1994 No. 37

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations (Northern Ireland) 1994

Made . . . . . *3rd February 1994*

Coming into operation . . *7th February 1994*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 18, 19(6), 32(1) and (2), 39(3) and (4), 44, 47 and 48(4) of, and paragraphs 1(3), 4(1), 6(6) and 8(*a*) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations (Northern Ireland) 1994 and shall come into operation on 7th February 1994.

(2) In these regulations—

"Collection and Enforcement Regulations" means the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**b**);

"Fees Regulations" means the Child Support Fees Regulations (Northern Ireland) 1993(**c**);

"Maintenance Assessment Procedure Regulations" means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**d**);

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

(**a**) S.I. 1991/2628 (N.I. 23)
(**b**) S.R. 1992 No. 390
(**c**) S.R. 1993 No. 73
(**d**) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164
(**e**) S.R. 1992 No. 341; to which there are amendments not relevant to these regulations

PART II

AMENDMENT OF REGULATIONS

Amendment of the Collection and Enforcement Regulations

2. In regulation 9(*e*) of the Collection and Enforcement Regulations (deduction from earnings orders) at the beginning there shall be inserted "except in the case of a Category A or Category B interim maintenance assessment within the meaning of regulation 8(1A) and (1B) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992,"(a).

Amendment of the Fees Regulations

3.—(1) The Fees Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In Regulation 1(2) (citation, commencement and interpretation) for the definition of "collection fee" there shall be substituted the following definition—

" "collection fee" means a fee in respect of services provided by the Department for the collection of child support maintenance or for enforcing payment of such maintenance or both such collection and such enforcement;".

(3) In regulation 3 (liability to pay fees) for paragraph (3) there shall be substituted the following paragraph—

"(3) In a case falling within paragraph (1)(*b*) the fee payable shall be the assessment fee and if, but only if, collection or enforcement services (or both) are provided by the Department, the collection fee.".

(4) In regulation 4 (fees) for paragraph (2) there shall be substituted the following paragraph—

"(2) Where a collection fee is payable under regulation 3(2) or (3) the first such fee shall become payable on the date the Department first takes action to collect or enforce payment of child support maintenance, and any subsequent fee which becomes so payable shall be payable on the date the assessment fee becomes payable.".

Amendment of the Maintenance Assessment Procedure Regulations

4.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 10(4) (notification of a new or a fresh maintenance assessment) for sub-paragraph (*c*) there shall be substituted the following sub-paragraphs—

"(*c*) where a fresh maintenance assessment is made following a review under Article 20 of the Order, Articles 18, 19 and 22 of the Order;

(a) Regulation 8 (1A) and (1B) was inserted by regulation 4(3)(*a*) of S.R. 1993 No. 164

(*d*) where a fresh maintenance assessment is made following a review under Article 21 of the Order, Articles 18, 19 and 20 of the Order.''.

(3) In regulation 19(2) (fresh assessments following a review on a change of circumstances) for the words after ''the provisions of paragraph 6 of Schedule 1 to the Order would apply to that assessment,'' there shall be substituted—

''he shall not make a fresh assessment if—

(*a*) where the amount fixed by the original assessment is less than the amount that would be fixed by the fresh assessment, the difference between the two amounts is less than £5·00 a week, and

(*b*) where the amount fixed by the original assessment is more than the amount that would be fixed by the fresh assessment, the difference between the two amounts is less than £1·00 a week.''.

(4) In regulation 20(2) (fresh assessments following a review on a change of circumstances: special case) for ''that difference is less than £1·00 per week'' there shall be substituted—

''that difference is less than—

(*a*) where the aggregate amount fixed by the original assessments is less than the aggregate amount that would be fixed by the fresh assessments, £5·00 a week, and

(*b*) where the aggregate amount fixed by the original assessments is more than the aggregate amount that would be fixed by the fresh assessments, £1·00 a week''.

(5) In regulation 30(1) (effective dates of maintenance assessments following a review under Articles 18 to 21 of the Order) at the end there shall be added ''disregarding any previous assessment made following a review made under Article 20 or 21 of the Order''.

Amendment of the Maintenance Assessments and Special Cases Regulations

5.—(1) The Maintenance Assessments and Special Cases Regulations shall be amended in accordance with paragraphs (2) to (6).

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

''(*b*) with respect to a person with care of one or more qualifying children—

(i) where one or more of those children is aged less than 11, an amount equal to the amount specified in column (2) of paragraph 1(1)(*e*) of the relevant Schedule (income support personal allowance for a single claimant aged not less than 25);

(ii) where none of those children are aged less than 11 but one or more of them is aged less than 14, an amount equal to 75 per centum of the amount specified in sub-paragraph (*b*)(i), and

(iii) where none of those children are aged less than 14 but one or more of them is aged less than 16, an amount equal to 50 per centum of the amount specified in sub-paragraph (*b*)(i);''.

(3) In regulation 6 (additional element) for paragraph (1) there shall be substituted the following paragraph—

''(1) For the purposes of the formula in paragraph 4(1) of Schedule 1 to the Order, the value of R is—

(*a*) where the maintenance assessment in question relates to one qualifying child, 0·15;

(*b*) where the maintenance assessment in question relates to two qualifying children, 0·20, and

(*c*) where the maintenance assessment in question relates to three or more qualifying children, 0·25.''.

(4) In regulation 11 (protected income)—

(*a*) in paragraph (1)(*k*) for ''£8·00'' there shall be substituted ''£30·00'';

(*b*) in paragraph 1(*l*) for ''10 per centum'' there shall be substituted ''15 per centum''.

(5) In regulation 23 (person caring for children of more than one absent parent)—

(*a*) in paragraph (2) at the beginning there shall be inserted ''Subject to paragraph (2A),'';

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

''(2A) In applying the provisions of paragraph (2) to the amount which is to be included in the maintenance requirements under regulation 3(1)(*b*)—

(*a*) first take the amount specified in regulation 3(1)(*b*)(i) and divide it by the relevant number;

(*b*) then apply the provisions of regulation 3(1)(*b*) as if the references to the amount specified in column (2) of paragraph 1(1)(*e*) of the relevant Schedule were references to the amount which is the product of the calculation required by sub-paragraph (*a*) above, and as if, in relation to an absent parent, the only qualifying children to be included in the assessment were those qualifying children in relation to whom he is the absent parent.'';

(*c*) in paragraph (3) for ''in paragraph (2)'' there shall be substituted ''In paragraphs (2) and (2A)''.

(6) In Schedule 3 (eligible housing costs) in paragraph 3 for sub-paragraph (5) there shall be substituted the following sub-paragraph—

''(5) Where a policy of insurance has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of accruing profits on the maturity of the policy, there shall be eligible to be taken into account as a housing cost—

(*a*) where the sum secured by the mortgage or charge does not exceed £60,000, the whole of the premiums paid under that policy, and

(*b*) where the sum secured by the mortgage or charge exceeds £60,000, the part of the premiums paid under that policy which are necessarily incurred for the purpose of discharging the mortgage or charge or, where that part cannot be ascertained, 0.0277 per centum of the amount secured by the mortgage or charge.''.

PART III

TRANSITIONAL PROVISIONS

Interpretation

6.—(1) In this Part and Part IV—

''the Order'' means the Child Support (Northern Ireland) Order 1991;

''excess'' means the amount by which the formula amount exceeds the old amount;

''existing case'' means a case in which before the date when these regulations come into operation, a maintenance assessment has been made which has an effective date which also falls before that date;

''formula amount'' means the amount of child support maintenance that would, but for the provisions of this Part, be payable under the maintenance assessment in force on the date these regulations come into operation or, if there is no such assessment, under the first assessment to come into force on or after that date;

''new case'' means a case in which the effective date of the maintenance assessment falls on or after the date when these regulations come into operation;

''old amount'' means, subject to paragraph (2), the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in regulation 7(1)(*a*);

''pending case'' means a case in which an application for a maintenance assessment has been made before the date when these regulations come into operation but no maintenance assessment has been made before that date;

''transitional amount'' means an amount determined in accordance with regulation 8, and

''transitional period'' means a period of, where the formula amount does not exceed £60, 52 weeks, and in any other case 78 weeks, beginning with—

(*a*) in relation to an existing case, the day that the maintenance assessment in that case is reviewed following an application under regulation 9(1) to (3);