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STATUTORY RULES OF NORTHERN IRELAND

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**2001 No. 19**

**FAMILY LAW**

**CHILD SUPPORT**

The Child Support (Transitional Provisions)  
Regulations (Northern Ireland) 2001

Made - - - - 23rd January 2001

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 18, 19, 47(1) and 48 of the Child Support (Northern Ireland) Order 1991<sup>(1)</sup> and now vested in it<sup>(2)</sup>, and section 28 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000<sup>(3)</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Part I

General

**Citation and commencement**

1. These Regulations may be cited as the Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001 and shall come into operation on the day on which section 28 of the Act comes fully into operation.

**Interpretation**

2.—(1) In these Regulations—

“the Order” means the Child Support (Northern Ireland) Order 1991;

“the Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;

“calculation date” means the date the Department makes a conversion decision;

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(1) S.I. 1991/2628 (N.I. 23); Articles 18 and 19 were substituted respectively by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and Article 19 was amended by section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000. Article 48 was amended by section 24 of that Act

(2) See Article 8(b) of S.R. 1999 No. 481

(3) 2000 c. 4 (N.I.)

“capped amount” means the amount of income for the purposes of Part I of Schedule 1 to the Order(4) where that income is limited by the application of paragraph 10(3) of that Schedule;

“case conversion date” means the effective date for the conversion of the non-resident parent’s liability to pay child support maintenance from the rate as determined under the former Order and Regulations made under that Order, as provided for in regulation 15;

“commencement date” means the date on which section 1 of the Act, which amends Article 13 of the Order, comes into operation for the purposes of maintenance calculations the effective date of which, were they maintenance assessments, applying the Maintenance Assessment Procedure Regulations or the Maintenance Arrangements and Jurisdiction Regulations, and subject to paragraph (2), would be the same as or later than the date prescribed for the purposes of Article 7(10)(a) of the Order(5);

“conversion calculation” means the calculation made in accordance with regulation 16;

“conversion date” means the date on which section 1 of the Act, which amends Article 13 of the Order, comes into operation for all purposes;

“conversion decision” means the decision under regulation 3(1) or (4);

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(6);

“departure direction” has the meaning given in Article 2(2) of the former Order(7);

“the Departure Regulations” means the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(8);

“first prescribed amount” means the amount stated in or prescribed for the purposes of paragraph 4(1)(b) or (c) of Part I of Schedule 1 to the Order (flat rate for non-resident parent in receipt of benefit, pension or allowance);

“former assessment amount” means the amount of child support maintenance payable under a maintenance assessment on the calculation date excluding amounts payable in respect of arrears or reductions for overpayments;

“former Order” means the Order prior to its amendment by the Act;

“interim maintenance assessment” has the meaning given in Article 2(2) of the former Order;

“the Maintenance Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(9), prior to their amendment by the Child Support (Information, Evidence and Disclosure and Maintenance Arrangements and Jurisdiction) (Amendment) Regulations (Northern Ireland) 2001(10);

“maintenance assessment” has the meaning given in Article 2(2) of the former Order other than an interim maintenance assessment;

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- (4) Part I was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
- (5) Paragraph (10) was inserted by Article 12(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and sub-paragraph (a) was amended by section 2(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
- (6) S.R. 1999 No. 162; relevant amending rules are S.R. 1999 Nos. 242, 267, 271 (C. 22), 272, 408, 472 (C. 36) and 473 and S.R. 2000 Nos. 3, 215, 365 and S.R. 2001 No. 23
- (7) The definition of “departure direction” was inserted by paragraph 2 of Schedule 3 to the Child Support (Northern Ireland) Order 1995
- (8) S.R. 1996 No. 541; relevant amending rules are S.R. 1998 No. 8, S.R. 1999 Nos. 167, 385 and 246 (C. 20) and S.R. 2000 No. 215
- (9) S.R. 1992 No. 466; relevant amending rules are S.R. 1993 No. 164, S.R. 1995 Nos. 19, 162 and 475, S.R. 1998 No. 8 and S.R. 1999 No. 246 (C. 20)
- (10) S.R. 2001 No. 16

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(11);

“the Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(12);

“the Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(13);

“maintenance period” has the meaning given in regulation 32 of the Maintenance Assessment Procedure Regulations (maintenance periods)(14) and, where in relation to a non-resident parent there is in force on the calculation date more than one maintenance assessment with more than one maintenance period, the first maintenance period to begin on or after the conversion date;

“maximum transitional amount” means 30 per cent. of the non-resident parent’s net weekly income taken into account in the conversion decision, or the subsequent decision, as the case may be;

“new amount” means the amount of child support maintenance payable in accordance with the conversion decision;

“partner” means, where there is a couple, the other member of that couple and “couple” for this purpose has the same meaning as in paragraph 10C(5) of Part I of Schedule 1 to the Order;

“phasing amount” means the amount determined in accordance with regulation 24;

“relevant departure direction” and “relevant property transfer” have the meanings given in regulation 17;

“relevant other children” has the meaning given in paragraph 10C(2) of Part I of Schedule 1 to the Order and Regulations made under that paragraph;

“second prescribed amount” means the amount prescribed for the purposes of paragraph 4(2) of Part I of Schedule 1 to the Order (flat rate for non-resident parent who has a partner and who is in receipt of certain benefits);

“subsequent decision” for the purposes of Parts I to III and V means—

(a) any decision under Article 18 or 19 of the Order to revise or supersede a conversion decision; or

(b) any such revision or supersession as decided on appeal,

whether as originally made or as revised under Article 18 of the Order, or decided on appeal;

“subsequent decision amount” means the amount of child support maintenance liability resulting from a subsequent decision;

“transitional amount” for the purposes of Parts I to III and V means the amount of child support maintenance payable during the transitional period;

“transitional period” for the purposes of Parts I to III and V means—

(a) the period from the case conversion date to the end of the last complete maintenance period which falls immediately prior to the—

(i) fifth anniversary of the case conversion date, or

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(11) S.R. 1992 No. 340; relevant amending rules are S.R. 1993 No. 164, S.R. 1994 Nos. 37 and 65, S.R. 1995 Nos. 19, 162 and 475, S.R. 1996 Nos. 289, 317, 358, 503, 541 and 590, S.R. 1998 No. 8 and S.R. 1999 Nos. 152, 167, 385 and 246 (C. 20)

(12) S.R. 1992 No. 341; relevant amending regulations are S.R. 1995 No. 162

(13) S.R. 2001 No. 18

(14) Regulation 32 was amended by regulation 3(22) of S.R. 1995 No. 475, regulation 3(5) of S.R. 1996 No. 317 and regulation 2(17) of S.R. 1999 No. 167

- (ii) first anniversary of the case conversion date where regulation 12(1), (2), (4) or (5) or 13 applies; or
  - (b) if earlier, the period from the case conversion date up to the date when the amount of child support maintenance payable by the non-resident parent is equal to the new amount or the subsequent decision amount, as the case may be; and
- “the Variations Regulations” means the Child Support (Variations) Regulations (Northern Ireland) 2001(15).
- (2) For the purposes of the definition of “commencement date” in paragraph (1)—
- (a) in the application of the Maintenance Assessment Procedure Regulations, where no maintenance enquiry form, as defined in those Regulations, is given or sent to the non-resident parent, the Regulations shall be applied as if references in regulation 29 of those Regulations (effective dates of new maintenance assessments)(16)—
    - (i) to the date when the maintenance enquiry form was given or sent to the non-resident parent were to the date on which the non-resident parent is first notified by the Department, orally or in writing, that an application for child support maintenance has been made in respect of which he is named as the non-resident parent, and
    - (ii) to the return by the non-resident parent of the maintenance enquiry form containing his name, address and written confirmation that he is the parent of the child or children in respect of whom the application was made, were to the provision of this information by the non-resident parent, or
  - (b) in the application of the Maintenance Arrangements and Jurisdiction Regulations, where no maintenance enquiry form, as defined in the Maintenance Assessment Procedure Regulations, is given or sent to the non-resident parent, regulation 3(7) of the Maintenance Arrangements and Jurisdiction Regulations(17) (relationship between maintenance assessments and certain court orders) shall apply as if the reference to the date when the maintenance enquiry form was given or sent were to the date on which the non-resident parent is first notified by the Department, orally or in writing, that an application for child support maintenance has been made in respect of which he is named as the non-resident parent.

## Part II

### Decision Making and Appeals

#### Decision and notice of decision

3.—(1) Subject to paragraph (2), a decision as to the amount of child support maintenance payable under a maintenance assessment or an interim maintenance assessment made under Article 13, 14, 18, 19 or 22 of the former Order(18) may be superseded by the Department on its own initiative under Article 19 of the Order, in relation to—

- (a) a maintenance assessment (whenever made) which has an effective date before the commencement date and is in force on the calculation date;

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(15) S.R. 2001 No. 20

(16) Regulation 29 was amended by regulation 4(5) of S.R. 1995 No. 19, regulation 8(10) of S.R. 1995 No. 162, regulation 3(18) of S.R. 1995 No. 475 and regulation 2(13) of S.R. 1999 No. 167

(17) Regulation 3(7) was inserted by regulation 7(4)(b) of S.R. 1995 No. 162 and amended by regulation 7(2) of S.R. 1995 No. 475

(18) Articles 13 was amended by Article 13 of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and paragraph 11 of Schedule 6 to the Social Security (Northern Ireland) Order 1998. Article 14 was amended by Article 5 of the Child Support (Northern Ireland) Order 1995 and paragraph 12 of Schedule 6 to the Social Security (Northern Ireland) Order 1998. Article 22 was substituted by Article 42 of the Social Security (Northern Ireland) Order 1998

- (b) a maintenance assessment made following an application for child support maintenance which is made or treated as made as provided for in regulation 28(1);
  - (c) an interim maintenance assessment where there is sufficient information held by the Department to make a decision in accordance with this paragraph.
- (2) Where the Department acts in accordance with paragraph (1) the information used for the purposes of that supersession will be that held by the Department on the calculation date.
- (3) Where a superseding decision referred to in paragraph (1) is made the Department shall—
- (a) make a conversion calculation;
  - (b) calculate a new amount; and
  - (c) notify to the non-resident parent and the person with care in writing—
    - (i) the new amount;
    - (ii) where appropriate, the transitional amount;
    - (iii) any phasing amount applied in the calculation of the transitional amount;
    - (iv) the length of the transitional period;
    - (v) the date the conversion decision was made;
    - (vi) the effective date of the conversion decision;
    - (vii) the non-resident parent’s net weekly income;
    - (viii) the number of qualifying children;
    - (ix) the number of relevant other children;
    - (x) where there is an adjustment for apportionment or shared care, or both, or under regulation 9 or 11 of the Maintenance Calculations and Special Cases Regulations, the amount calculated in accordance with Part I of Schedule 1 to the Order and those Regulations;
    - (xi) any relevant departure direction or relevant property transfer taken into account in the conversion decision, and
    - (xii) any apportionment carried out in accordance with regulation 25(3).
- (4) Where at the calculation date there is an interim maintenance assessment in force and there is insufficient information held by the Department to make a maintenance assessment, or a decision in accordance with paragraph (1), the Department shall—
- (a) supersede the interim maintenance assessment to make a default maintenance decision; and
  - (b) notify the non-resident parent and the person with care in writing, in accordance with regulation 15C(2) of the Decisions and Appeals Regulations**(19)**.
- (5) In a case to which paragraph (1)(c) or (4) applies, where after the calculation date information is made available to the Department to enable it to make a maintenance assessment it may—
- (a) where the decision was made under paragraph (1)(c), revise the interim maintenance assessment in accordance with the Maintenance Assessment Procedure Regulations, and supersede the conversion decision in accordance with the Decisions and Appeals Regulations;
  - (b) where the decision was made under paragraph (4), revise the interim maintenance assessment in accordance with the Maintenance Assessment Procedure Regulations, and revise the default maintenance decision in accordance the Decisions and Appeals Regulations.

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**(19)** Regulation 15C is inserted by regulation 2(9) of [S.R. 2001 No. 23](#)

(6) A decision referred to in paragraph (1) or (4) shall take effect from the case conversion date.

### **Revision, supersession and appeal of conversion decisions**

4.—(1) Subject to this Part, where—

- (a) an application is made to the Department or it acts on its own initiative to revise or supersede a conversion decision; or
- (b) there is an appeal in respect of a conversion decision,

such application, action or appeal shall be decided under the Decisions and Appeals Regulations and except as otherwise provided in paragraph (2), notification shall be given in accordance with regulation 3(3).

(2) Where the Department acts in accordance with paragraph (1) it shall notify—

- (a) in relation to regulation 3(3)(c)(i), the subsequent decision amount in place of the new amount; and
- (b) where there has been agreement to a variation or a variation has otherwise been taken into account, the amounts calculated in accordance with the Variations Regulations.

(3) Where after the calculation date—

- (a) an application is made to the Department or it acts on its own initiative to revise or supersede a maintenance assessment, an interim maintenance assessment or departure direction; or
- (b) there is an appeal in respect of a maintenance assessment, an interim maintenance assessment or departure direction; and
- (c) such application, action or appeal has been decided in accordance with regulations made under the former Order for the determination of such applications,

the Department may revise or supersede the conversion decision in accordance with the Decisions and Appeals Regulations.

(4) In their application to a decision referred to in these Regulations, the Decisions and Appeals Regulations shall be modified so as to provide, on any revision or supersession of a conversion decision under Article 18 or 19, respectively, of the Order, that—

- (a) the conversion decision may include a relevant departure direction or relevant property transfer; and
- (b) the effective date of the revision or supersession shall be as determined under the Decisions and Appeals Regulations or the case conversion date, whichever is the later.

(5) In this Part, for the purposes of any revision or supersession, a conversion decision shall include a subsequent decision.

### **Outstanding applications at calculation date**

5. Where at the calculation date there is outstanding an application for a maintenance assessment or a departure direction, or under Article 18 or 19 of the former Order for the revision or supersession of a maintenance assessment, an interim maintenance assessment or a departure direction, the Department may—

- (a) where the application has been finally decided in accordance with Regulations made under the former Order for deciding such applications, supersede the maintenance assessment in accordance with regulation 3; or
- (b) where it is unable to make a final decision on the application for—
  - (i) a departure direction, or

- (ii) a revision or supersession,  
supersede the maintenance assessment or the interim maintenance assessment in accordance with regulation 3.

**Applications for a departure direction or a variation made after calculation date**

6.—(1) Where an application for a departure direction or a variation is made after notification of the conversion decision the Department shall—

- (a) where the grounds of the application are subject only to a decision under the Departure Regulations, make a decision under those Regulations;
- (b) where the grounds of the application are subject to a decision or determination, as the case may be, under—
  - (i) the Departure Regulations, and
  - (ii) the Variations Regulations,make a decision under the Departure Regulations; or
- (c) where the grounds of the application are subject only to a determination under the Variations Regulations, treat the application as an advance application for a variation.

(2) Where the Department has made a decision or a determination in which it agrees to the departure direction or variation applied for as provided under paragraph (1) it shall—

- (a) where the decision is made under paragraph (1)(a), supersede the maintenance assessment in accordance with the Maintenance Assessment Procedure Regulations and the conversion decision in accordance with the Decisions and Appeals Regulations;
- (b) where the decision is made under paragraph (1)(b), supersede the maintenance assessment in accordance with the Maintenance Assessment Procedure Regulations and the conversion decision in accordance with the Decisions and Appeals Regulations to give effect to any relevant departure direction, and from the case conversion date any variation, in the decision; or
- (c) where a determination is made under paragraph (1)(c), supersede the conversion decision in accordance with the Decisions and Appeals Regulations.

(3) Where the Department does not have the information required to make a decision under paragraph (1) it shall not revise or supersede the conversion decision.

**Grounds on which a conversion decision may not be revised, superseded or altered on appeal**

7. A decision of the Department made under regulation 3 shall not be revised, superseded or altered on appeal on any of the following grounds—

- (a) the use of the information held by the Department at the calculation date;
- (b) that the Department took into account a relevant departure direction in the conversion decision;
- (c) the application of the phasing amount in the calculation of the transitional amount;
- (d) the phasing amount applied to the calculation of the transitional amount;
- (e) the length of the transitional period;
- (f) that an existing departure direction has not been taken into account by the Department in the transitional amount;

- (g) that the Department took into account a relevant property transfer in the conversion decision, except where the application affects a relevant property transfer which has been included in the conversion decision on the grounds that—
- (i) where the person with care applies for the relevant property transfer to be removed, that property transfer when awarded did not reflect the true nature, purpose or value of the property transfer, or
  - (ii) where the person with care or the non-resident parent applies for the relevant property transfer to be replaced with a variation in relation to the same transfer.

### **Outstanding appeals at calculation date**

**8.—(1)** Where there is an appeal outstanding at the calculation date against a maintenance assessment, an interim maintenance assessment or an application for a departure direction under the former Order, the Department shall supersede the maintenance assessment in accordance with regulation 3 using the information held at that date.

- (2) When the appeal is decided—
- (a) it shall be put into effect in accordance with the tribunal's decision; and
  - (b) the conversion decision shall be superseded in accordance with the Decisions and Appeals Regulations in consequence of the implementation of the tribunal decision.

## **Part III**

### **Amount Payable Following Conversion Decision**

#### **Amount of child support maintenance payable**

**9.—(1)** Where a decision of the Department is made as provided in regulation 3(1)(a) or (b), the amount of child support maintenance payable by the non-resident parent shall, on and from the case conversion date, including but not limited to those cases referred to in regulation 14, be the new amount, unless regulation 10 applies, in which case it shall be a transitional amount as provided for in regulations 11 to 28.

(2) Where a decision under regulation 3(1)(c) relates to a Category B or C interim maintenance assessment, regulations 10 to 28 shall apply as if references to a maintenance assessment included references to such an interim maintenance assessment.

(3) In this regulation the reference to Category B or C interim maintenance assessments, and in regulation 14(e) the reference to Category A or D interim maintenance assessments, are to those assessments within the meaning given in regulation 8(3) of the Maintenance Assessment Procedure Regulations(20).

#### **Circumstances in which a transitional amount is payable**

**10.** This regulation applies where the new amount is a basic or reduced rate or, except where regulation 12, 13 or 14 applies, a flat rate of child support maintenance and—

- (a) the former assessment amount is greater than the new amount and when the former assessment amount is decreased by the phasing amount, the resulting figure is greater than the new amount; or

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(20) Regulation 8(3) was substituted by regulation 3(3) of S.R. 1995 No. 475 and amended by regulation 2(4) of S.R. 1999 No. 167 and Article 8(2) of S.R. 1999 No. 246 (C. 20)



- (b) the former assessment amount is less than the new amount and when the former assessment amount is increased by the phasing amount, the resulting figure is less than the new amount.

#### **Transitional amount—basic, reduced and most flat rate cases**

**11.**—(1) Subject to paragraph (2) and regulation 25, in cases to which regulation 10 applies the transitional amount is the former assessment amount decreased, where that amount is greater than the new amount, or increased, where the latter amount is the greater, by the phasing amount.

(2) Where regulation 10 applies and there is at the calculation date more than one maintenance assessment in relation to the non-resident parent—

- (a) the amount of child support maintenance payable from the case conversion date to each person with care shall be determined by apportioning the new amount as provided in paragraph 6 of Part I of Schedule 1 to the Order<sup>(21)</sup> and Regulations made under that Part; and
- (b) regulation 10 and paragraph (1) shall apply as if the references to the new amount were to the amount payable in respect of the person with care and the references to the former assessment amount were to that amount in respect of that person with care.

#### **Transitional amount in flat rate cases**

**12.**—(1) Except where the former assessment amount is nil, where the new amount would be the first prescribed amount but is nil owing to the application of paragraph 8 of Part I of Schedule 1 to the Order the amount of child support maintenance payable for the year commencing on the case conversion date shall be a transitional amount equivalent to the second prescribed amount and thereafter shall be the new amount, nil.

(2) Except where the former assessment amount is nil, where the new amount would be the second prescribed amount but is nil owing to the application of paragraph 8 of Part I of Schedule 1 to the Order the amount of child support maintenance payable for the year commencing on the case conversion date shall be a transitional amount equivalent to half the second prescribed amount and thereafter shall be the new amount, nil.

(3) Where—

- (a) a non-resident parent has more than one qualifying child and in relation to them there is more than one person with care; and
- (b) the amount of child support maintenance payable from the case conversion date to one or some of those persons with care, but not all of them, would be nil owing to the application of paragraph 8 of Part I of Schedule 1 to the Order,

the amount of child support maintenance payable by the non-resident parent from the case conversion date shall be the new amount, apportioned as provided in paragraph 6 of Part I of Schedule 1 to the Order and Regulations made under it, unless paragraph (4) or (5) applies.

(4) Subject to paragraph (6), where the former assessment amount is less than the new amount by an amount which is more than the second prescribed amount or, where paragraph 4(2) of Part I of Schedule 1 to the Order applies to the non-resident parent, half the second prescribed amount, the amount of child support maintenance payable by the non-resident parent shall be as provided in paragraph (1) where paragraph 4(1)(b) of Part I of Schedule 1 to the Order applies, and as provided in paragraph (2) where paragraph 4(2) of that Schedule applies.

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(21) Part I was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(5) Subject to paragraph (6), where the former assessment amount is greater than the new amount the amount of child support maintenance payable by the non-resident parent shall be the new amount unless the new amount is less than the second prescribed amount or, where paragraph 4(2) of Part I of Schedule 1 to the Order applies to the non-resident parent, half the second prescribed amount, in which case the amount of child support maintenance payable by the non-resident parent shall be as provided in paragraph (1) where paragraph 4(1)(b) of Part I of Schedule 1 to the Order applies, and as provided in paragraph (2) where paragraph 4(2) of that Schedule applies.

(6) Where paragraph (4) or (5) applies the transitional amount shall be apportioned among the persons with care as provided in paragraph 6 of Part I of Schedule 1 to the Order and Regulations made under that Part, and the amount of child support maintenance which the non-resident parent is liable to pay each person with care in respect of whom care of the qualifying child is shared shall be nil.

(7) In this regulation “former assessment amount” means, in relation to a non-resident parent in respect of whom there is in force on the calculation date more than one maintenance assessment, the aggregate of the amounts payable under those assessments, and in paragraph (5) includes the amount payable where Article 40 of the former Order(22) (contribution to maintenance) applies to the non-resident parent.

#### **Transitional amount—certain flat rate cases**

13. Where paragraph 4(2) of Part I of Schedule 1 to the Order applies and the former assessment amount is nil, the amount of child support maintenance payable for the year beginning on the case conversion date shall be a transitional amount equivalent to half the second prescribed amount and thereafter shall not be a transitional amount but shall be the new amount.

#### **Certain cases where the new amount is payable**

14. The amount of child support maintenance which the non-resident parent is liable to pay on and from the case conversion date is the new amount where—

- (a) the application for the maintenance assessment referred to in regulation 3(1)(a) is determined after the case conversion date, except in a case to which regulation 28(1) applies;
- (b) the former assessment amount is more than nil, including where Article 40 of the former Order (contribution to maintenance) applies to the non-resident parent and the new amount is the first or second prescribed amount;
- (c) the new amount is the nil rate under paragraph 5 of Part I of Schedule 1 to the Order;
- (d) the former assessment amount is nil and the new amount is nil owing to the application of paragraph 8 of Part I of Schedule 1 to the Order (flat rate plus shared care); or
- (e) a decision under regulation 3(1)(c) relates to a Category A or D interim maintenance assessment or a decision is made under regulation 3(4).

#### **Case conversion date**

15.—(1) Subject to paragraph (2), the case conversion date is the beginning of the first maintenance period on or after the conversion date.

(2) Where, on or after the commencement date, there is a maintenance assessment in force and a maintenance calculation is made to which paragraph (3) applies, the case conversion date for the maintenance assessment shall be the beginning of the first maintenance period on or after the effective date of the related maintenance calculation.

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(22) Article 40 was amended by paragraph 25 of Schedule 6 to the Social Security (Northern Ireland) Order 1998

- (3) This paragraph applies where—
- (a) the maintenance calculation is made with respect to a relevant person who is a relevant person in relation to the maintenance assessment whether or not with respect to a different qualifying child; or
  - (b) the maintenance calculation is made in relation to a partner (“A”) of a person (“B”) who is a relevant person in relation to the maintenance assessment and A or B is in receipt of a prescribed benefit.
- (4) In paragraph (3)—
- “relevant person” means, in relation to a maintenance assessment, the absent parent, which has the meaning given in the former Order, or person with care and, in relation to a maintenance calculation, the non-resident parent or person with care; and
- “prescribed benefit” means a benefit prescribed for the purposes of paragraph 4(1)(c) of Part I of Schedule 1 to the Order.

### **Conversion calculation and conversion decision**

- 16.—**(1) A conversion calculation by the Department shall be made—
- (a) in accordance with Part I of Schedule 1 to the Order;
  - (b) using the information held by it at the calculation date; and
  - (c) taking into account any relevant departure direction or any relevant property transfer as provided in regulations 17 to 23.
- (2) A conversion decision shall be treated for the purposes of any revision, supersession, appeal or application for a variation under Article 18, 19, 22 or 28G of the Order(23) and Regulations made in connection with such matters, as a decision under Article 13 of the Order made with effect from the date of notification of that decision and, where a conversion decision has been made, the case shall for those purposes be treated as if there were a maintenance calculation in force.
- (3) A conversion calculation shall become a maintenance calculation when the transitional period ends or, if later, any relevant property transfer taken into account in the calculation ceases to have effect.

### **Relevant departure direction and relevant property transfer**

- 17.—**(1) A relevant departure direction means a departure direction given in relation to the maintenance assessment which is the subject of the conversion decision where that direction was given under the provisions of the former Order and Regulations made under that Order and, where it is one to which one of the following paragraphs applies.
- (2) This paragraph applies to a departure direction given on the special expenses grounds in head (b) (contact costs) or (d) (debts of the relationship) of paragraph 2(3) of Schedule 4B to the former Order(24) where and to the extent that they exceed the threshold amount which is—
- (a) £15 per week where the expenses fall within only one of those heads and, where the expenses fall within both heads, £15 per week in respect of the aggregate of those expenses, where the net weekly income is £200 or more; or
  - (b) £10 per week where the expenses fall within only one of those heads and, where the expenses fall within both heads, £10 per week in respect of the aggregate of those expenses, where the net weekly income is below £200,

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(23) Articles 18, 19 and 22 were substituted by Articles 40 to 42 of the Social Security (Northern Ireland) Order 1998, Articles 18 and 19 are amended by sections 8 and 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 22 is further substituted by section 10 of that Act. Article 28G is inserted by section 7 of that Act

(24) Schedule 4B was inserted by Schedule 2 to the Child Support (Northern Ireland) Order 1995

and for this purpose “net weekly income” means the income which would otherwise be taken into account for the purposes of the conversion decision including any additional income which falls to be taken into account under regulation 20.

(3) This paragraph applies to a departure direction given on the ground in paragraph 2(3)(c) of Schedule 4B to the former Order (illness or disability costs) where the illness or disability is of a relevant other child.

(4) This paragraph applies to a departure direction given on the ground in paragraph 3 of Schedule 4B to the former Order (property or capital transfers).

(5) Subject to paragraph (6), this paragraph applies to a departure direction given on the additional cases grounds in paragraph 5(1) of Schedule 4B to the former Order and regulation 24 of the Departure Regulations (diversion of income) or paragraph 5(2)(b) of Schedule 4B to the former Order and regulation 25 of the Departure Regulations (life-style inconsistent with declared income).

(6) Where the new amount, but for the application of a relevant departure direction referred to in paragraph (5), would be the first prescribed amount owing to the application of paragraph 4(1)(b) of Part I of Schedule 1 to the Order, or would be the nil rate under paragraph 5(a) of Part I of that Schedule, paragraph (5) applies where the amount of the additional net weekly income exceeds £100.

(7) This paragraph applies to a departure direction given on the ground in paragraph 5(2)(a) of Schedule 4B to the former Order (assets capable of producing income) where the value of the assets taken into account is greater than £65,000.

(8) A relevant property transfer is a transfer which was taken into account in the decision as to the maintenance assessment in respect of which the conversion decision is made owing to the application of Schedule 3A to the Maintenance Assessments and Special Cases Regulations (amount to be allowed in respect of transfers of property)(25).

(9) Where—

- (a) a relevant departure direction is taken into account for the purposes of a conversion calculation; or
- (b) a subsequent decision is made following the application of a relevant departure direction to a maintenance assessment,

the relevant departure direction shall for the purposes of any subsequent decision, including the subsequent decision in sub-paragraph (b), be a variation as if an application had been made under Article 28G of the Order for a variation in relation to the same ground and for the same amount.

### **Effect on conversion calculation—special expenses**

**18.—**(1) Subject to paragraph (2) and regulations 22 and 23, where the relevant departure direction is one falling within regulation 17(2) or (3) (special expenses), effect shall be given to the relevant departure direction in the conversion calculation by deducting from the net weekly income of the non-resident parent the weekly amount of that departure direction and for this purpose “net weekly income” has the meaning given in regulation 17(2).

(2) Where the income which, but for the application of this paragraph, would be taken into account in the conversion decision is the capped amount and the relevant departure direction is one falling within regulation 17(2) or (3) then—

- (a) the weekly amount of the expenses shall first be deducted from the net weekly income of the non-resident parent which, but for the application of the capped amount, would be taken into account in the conversion decision including any additional income to be taken into account as a result of the application of regulation 17(5) or (7) (additional cases);

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(25) Schedule 3A was inserted by regulation 9(17) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475 and S.R. 1999 Nos. 152 and 246 (C. 20)

- (b) the amount by which the capped amount exceeds the figure calculated under sub-paragraph (a) shall be calculated; and
- (c) effect shall be given to the relevant departure direction in the conversion calculation by deducting from the capped amount the amount calculated under sub-paragraph (b).

**Effect on conversion calculation—property or capital transfer**

19. Subject to regulation 23, where the relevant departure direction is one falling within regulation 17(4)—

- (a) the conversion calculation shall be carried out in accordance with regulation 16(1) and, where there is more than one person with care in relation to the non-resident parent, the amount of child support maintenance resulting shall be apportioned among the persons with care as provided in paragraph 6 of Part I of Schedule 1 to the Order and Regulations made under that Part; and
- (b) the equivalent weekly value of the transfer to which the relevant departure direction relates shall be deducted from the amount of child support maintenance which the non-resident parent would otherwise be liable to pay to the person with care with respect to whom the transfer was made.

**Effect on conversion calculation—additional cases**

20. Subject to regulations 22 and 23, where the relevant departure direction is one falling within regulation 17(5) or (7) (additional cases), effect shall be given to the relevant departure direction in the conversion calculation by increasing the net weekly income of the non-resident parent which would otherwise be taken into account by the weekly amount of the additional income except that, where the amount of net weekly income calculated in this way would exceed the capped amount, the amount of net weekly income taken into account shall be the capped amount.

**Effect on conversion calculation—relevant property transfer**

21.—(1) Subject to paragraph (2) and regulation 23, a relevant property transfer shall be given effect by deducting from the net weekly income of the non-resident parent which would otherwise be taken into account, the amount in relation to the relevant property transfer and for this purpose “net weekly income” has the meaning given in regulation 17(2) but after deduction in respect of any relevant departure direction falling within regulation 17(2) or (3) (special expenses).

(2) Where the net weekly income of the non-resident parent which is taken into account for the purposes of the conversion calculation is the capped amount, a relevant property transfer shall be given effect by deducting the amount in respect of the transfer from the capped amount.

**Effect on conversion calculation—maximum amount payable where relevant departure direction is on additional cases ground**

22.—(1) Subject to regulation 23, where this regulation applies the amount of child support maintenance which the non-resident parent shall be liable to pay shall be whichever is the lesser of—

- (a) a weekly amount calculated by aggregating the first prescribed amount with the result of applying Part I of Schedule 1 to the Order with the additional income arising under the relevant departure direction, other than the weekly amount of any benefit, pension or allowance which the non-resident parent receives which is prescribed for the purposes of paragraph 4(1)(b) of Part I of Schedule 1 to the Order; or
- (b) a weekly amount calculated by applying Part I of Schedule 1 to the Order to the aggregate of the net weekly income taken into account for the purposes of the maintenance

assessment which is the subject of the conversion decision and the additional income arising under the relevant departure direction.

(2) This regulation applies where the relevant departure direction is one to which regulation 17(5) or (7) (additional cases) applies and the non-resident parent's liability calculated as provided in Part I of Schedule 1 to the Order, and Regulations made under that Schedule, would, but for the relevant departure direction be—

- (a) the first prescribed amount;
  - (b) the first prescribed amount but is less than that amount or nil, owing to the application of paragraph 8 of Part I of that Schedule; or
  - (c) the first prescribed amount but for the application of paragraph 5(a) of that Schedule.
- (3) For the purposes of paragraph (1)—
- (a) “additional income” for the purposes of sub-paragraphs (a) and (b) means such income after the application of a relevant departure direction falling within regulation 17(2) or (3) (special expenses); and
  - (b) “weekly amount” for the purposes of sub-paragraphs (a) and (b) means the aggregate of the amounts referred to in the relevant sub-paragraph—
    - (i) adjusted as provided in regulation 23(3) as if the reference in that regulation to child support maintenance were to the weekly amount, and
    - (ii) after any deduction provided for in regulation 23(4) as if the reference in that regulation to child support maintenance were to the weekly amount.

#### **Effect of relevant departure direction on conversion calculation—general**

**23.—**(1) Subject to paragraphs (4) and (5), where more than one relevant departure direction applies, regulations 18 to 22 shall apply and the results shall be aggregated as appropriate.

(2) Paragraph 7(2) to (7) of Schedule 1 to the Order (shared care) shall apply where the rate of child support maintenance is affected by a relevant departure direction, other than one falling within regulation 17(3) (illness or disability costs) and paragraph 7(2) of that Schedule shall be read as if after “as calculated in accordance with the preceding paragraphs” there were inserted “and the Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001”.

(3) Subject to paragraphs (4) and (5), where the non-resident parent shares the care of a qualifying child within the meaning in Part I of Schedule 1 to the Order, or where the care of such a child is shared in part by an authority as defined in Article 2 of the Children (Northern Ireland) Order 1995(26), the amount of child support maintenance the non-resident parent is liable to pay the person with care, calculated to take account of any relevant departure direction, shall be reduced in accordance with the provisions of paragraph 7 of Part I of Schedule 1 to the Order, or regulation 9 of the Maintenance Calculations and Special Cases Regulations, as the case may be.

(4) Subject to paragraph (5), where a relevant departure direction is one falling within regulation 17(4) (property or capital transfers) the amount of the relevant departure direction shall be deducted from the amount of child support maintenance the non-resident parent would otherwise be liable to pay the person with care in respect of whom the transfer was made after aggregation of the effects of any relevant departure directions as provided in paragraph (1) or deduction for shared care as provided in paragraph (3).

(5) If the application of regulation 19, or paragraph (3) or (4), would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to the person with care (or all of them) to less than a figure equivalent to the first prescribed

amount, the new amount shall instead be the first prescribed amount and shall be apportioned as provided in paragraph 6 of Part I of Schedule 1 to the Order and Regulations made under that Part.

### **Phasing amount**

**24.**—(1) In this Part “phasing amount” means, for the year beginning on the case conversion date, the relevant figure provided in paragraph (2), and for each subsequent year the phasing amount for the previous year aggregated with the relevant figure.

(2) The relevant figure is—

- (a) £2·50 where the relevant income is £100 or less;
- (b) £5·00 where the relevant income is more than £100 but less than £400; or
- (c) £10·00 where the relevant income is £400 or more.

(3) For the purposes of paragraph (2), the “relevant income” is the net weekly income of the non-resident parent taken into account in the conversion decision.

### **Maximum transitional amount**

**25.**—(1) Where a conversion decision is made in a circumstance to which regulation 15(2) applies (maintenance assessment and related maintenance calculation), or a subsequent decision is made, the liability of the non-resident parent to pay child support maintenance during the transitional period (excluding any amount payable in respect of arrears of child support maintenance and before reduction for any amount in respect of an overpayment) shall be whichever is the lesser of—

- (a) where regulation 15(2) applies, the new amount or, where there is a subsequent decision, the subsequent decision amount; and
- (b) the maximum transitional amount.

(2) Where—

- (a) a conversion decision to which paragraph (1) applies, or a subsequent decision, results from an application made or treated as made for a maintenance calculation in respect of the same non-resident parent but a different qualifying child in relation to whom there is a different person with care (referred to in this regulation as “the new application”); and
- (b) the amount of child support maintenance payable by the non-resident parent from the case conversion date, or the effective date of the subsequent decision, as the case may be, is the maximum transitional amount,

that amount shall be apportioned as provided in paragraph (3).

(3) The apportionment referred to in paragraph (2) shall be carried out as follows—

- (a) the amount of child support maintenance payable by the non-resident parent to the person with care in relation to the new application shall be calculated as provided in Part I of Schedule 1 to the Order and Regulations made under that Part and where applicable, Part IV of these Regulations, and that amount shall be the amount payable to that person with care;
- (b) the amount calculated as provided in sub-paragraph (a) shall be deducted from the maximum transitional amount and the remainder shall be apportioned among the other persons with care so that the proportion which each receives bears the same relation to the proportions which the others receive as those proportions would have borne in relation to each other and the new amount, or the subsequent decision amount, as the case may be, if the maximum transitional amount had not been applied.

(4) Where—

- (a) apportionment under paragraph (3)(b) results in a fraction of a penny, that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded; and
- (b) the application of paragraph (3)(b) would be such that the aggregate amount payable by a non-resident parent would be different from the aggregate amount payable before any such apportionment, the Department shall adjust that apportionment so as to eliminate that difference and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which that person with care would have received if no adjustment had been made under this paragraph.

#### **Subsequent decision effective on case conversion date**

**26.**—(1) Where there is a subsequent decision, the effective date of which is the case conversion date, the amount of child support maintenance payable shall be calculated as if the subsequent decision were a conversion decision.

- (2) For the purposes of paragraph (1), regulations 9 to 25 shall apply as if references—
  - (a) to the calculation date, including in relation to the definition of the former assessment amount, were to—
    - (i) where there has been a decision under Article 18, 19 or 22 of the Order in relation to the maintenance assessment, the effective date of that decision, or
    - (ii) where head (i) does not apply—
      - (aa) the effective date of the subsequent decision; or
      - (bb) if earlier, the date the subsequent decision was made;
  - (b) to the new amount were to the subsequent decision amount; and
  - (c) to the conversion decision in regulation 24(3) were to the subsequent decision.

#### **Subsequent decision with effect in transitional period—amount payable**

**27.**—(1) Subject to paragraph (6), where during the transitional period there is a subsequent decision the effective date of which is after the case conversion date, the amount of child support maintenance payable shall be the subsequent decision amount unless any of the following paragraphs apply, in which case it shall be a transitional amount as provided for in those paragraphs.

- (2) Where—
  - (a) the new amount was greater than the former assessment amount; and
  - (b) the subsequent decision amount is greater than the new amount,

the amount of child support maintenance payable shall be a transitional amount calculated as the transitional amount payable immediately before the subsequent decision (“the previous transitional amount”) increased by the difference between the new amount and the subsequent decision amount and the phasing amounts shall apply to that transitional amount as they would have applied to the previous transitional amount had there been no subsequent decision.

- (3) Where—
  - (a) paragraph (2)(a) applies; and
  - (b) the subsequent decision amount is equal to or less than the new amount,

the amount of child support maintenance payable shall be the previous transitional amount and the phasing amounts shall apply as they would have applied had there been no subsequent decision.

- (4) Where—



- (a) the new amount was less than the former assessment amount; and
- (b) the subsequent decision amount is less than the new amount,

the amount of child support maintenance payable shall be a transitional amount calculated as the previous transitional amount decreased by the difference between the new amount and the subsequent decision amount and the phasing amounts shall apply to that transitional amount as they would have applied to the previous transitional amount had there been no subsequent decision.

(5) Where—

- (a) paragraph (4)(a) applies; and
- (b) the subsequent decision amount is equal to or more than the new amount,

the amount of child support maintenance payable shall be the previous transitional amount and the phasing amounts shall apply as they would have applied had there been no subsequent decision.

(6) Paragraphs (2) to (5) shall not apply where the subsequent decision amount is the first prescribed amount or the second prescribed amount or the nil rate.

### **Linking provisions**

**28.**—(1) Where after the commencement date but before the conversion date, an application for a maintenance calculation is made or treated as made and within the relevant period a maintenance assessment was in force in relation to the same qualifying child, non-resident parent and person with care—

- (a) the application shall be treated as an application for a maintenance assessment; and
- (b) any maintenance assessment made in response to the application shall be an assessment to which regulations 9 to 28 apply.

(2) Where, after the conversion date, an application for a maintenance calculation is made or treated as made, and within the relevant period a maintenance assessment (“the previous assessment”) had been in force in relation to the same qualifying child, non-resident parent and person with care but had ceased to have effect—

- (a) the amount of child support maintenance payable by the non-resident parent from the effective date of the maintenance calculation made in response to the application shall be calculated in the same way that a conversion calculation would have been made had the previous assessment been in force on the date the calculation is made; and
- (b) the provisions of regulations 9 to 28 shall apply accordingly, including the application where appropriate of transitional amounts, phasing amounts and a transitional period, which for this purpose shall begin on the date which would have been the case conversion date in relation to the previous assessment.

(3) For the purposes of paragraphs (1) and (2) “the relevant period” means 13 weeks prior to the date that the application for the maintenance calculation is made or treated as made.

(4) This paragraph applies where—

- (a) the non-resident parent is liable to pay child support maintenance of a transitional amount and there is, during the transitional period, a subsequent decision (in this regulation referred to as “the first subsequent decision”) as a result of which the non-resident parent is liable to pay child support maintenance at the first or second prescribed amount or the nil rate; and
- (b) a second subsequent decision is made with an effective date no later than 13 weeks after the effective date of the first subsequent decision the effect of which would be that the non-resident parent would be liable to pay child support maintenance at other than the first or second prescribed amount or the nil rate.

(5) Where paragraph (4) applies the amount of child support maintenance the non-resident parent is liable to pay from the effective date of the second subsequent decision shall be a transitional amount or, where applicable, the new amount, calculated by making a subsequent decision and, where appropriate, applying a phasing amount, as if the first subsequent decision had not occurred.

(6) This paragraph applies where during the transitional period a conversion calculation ceases to have effect.

(7) Where paragraph (6) applies and no later than 13 weeks after the conversion calculation ceases to have effect an application for child support maintenance is made, or treated as made, in relation to the same person with care, non-resident parent and qualifying child, the amount of child support maintenance the non-resident parent is liable to pay from the effective date of the new maintenance calculation shall be a transitional amount or, where applicable, the new amount, calculated by making a subsequent decision in relation to the conversion calculation as if it had not ceased to have effect, and applying a phasing amount where appropriate.

(8) Where—

- (a) a conversion calculation is in force and the amount of child support maintenance payable is the new amount which is a flat rate, other than a flat rate under paragraph 4(1)(a) of Part I of Schedule 1 to the Order<sup>(27)</sup> or the nil rate;
- (b) after the case conversion date a subsequent decision is made;
- (c) but for the application of this regulation the subsequent decision amount would be a basic or reduced rate of child support maintenance; and
- (d) within 13 weeks prior to the effective date of the subsequent decision a maintenance assessment was in force in relation to the same non-resident parent, person with care and qualifying child, under which the amount payable by the non-resident parent (“the previous assessment”) was more than the amount prescribed for the purposes of paragraph 7 of Schedule 1 to the former Order,

the subsequent decision amount shall be calculated by making a subsequent decision in relation to the previous assessment as if the assessment were in force, and applying a phasing amount, where appropriate.

## Part IV

### Court Order Phasing

#### Interpretation

**29.—**(1) In this Part—

“calculation amount” means the amount of child support maintenance that would, but for the provisions of this Part, be payable under a maintenance calculation which is in force;

“excess” means the amount by which the calculation amount exceeds the old amount;

“maintenance calculation” has the meaning given in Article 2(2) of the Order the effective date of which is on or after the date prescribed for the purposes of Article 7(10)(a) of the Order<sup>(28)</sup>;

“old amount” means, subject to paragraph (2), the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in regulation 30;

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<sup>(27)</sup> Part I was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

<sup>(28)</sup> Paragraph (10) was inserted by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and sub-paragraph (a) was amended by section 2(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

“subsequent decision” means—

- (a) any decision under Article 18 or 19 of the Order to revise or supersede a maintenance calculation to which regulation 31(1) applies; or
- (b) any such revision or supersession as decided on appeal,

whether as originally made or as revised under Article 18 of the Order or decided on appeal;

“transitional amount” means an amount determined in accordance with regulation 31; and

“transitional period” means a period beginning on the effective date of the maintenance calculation and ending 78 weeks after that date or, if earlier, on the date on which regulation 31(3) applies.

(2) In determining the old amount the Department shall disregard any payments in kind and any payments made to a third party on behalf of, or for the benefit of, the qualifying child or the person with care.

### Cases to which this Part applies

**30.** This Part applies to cases where—

- (a) on 4th April 1993, and at all times thereafter until the date when a maintenance calculation is made under the Order there was in force, in respect of one or more of the qualifying children in respect of whom an application for a maintenance calculation is made or treated as made under the Order and the non-resident parent concerned, one or more—
  - (i) maintenance orders;
  - (ii) orders under section 151 of the Army Act 1955<sup>(29)</sup> (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act 1955<sup>(30)</sup> (deductions from pay for maintenance of wife or child) or arrangements corresponding to such an order and made under Article 1 or 3 of the Naval and Marine Pay and Pensions (Deductions for Maintenance) Order 1959<sup>(31)</sup>, or
  - (iii) maintenance agreements (being agreements which are made or evidenced in writing), and
- (b) either—
  - (i) the non-resident parent was on the effective date of the maintenance calculation and continues to be a member of a family, as defined in regulation 1(2) of the Maintenance Calculations and Special Cases Regulations which includes one or more children, or
  - (ii) the amount of child support maintenance payable under the maintenance calculation referred to in paragraph (a) is a basic or reduced rate under paragraph 7 of Part I of Schedule 1 to the Order (shared care—basic and reduced rate), and
- (c) the calculation amount exceeds the old amount.

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<sup>(29)</sup> 1955 c. 18; section 151 was amended by section 18 of the Armed Forces Act 1976 (c. 52), section 11 of the Armed Forces Act 1981 (c. 55), section 108(4) of the Children Act 1989 (c. 41), section 14 of the Armed Forces Act 1991 (c. 62) and S.I. 1993/785 and 1995/756

<sup>(30)</sup> 1955 c. 19; section 151 was amended by section 18 of the Armed Forces Act 1976 (c. 52), section 11 of the Armed Forces Act 1981 (c. 55), section 108(4) of the Children Act 1989 (c. 41), section 14 of the Armed Forces Act 1991 (c. 62) and S.I. 1993/785 and 1995/756

<sup>(31)</sup> 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 Building, Spring Gardens, London SW1A 2BE

### **Amount payable during the transitional period**

**31.**—(1) In a case to which this Part applies, the amount of child support maintenance payable under a maintenance calculation during the transitional period shall, instead of being the calculation amount, be the transitional amount.

(2) The transitional amount is—

- (a) during the first 26 weeks of the transitional period, the old amount plus either 25 per cent. of the excess or £20·00, whichever is the greater;
- (b) during the next 26 weeks of the transitional period, the old amount plus either 50 per cent. of the excess or £40·00, whichever is the greater; and
- (c) during the last 26 weeks of the transitional period, the old amount plus either 75 per cent. of the excess or £60·00, whichever is the greater.

(3) If in any case the application of the provisions of this Part would result in an amount of child support maintenance becoming payable which is greater than the calculation amount, then those provisions shall not apply or, as the case may be, shall cease to apply to that case and the amount of child support maintenance payable in that case shall be the calculation amount.

### **Revision and supersession**

**32.**—(1) Where the Department makes a subsequent decision in relation to a maintenance calculation to which regulation 31(1) applies, the amount of child support maintenance payable by the non-resident parent shall be—

- (a) where the subsequent decision amount is more than the calculation amount, the transitional amount plus the difference between the calculation amount and the subsequent decision amount;
- (b) where the subsequent decision amount is less than the calculation amount but more than the transitional amount, the transitional amount; or
- (c) where the subsequent decision amount is less than the calculation amount and less than or equal to the transitional amount, the subsequent decision amount.

(2) Regulation 31(2) shall apply to cases where there has been a subsequent decision as if references to the transitional amount were to the amount resulting from the application of paragraph (1).

## **Part V**

### **Savings**

#### **Saving in relation to revision of, or appeal against, a conversion or subsequent decision**

**33.**—(1) This regulation applies where—

- (a) a conversion decision has been made under regulation 3 or a subsequent decision has been made under regulation 4, in each case where regulation 15(2) applies; and
- (b) in relation to the decision referred to in sub-paragraph (a)—
  - (i) a revised decision is made under regulation 3A(1)(e) of the Decisions and Appeals Regulations(32), or

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(32) Regulation 3A was inserted by regulation 2(4) of S.R. 2001 No. 23

(ii) an appeal tribunal makes a decision that the conversion decision or subsequent decision was made in error,

on the ground that regulation 15(2) did not apply.

(2) The provisions of the former Order and Regulations made under that Order prior to any amendments or revocations made pursuant to or in consequence of the Act shall apply, until the effective date of a further conversion decision in relation to the maintenance assessment, for the purposes of that maintenance assessment as if the decision referred to in paragraph (1)(a) had not been made, subject to any revision, supersession or appeal having effect between the dates of the decisions in paragraph (1)(a) and (b) which would have affected the maintenance assessment during that period but for the decision referred to in paragraph (1)(a).

Sealed with the Official Seal of the Department for Social Development on 23rd January 2001.

L.S.

*John O'Neill*  
Senior Officer of the  
Department for Social Development

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make transitional provisions in consequence of the amendments made to the Child Support (Northern Ireland) Order (“the Order”) by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (“the Act”).

Part I (regulations 1 and 2) deals with citation, commencement and interpretation. These Regulations come into operation according to the date on which section 28 of the Act is fully commenced.

Part II (regulations 3 to 8) makes provision for decision making and appeals in relation to maintenance assessments made with effect before the date the new child support system comes into force for new cases. In particular provision is made for a conversion decision under which the assessment under the previous scheme becomes a calculation under the new scheme.

Part III (regulations 9 to 28) makes transitional provision. It specifies those cases where a transitional amount, instead of the new amount, is payable during a transitional period beginning on the case conversion date as provided for in regulation 15. The new amount is determined by a conversion calculation, provided for in regulations 16 to 23, and the transitional amount is determined by applying the phasing amounts, specified in regulation 24, to the amount payable under the maintenance assessment, or the conversion calculation, as appropriate (regulations 10 and 11). Different transitional amounts apply in certain flat rate cases (regulations 12 and 13).

Regulation 16(2) provides for the dispute provisions of the Order, as amended by the Act, to apply to the conversion decision when made.

Regulation 25 provides for a maximum transitional amount to be payable of 30 per cent of the non-resident parent’s income.

Regulation 28 contains linking rules.

Part IV (regulations 29 to 32) concerns certain cases where a maintenance calculation follows a court order which provided for child maintenance and provides for the amount payable to be phased by reference to transitional amounts specified in regulation 31.

Part V contains savings provisions.

Articles 19 and 48 are some of the enabling provisions under which these Regulations are made. They are amended respectively by sections 9 and 24 of the Act, which were brought into operation, for the purpose only of making regulations, on 22nd November 2000 by virtue of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 1) Order (Northern Ireland) 2000 (S.R. 2000 No. 358 (C. 16)).

The impact on business of these Regulations was covered in the Regulatory Impact Assessment for the Act, in accordance with, and in consequence of which, these Regulations are made. A copy of that Assessment may be obtained, free of charge, from Social Security Policy and Legislation Division, Castle Buildings, Stormont, Belfast BT4 3SQ.