1992 No. 341

FAMILY LAW

CHILD SUPPORT

The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992

Made	*30th July 1992*
Coming into operation . .	*5th April 1993*

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 39, 40 and 47 of, and paragraphs 1, 2 and 4 to 9 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 (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 and shall come into operation on 5th April 1993.

(2) In these regulations—

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

"the 1972 Order" means the Health and Personal Social Services (Northern Ireland) Order 1972(**b**);

(**a**) S.I. 1991/2628 (N.I. 23)
(**b**) S.I. 1972/1265 (N.I. 14)

"claimant" means a claimant for income support;

"Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**);

"course of advanced education" means—

(*a*) a full-time course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a Diploma of Higher Education, a higher national diploma, a higher national diploma or higher national certificate of the Business and Technician Education Council or the Scottish Vocational Education Council or a teaching qualification; or

(*b*) any other full-time course which is a course of a standard above that of an ordinary national diploma, a national diploma or national certificate of the Business and Technician Education Council or the Scottish Vocational Education Council, the advanced level of the General Certificate of Education, a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies;

"covenant income" means the gross income payable to a student under a Deed of Covenant by a parent;

"day" includes any part of a day;

"day to day care" means care of not less than 2 nights per week on average during—

(*a*) the 12 month period ending with the relevant week; or

(*b*) such other period, ending with the relevant week, as in the opinion of the child support officer is more representative of the current arrangements for the care of the child in question,

and for the purposes of this definition, where a child is a boarder at a boarding school or is an in-patient in a hospital, the person who, but for those circumstances, would otherwise provide day to day care of the child, shall be treated as providing day to day care during the periods in question;

"disability working allowance" has the same meaning as in section 128 of the Contributions and Benefits Act;

"earnings" has the meaning assigned to it by paragraph 1 or 3, as the case may be, of Schedule 1;

"effective date" means the date on which a maintenance assessment takes effect for the purposes of the Order;

"eligible housing costs" shall be construed in accordance with Schedule 3;

(**a**) 1992 c. 7

"employed earner" has the same meaning as in section 2(1)(*a*) of the Contributions and Benefits Act;

"family" means—

(*a*) 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;

(*b*) where a person who is not a member of a married or unmarried couple has day to day care of a child, 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, is boarded-out or placed by that Board in accordance with the provisions of section 114 of the Children and Young Persons Act (Northern Ireland) 1968(**a**);

"grant" means any kind of educational grant or award and includes any scholarship, exhibition, allowance or bursary but does not include a payment made under Article 50 (provision of awards by Boards) or 51 (provision of awards by Department) of the Education and Libraries (Northern Ireland) Order 1986(**b**);

"grant contribution" means any amount which an education authority treats as properly payable by another person when assessing the amount of a student's grant and by which that amount is, as a consequence, reduced;

"Health and Social Services Board" means a Health and Social Services Board established under Article 16 of the 1972 Order;

"home" means—

(*a*) the dwelling in which a person and any family of his normally live; or

(*b*) if he or they normally live in more than one home, the principal home of that person and any family of his,

and for the purpose of determining the principal home in which a person normally lives no regard shall be had to residence in a home for persons in need or a nursing home during a period which does not exceed 52 weeks or, where it appears to the child support officer that the person will return to his principal home after that period has expired, such longer period as that officer considers reasonable to allow for the return of that person to that home;

"home for persons in need" has the same meaning as in regulation 19(2) of the Income Support Regulations;

"housing benefit" has the same meaning as in section 129 of the Contributions and Benefits Act;

(**a**) 1968 c. 34 (N.I.); section 114 was amended by Part II of Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

(**b**) S.I. 1986/594 (N.I. 3)

"Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**a**);

"Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**b**);

"the Independent Living Fund" means the charitable trust of that name established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

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

"married couple" means a man and a woman who are married to each other and are members of the same household;

"non-dependant" means a person who is a non-dependant for the purposes of either—

(*a*) regulation 3 of the Income Support Regulations; or

(*b*) regulation 3 of the Housing Benefit Regulations which shall be read, for the purpose of this definition, as if the reference to "claimant" means a claimant to, rent rebate or rent allowance under regulation 10 of those regulations,

or who would be a non-dependant for those purposes if another member of the household in which he is living were entitled to, as the case may be, income support or housing benefit where it is payable in the form of such rebate or allowance;

"nursing home" has the same meaning as in regulation 19(2) of the Income Support Regulations;

"occupational pension scheme" has the same meaning as in Article 2(1) of the Social Security Pensions (Northern Ireland) Order 1975(**d**);

"ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

"parent with care" means a person who, in respect of the same child or children, is both a parent and a person with care;

"partner" means—

(*a*) in relation to a member of a married or unmarried couple who are living together, the other member of that couple;

(**a**) S.R. 1987 No. 461; relevant amending rules are S.R. 1988 No. 424, S.R. 1989 No. 125, S.R. 1990 Nos. 136, 297, 345 and 442, S.R. 1991 No. 47 and S.R. 1992 Nos. 18 and 85

(**b**) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 274, 318 and 431, S.R. 1989 Nos. 139, 326 and 395, S.R. 1990 Nos. 131, 213, 346 and 387, S.R. 1991 Nos. 338, 204 and 474 and S.R. 1992 Nos. 6, 18 and 147

(**c**) S.R. 1992 No. 340

(**d**) S.I. 1975/1503 (N.I. 15)