*) of that Article where that interim maintenance assessment is the assessment being reviewed under Article 18 of the Order.".

(4) In regulation 30C(3)(**6**) (effective dates in specific cases) for the words from "that determined" to the end there shall be substituted "the correct effective date applicable to the maintenance assessment which is being reviewed".

(5) In regulation 32 (maintenance periods)—

(a) for paragraph (6)(**7**) there shall be substituted the following paragraph—

"(6) Where a case is to be treated as a special case for the purposes of the Order by virtue of regulation 22 of the Maintenance Assessments and Special Cases Regulations (multiple applications relating to an absent parent) and an application is made by a person with care in relation to an absent parent where—

(a) there is already a maintenance assessment in force in relation to that absent parent and a different person with care; or

(b) sub-paragraph (*a*) does not apply, but before a maintenance assessment is made in relation to that application, a maintenance assessment is made in relation to that absent parent and a different person with care,

the maintenance periods in relation to an assessment made in response to that application shall coincide with the maintenance periods in relation to the

(**4**) Regulation 15A was inserted by regulation 3(9) of S.R. 1995 No. 475
(**5**) Regulation 30 was substituted by regulation 3(20) of S.R. 1995 No. 475
(**6**) Regulation 30C was inserted by regulation 3(20) of S.R. 1995 No. 475
(**7**) Paragraph (6) was amended by regulation 3(22)(*a*) of S.R. 1995 No. 475

earlier maintenance assessment, except where regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations or paragraph (8) applies, and the first such period shall, subject to paragraph (9), commence not later than 7 days after the date of notification to the relevant persons of the later maintenance assessment."; and

(b) after paragraph (8)(**8**) there shall be added the following paragraph—

"(9) Where the case is one to which, if paragraphs (6) and (7) did not apply, regulation 29(2)(*a*)(i) or (*b*)(i) would apply, and the first maintenance period would, under the provisions of paragraph (6), commence during the eight week period referred to in sub-paragraph (*a*) or (*b*) of that regulation, the first maintenance period shall commence not later than 7 days after the expiry of that period of eight weeks.".

(6) In regulation 34 (periods for compliance with obligations imposed by Article 9 of the Order)—

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

"(2) The Department shall not refer a case to a child support officer prior to the expiry of a period of—

(a) 2 weeks from the date it serves notice under paragraph (1) on the parent in question; or

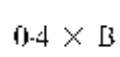
(b) 6 weeks from that date, where, before the expiry of 2 weeks from service of that notice, it has received from the parent in question in writing that parent's reasons why that parent believes that if that parent were to be required to comply with an obligation imposed by Article 9 of the Order, there would be a risk, as a result of that compliance, of that parent or any child or children living with that parent suffering harm or undue distress,

and the notice shall contain a statement setting out the provisions of sub-paragraphs (*a*) and (*b*)."; and

(b) in paragraph (3) for "the Department refers a case to a child support officer and the" there shall be substituted "a".

(7) In regulation 35 (amount of and period of reduction of relevant benefit under a reduced benefit direction)—

(a) in paragraph (2) for "26 weeks" there shall be substituted "156 weeks" and for the formula "0·2 × B" there shall be substituted the formula—



(b) paragraphs (3) and (9) shall be omitted;

(c) in paragraph (4)(**9**) after "paragraphs" there shall be inserted "(4A),";

(d) after paragraph (4) there shall be inserted the following paragraph—

"(4A) Subject to paragraphs (5), (5A) and (5B), where a reduced benefit direction ("the subsequent direction") is made on a day when a reduced benefit direction ("the earlier direction") is in force in respect of the same parent, the subsequent direction shall come into operation on the day immediately following the day on which the earlier direction ceased to be in force."; and

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

"(6) Where the benefit payable is income support or income-based jobseeker's allowance and there is a change in the benefit week whilst a direction is in operation, the period of the reduction specified in paragraph (2) shall be a period greater than 155

(**8**) Paragraph (8) was added by regulation 3(22)(*b*) of S.R. 1995 No. 475

(**9**) Paragraph (4) was amended by regulation 8(12)(*a*) of S.R. 1995 No. 162

weeks but less than 156 weeks and ending on the last day of the last benefit week falling entirely within the period of 156 weeks specified in that paragraph.".

(8) In regulation 37(4) (suspension of a reduced benefit direction when relevant benefit ceases to be payable) "and (3)" shall be omitted.

(9) In regulation 38(2) (reduced benefit direction where family credit or disability working allowance is payable and income support becomes payable) "and (3)" shall be omitted.

(10) In regulation 45 (reduced benefit directions where there is an additional qualifying child)—

(a) for paragraph (3) there shall be substituted the following paragraph—

"(3) Where—

(a) a direction ("the earlier direction") has ceased to be in force by virtue of regulation 37(2); and

(b) a child support officer gives a direction ("the further direction") with respect to the same parent on account of that parent's failure to comply with the obligations imposed by Article 9 of the Order in relation to an additional qualifying child,

as long as that further direction remains in force, no additional direction shall be brought into force with respect to that parent on account of that parent's failure to comply with the obligations imposed by Article 9 of the Order in relation to one or more children in relation to whom the earlier direction was given.";

(b) in paragraph (4) for "shall be determined in accordance with paragraphs (6) and (7)" there shall be substituted "for the extended period shall be determined in accordance with regulation 35(2)";

(c) in paragraph (5) for the formula "(78−F−S) weeks" there shall be substituted the formula—

$$(156 - F - S) \text{ weeks}$$

(d) paragraphs (6) and (7) shall be omitted.

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(**10**) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(2) (citation, commencement and interpretation) for the definition of "family"(**11**) there shall be substituted the following definition—

""family" means—

(a) a married or unmarried couple (including the members of a polygamous marriage);

(b) a married or unmarried couple (including the members of a polygamous marriage) and any child or children living with them for whom at least one member of that couple has day to day care;

(c) where a person who is not a member of a married or unmarried couple has day to day care of a child or children, that person and any such child or children,

and for the purposes of this definition a person shall not be treated as having day to day care of a child who is a member of that person's household where the child in question is in the care of a Health and Social Services Board or an HSS trust, is boarded-out or placed by that Board or that trust in accordance with the provisions of section 114 of the Children and Young Persons Act (Northern Ireland) 1968;".

(**10**) S.R. 1992 No. 341; relevant amending regulations are S.R. 1994 No. 65 and S.R. 1995 No. 162
(**11**) The definition of "family" was amended by paragraph 1 of Schedule 19 to S.R. 1994 No. 65