1995 No. 476

FAMILY LAW

CHILD SUPPORT

The Child Support (Compensation for Recipients of Family Credit and Disability Working Allowance) Regulations (Northern Ireland) 1995

Made . . . . . *18th December 1995*
Coming into operation . . *23rd January 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 17 of the Child Support (Northern Ireland) Order 1995(**a**) 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 (Compensation for Recipients of Family Credit and Disability Working Allowance) Regulations (Northern Ireland) 1995 and shall come into operation on 23rd January 1996.

(2) In these Regulations—

"the 1995 Order" means the Child Support (Northern Ireland) Order 1995;

"instrument for benefit payment" has the meaning prescribed in regulation 2(1) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**b**).

Changes in child support legislation relevant for the purposes of compensation

2. A compensation payment shall be made where a maintenance assessment in force is reduced as a result of the coming into operation of any of the child support legislation set out in the Schedule.

Definition of relevant time

3. For the purposes of Article 17 of the 1995 Order, the relevant time shall be the day immediately prior to the effective date of the revised assessment.

(**a**) S.I. 1995/2702 (N.I. 13)
(**b**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1994 No. 484

Calculation of compensation

4. Subject to regulation 5, a compensation payment shall be calculated by using the following formula—

$$C = \frac{A}{2} \times B$$

where—

C is the compensation payment payable;

A is the amount of the reduction referred to in Article 17(2) of the 1995 Order;

B is the number of complete periods of 7 days within the period commencing on the effective date of the revised assessment and ending on the date of the expiry of the award of family credit or disability working allowance in force at that effective date.

Calculation of compensation in particular cases

5.—(1) The amount payable under the earlier maintenance assessment shall be the amount due under a fresh assessment made following a review of that earlier maintenance assessment under Article 18, 19, 20 or 21(**a**) of the Order of 1991 where—

(*a*) the review and fresh assessment were made after the prescribed change in child support legislation referred to in Article 17(1) of the 1995 Order has come into operation but before the revised assessment is made;

(*b*) that review is on grounds other than that prescribed change in legislation; and

(*c*) the effective date of that fresh assessment is prior to the effective date of the revised assessment.

(2) Subject to paragraph (4) where, after a revised assessment has been made, a child support officer makes a fresh assessment following a review of the earlier maintenance assessment under Article 18, 19, 20 or 21 of the Order of 1991, for the purposes of the calculation of a compensation payment the amount payable under the earlier maintenance assessment shall be that payable under that assessment prior to that review.

(3) Subject to paragraph (4), where a revised assessment is reviewed on the grounds set out in Article 20(6) or 21(2) of the Order of 1991, and a fresh assessment of a different amount is made, the effective date of which is the same as that of that revised assessment, the compensation payment shall be recalculated using the amount due under that fresh assessment in place of the amount due under the revised assessment.

(4) In cases where the circumstances set out in paragraphs (2) and (3) both apply, the compensation payment shall be recalculated using the amount due under the fresh assessments referred to in those paragraphs.

(**a**) Article 21 was substituted by Article 9 of the Child Support (Northern Ireland) Order 1995

(5) Where the circumstances set out in paragraph (6) apply, the compensation payment for the period of the further award shall be calculated in accordance with the following formula—

$$C = \frac{A}{2} \times 26$$

where C and A have the meaning given to them in regulation 4.

(6) The circumstances referred to in paragraph (5) are—

(*a*) the effective date of a revised assessment is not more than 4 weeks in the case of family credit or 6 weeks in the case of disability working allowance prior to the date upon which the existing award of that benefit ends;

(*b*) the person to whom that award was made has applied for a further award of that benefit to be paid from the date of expiry of the existing award;

(*c*) the amount payable under the further award has not taken account of the changes in child support legislation referred to in regulation 2 which are relevant to the further award.

(7) For the purposes of paragraph (6), the existing award means the award of family credit or disability working allowance in force at the effective date of the revised assessment and for the purposes of paragraphs (5) and (6) the further award means the award of family credit or disability working allowance made after the existing award has expired.

Minimum payment

6.—(1) Subject to paragraph (2), compensation calculated under these Regulations by reference to a revised assessment shall not be made if the amount of that compensation is less than £5·00.

(2) Where paragraph (3) or (4) of regulation 5 applies, the prescribed minimum set out in paragraph (1) shall be applied to the recalculated compensation payment only.

(3) Where more than one revised assessment is made and a payment has been made in respect of compensation calculated by reference to one of those revised assessments, the amount of compensation to be paid in respect of any subsequent revised assessment shall be the difference between the payment that has already been made and the compensation calculated by reference to that subsequent revised assessment.

Provisions for payment

7.—(1) The Department shall make any compensation payment in instalments or as a lump sum as it considers appropriate in the circumstances.

(2) Any such compensation payment shall be paid on presentation of an instrument for benefit payment or by means of an instrument of payment or by such other means as appears to the Department to be appropriate in the circumstances of any particular case.