1992 No. 467 (C. 20)

FAMILY LAW

CHILD SUPPORT

The Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992

Made . . . . . 2nd November 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) to (5) of the Child Support (Northern Ireland) Order 1991(**a**) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(**b**) and of all other powers enabling it in that behalf, hereby makes the following order:

Citation

1. This order may be cited as the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992.

Day appointed for the coming into operation of certain provisions of the Child Support (Northern Ireland) Order 1991

2. Subject to the following provisions of this order, the day appointed for the coming into operation of all the provisions of the Child Support (Northern Ireland) Order 1991, in so far as they are not already in operation, except Articles 21(3), 30(2), 34(2) and 51(2), is 5th April 1993.

Transitional provisions

3. The transitional provisions set out in the Schedule shall have effect.

Sealed with the Official Seal of the Department of Health and Social Services on 2nd November 1992.

(L.S.) *A. N. Burns*
Assistant Secretary

(a) S.I. 1991/2628 (N.I. 23)
(b) 1974 c. 28

SCHEDULE Article 3

PART I

PHASED TAKE-ON OF CASES

1. In this Part—

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

"benefit" means income support, family credit, or disability working allowance under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**), or any other benefit prescribed under Article 9(1) of the Order (applications by persons receiving benefit);

"transitional period" means the period beginning with and including 5th April 1993 and ending with 6th April 1997.

2. Subject to paragraph 3, during the transitional period no application under Article 7 of the Order (applications for child support maintenance) in relation to a qualifying child or any qualifying children may be made at any time when—

(*a*) there is in force a maintenance order or maintenance agreement in respect of that qualifying child or those qualifying children and the absent parent, or there is pending before any court an application for such a maintenance order; or

(*b*) benefit is being paid to a parent of that child or those children.

3.—(1) Paragraph 2 does not apply to an application made—

(*a*) in that part of the transitional period beginning with and including 8th April 1996, if the surname of the person with care begins with any of the letters A to D inclusive;

(*b*) in that part of the transitional period beginning with and including 1st July 1996, if the surname of the person with care begins with any of the letters E to K inclusive;

(*c*) in that part of the transitional period beginning with and including 7th October 1996, if the surname of the person with care begins with any of the letters L to R inclusive, and

(*d*) in that part of the transitional period beginning with and including 6th January 1997, if the surname of the person with care begins with any of the letters S to Z inclusive.

(2) Where paragraph 2 applies to a case because there is pending before a court an application for a maintenance order, and that application was made before 5th April 1993, that paragraph shall not prevent the making of an application for a maintenance assessment under Article 7 of the Order; but in such a case Article 10(3) of the Order shall not have effect until such an application is actually made.

4. For so long as paragraph 2 operates in a case so as to prevent an application being made under Article 7 of the Order, and no application has been made under Article 9 of the Order, then in relation to that case Article 10(3) of the Order (role of the courts with respect to maintenance orders) shall be modified so as to have effect as if the word "vary" was omitted.

(a) 1992 c. 7. Disability working allowance is prescribed for the purposes of Article 9(1) of the Child Support (Northern Ireland) Order 1991 by regulation 33 of S.R. 1992 No. 340

PART II

MODIFICATION OF MAINTENANCE ASSESSMENT IN CERTAIN CASES

5. In this Part—

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

"formula amount" means the amount of child support maintenance that would, but for the provisions of this Part, be payable under an original assessment, or any fresh assessment made during the period specified in paragraph 7 consequent on a review under Article 19, 20 or 21 of the Order;

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

"modified amount" means an amount which is £20 greater than the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(*a*);

"original assessment" means a maintenance assessment made in respect of a qualifying child where no previous such assessment has been made or, where the assessment is made in respect of more than one child, where no previous such assessment has been made in respect of any of those children.

6.—(1) Subject to sub-paragraph (2), the provisions of this Part apply to cases where—

(*a*) on 4th April 1993 there is in force, in respect of all the qualifying children in respect of whom an application for a maintenance assessment is made under the Order and the absent parent concerned, one or more—

(i) maintenance orders;

(ii) orders under section 151 of the Army Act 1955(**b**) (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act 1955(**c**) (deductions from pay for maintenance of wife or child) or arrangements corresponding to such an order and made under Article 1(*b*) or 3 of the Naval and Marine Pay and Pensions (Deductions for Maintenance) Order 1959(**d**), or

(iii) maintenance agreements (being agreements which are made or evidenced in writing);

(*b*) the absent parent is responsible for maintaining a child or children residing with him other than the child or children in respect of whom the application is made;

(*c*) the formula amount is not more than £60, and

(*d*) the formula amount exceeds the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in sub-paragraph (*a*) by more than £20 a week.

(2) Nothing in this Part applies to an interim maintenance assessment made under Article 14 of the Order.

(**a**) S.R. 1992 No. 340
(**b**) 1955 c. 18
(**c**) 1955 c. 19
(**d**) This Order in Council is not a statutory instrument but copies may be obtained from the Ministry of Defence, Naval Pay (Pensions and Conditions of Service) Branch, Old Admiralty Buildings, Spring Gardens, London SW1A 2BE