1993 No. 164

FAMILY LAW

CHILD SUPPORT

The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993

Made	*31st March 1993*
Coming into operation . .	*5th April 1993*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(3), 4(3)(*c*), 14(2) and (3), 16(3), 18(1), 19(6)(*b*), 20(11), 38(3) and (4), 39, 40, 41(3) and 47 of, and paragraphs 5(1) and (2) and 6 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:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993 and shall come into operation on 5th April 1993 immediately after the regulations which they amend come into operation.

(2) In these regulations—

"Arrears, Interest and Adjustment of Maintenance Assessments Regulations" means the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(**b**);

"Maintenance Arrangements and Jurisdiction Regulations" means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(**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. 342
(**c**) S.R. 1992 No. 466
(**d**) S.R. 1992 No. 340
(**e**) S.R. 1992 No. 341

Amendment of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations

2.—(1) The Arrears, Interest and Adjustment of Maintenance Assessments Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 3 (liability to make payments of interest with respect to arrears) in paragraphs (4), (5) and (6) after "review under Article" there shall be inserted "18, 19,".

(3) In regulation 4 (circumstances in which no liability to pay interest arises) after paragraph (2) there shall be added the following paragraph—

"(3) An absent parent who pays all outstanding arrears of interest within 28 days of the due date shall not be liable to make payments of interest with respect to those arrears.".

(4) In regulation 5 (payment of arrears by agreement) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

"(1) The Department may at any time enter into an agreement with an absent parent (an "arrears agreement") for the absent parent to pay all outstanding arrears by making payments on agreed dates of agreed amounts.

(2) Where an arrears agreement has been entered into, the Department shall prepare a schedule of the dates on which payments of arrears shall be made and the amount to be paid on each such date, and shall send a copy of the schedule to such persons as it thinks fit.".

(5) In regulation 6 (rate of interest and calculation of interest) after paragraph (4) there shall be added the following paragraph—

"(5) Where any calculation of interest payable under this Part results in a fraction of a penny, that fraction shall be disregarded.".

(6) In regulation 12 (review of adjustments under regulation 10 or of the calculation of arrears or interest) paragraphs (3), (4) and (6) shall be omitted.

(7) In regulation 13 (procedure and notifications on applications and reviews under regulation 12)—

(*a*) in paragraphs (1) and (2) "or (3)" shall be omitted;

(*b*) paragraph (5) shall be omitted; and

(*c*) in paragraph (6) for "paragraphs (2) to (5)" there shall be substituted "paragraphs (2) to (4)".

Amendment of the Maintenance Arrangements and Jurisdiction Regulations

3.—(1) The Maintenance Arrangements and Jurisdiction Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 7 (cancellation of a maintenance assessment on grounds of lack of jurisdiction) after paragraph (3) there shall be added the following paragraph—

"(4) Where a parent is treated as an absent parent for the purposes of the Order and of the Maintenance Assessments and Special Cases Regulations by virtue of regulation 20 of those regulations, he shall be treated as an absent parent for the purposes of paragraphs (1) to (3).".

(3) In regulation 8 (maintenance assessments and maintenance orders made in error)—

(*a*) in paragraph (1) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(*aa*) the maintenance order has ceased to have effect by virtue of the provisions of regulation 3;"; and

(*b*) in paragraph (2)—

(i) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(*aa*) the maintenance assessment is cancelled or ceases to have effect;", and

(ii) after "shall be treated as not having been cancelled" there shall be inserted "or, as the case may be, as not having ceased to have effect".

Amendment of the Maintenance Assessment Procedure Regulations

4.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (15).

(2) In regulation 5 (notice to other persons of an application for a maintenance assessment)—

(*a*) in paragraph (1) for "Where" there shall be substituted "Subject to paragraph (2A), where";

(*b*) in paragraph (2) after "shall" there shall be inserted ", subject to paragraph (2A),";

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

"(2A) The provisions of paragraphs (1) and (2) shall not apply where the Department is satisfied that an application for a maintenance assessment can be dealt with in the absence of a completed and returned maintenance enquiry form.".

(3) In regulation 8 (amount and duration of an interim maintenance assessment)—

(*a*) after paragraph (1) there shall be inserted the following paragraphs—

"(1A) There shall be two categories of interim maintenance assessment, Category A interim maintenance assessments and Category B interim maintenance assessments.

(1B) An interim maintenance assessment made by a child support officer shall be—

(*a*) a Category A interim maintenance assessment, where the information that is required by him as to the income of the absent parent to enable him to make an assessment in accordance with the provisions of Part I of Schedule 1 to the Order has not been provided by that absent parent, and that parent has that information in his possession or can reasonably be expected to acquire it;

(*b*) a Category B interim maintenance assessment, where the information that is required by him as to the income of the partner or other member of the family of the absent parent or parent with care to enable him to make an assessment in accordance with the provisions of Part I of Schedule 1 to the Order has not been provided by that partner or other member of the family, and that partner or other member of the family has that information in his possession or can reasonably be expected to acquire it.'';

(*b*) in paragraph (2)—

(i) for ''an'' there shall be substituted ''a Category A'', and

(ii) after ''not apply to'' there shall be inserted ''Category A'';

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

''(2A) The amount of child support maintenance fixed by a Category B interim maintenance assessment shall be determined in accordance with paragraphs (2B) and (2C).

(2B) Where a child support officer is unable to determine the exempt income—

(*a*) of an absent parent under regulation 9 of the Maintenance Assessments and Special Cases Regulations because he is unable to determine whether regulation 9(2) of those regulations applies;

(*b*) of a parent with care under regulation 10 of those regulations because he is unable to determine whether regulation 9(2) of those regulations, as modified by and applied by regulation 10 of those regulations applies,

the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order on the assumption that—

(i) in a case falling within sub-paragraph (*a*), regulation 9(2)(*a*) of those regulations does apply;

(ii) in a case falling within sub-paragraph (*b*), regulation 9(2)(*b*) of those regulations as modified by and applied by regulation 10 of those regulations does apply.

(2C) Where the disposable income of an absent parent would, without taking account of the income of any member of his family, bring him within the provisions of paragraph 6 of Schedule 1 to the Order (protected income), and a child support officer is unable to ascertain the disposable income of the other members of his family, the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order on the assumption that the provisions of paragraph 6 of Schedule 1 to the Order do not apply to the absent parent.'';

(*d*) in paragraph (11) for ''an'' there shall be substituted ''a Category A'';

(*e*) in paragraph (12) after ''not apply to'' there shall be inserted ''Category A'';

(*f*) after paragraph (12) there shall be added the following paragraph—

''(13) In this regulation ''family'' and ''partner'' have the same meanings as in the Maintenance Assessments and Special Cases Regulations.''.

(4) In regulation 9 (cancellation of an interim maintenance assessment)—

(*a*) in paragraph (1) for ''an'' there shall be substituted ''a Category A'';

(*b*) in paragraph (8) after ''Regulations 10, 11'' there shall be inserted '', 23''.

(5) In regulation 12 (notification of a refusal to make a new or a fresh maintenance assessment)—

(*a*) in paragraph (1)—

(i) for ''Article 19 or'' where it first occurs, there shall be substituted ''Article 19 of the Order or to make an assessment or a fresh assessment following a review under Article'';

(ii) in sub-paragraph (*b*) for ''persons,'' there shall be substituted ''persons;'';

(iii) after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

''(*c*) where there is a refusal to make an assessment following a review under Article 20 of the Order, the applicant,'';

(*b*) in paragraph (2)—

(i) in sub-paragraph (*c*) for ''Order.'' there shall be substituted ''Order;'';

(ii) after sub-paragraph (*c*) there shall be added the following sub-paragraph—

''(*d*) where there is a refusal to make an assessment following a review under Article 20 of the Order, Article 22 of the Order.''.

(6) In regulation 16 (intervals between periodical reviews and notice of a periodical review)—

(*a*) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

''(1) Subject to regulation 17(1), where a maintenance assessment in force is—

(*a*) an assessment that has not been previously reviewed;

(*b*) a fresh assessment following an earlier review under Article 18 of the Order; or

(*c*) a fresh assessment following a review under Article 19 of the Order,

that assessment shall be reviewed by a child support officer under Article 18 of the Order after it has been in force for a period of 52 weeks.