
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 317

FAMILY LAW
CHILD SUPPORT

The Child Support (Miscellaneous Amendments)
Regulations (Northern Ireland) 1996

Made - - - - 24th July 1996
Coming into operation in accordance with
regulation 1(1)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 16(1), 23(2), 32(1), 39(3), 43(11), 47 and 48(4) of, and paragraphs 5(1) and (2), 6, 8 and 11 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(1), 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) 1996 and shall come into operation as follows—

- (a) this regulation and regulations 2, 3(1), (2) and (5), 4(1), (2) and (4) to (6) and 5(1) and (3) on 5th August 1996; and
- (b) all other regulations on 7th October 1996.

(2) In these Regulations “the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(2).

Amendment of the Child Support (Information, Evidence and Disclosure) Regulations

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(3) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(2)(e) (persons under a duty to furnish information or evidence) after “sub-paragraphs” there shall be inserted “(aa), (ab)”.

(3) In regulation 3(1) (purposes for which information or evidence may be required) after sub-paragraph (a) there shall be inserted the following sub-paragraphs—

(1) S.I.1991/2628 (N.I. 23)

(2) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 Nos. 162 and 475

(3) S.R. 1992 No. 339; relevant amending regulations are S.R. 1994 No. 65 and S.R. 1995 Nos. 19, 162 and 475

- “(aa) a decision to be made as to whether there is in force a written maintenance agreement made before 5th April 1993, or a maintenance order, in relation to a qualifying child and the person who is at that time the absent parent of that child;
- (ab) a decision to be made as to whether a person with care has parental responsibility for a qualifying child for the purposes of Article 8(1) of the Order;”.

Amendment of the Maintenance Assessment Procedure Regulations

3.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (10).

(2) In regulation 15A(2)(4) (notification of reinstatement of a maintenance assessment) at the end there shall be added “and where the review is carried out under Article 21(1)(d) of the Order, except where that review is of the cancellation of a Category A or Category D interim maintenance assessment, as to the provisions of Article 20 of the Order and regulations 23(1) and 30A(8)”.

(3) In regulation 30(5) (effective dates following a review under Article 18 or 19 of the Order) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to paragraph (2), where a fresh maintenance assessment is made following a review under Article 18 of the Order, the effective date of that assessment shall be 104 weeks after the effective date of the previous assessment disregarding—

- (a) any previous assessment made following a review under Article 19 of the Order, where, after 22nd January 1996, a child support officer decided, in accordance with Article 19(3) of the Order, to proceed with a review;
- (b) any previous assessment made following a review under Article 20 or 21 of the Order;
- (c) any interim maintenance assessment made under Article 14(1A)(b) or (c) of the Order, except a Category B interim maintenance assessment made under paragraph (1A)(b) or (c) of that Article where that interim maintenance assessment is the assessment being reviewed under Article 18 of the Order.”.

(4) In regulation 30C(3)(6) (effective dates in specific cases) for the words from “that determined” to the end there shall be substituted “the correct effective date applicable to the maintenance assessment which is being reviewed”.

(5) In regulation 32 (maintenance periods)—

(a) for paragraph (6)(7) there shall be substituted the following paragraph—

“(6) Where a case is to be treated as a special case for the purposes of the Order by virtue of regulation 22 of the Maintenance Assessments and Special Cases Regulations (multiple applications relating to an absent parent) and an application is made by a person with care in relation to an absent parent where—

- (a) there is already a maintenance assessment in force in relation to that absent parent and a different person with care; or
- (b) sub-paragraph (a) does not apply, but before a maintenance assessment is made in relation to that application, a maintenance assessment is made in relation to that absent parent and a different person with care,

the maintenance periods in relation to an assessment made in response to that application shall coincide with the maintenance periods in relation to the

(4) Regulation 15A was inserted by regulation 3(9) of [S.R. 1995 No. 475](#)
(5) Regulation 30 was substituted by regulation 3(20) of [S.R. 1995 No. 475](#)
(6) Regulation 30C was inserted by regulation 3(20) of [S.R. 1995 No. 475](#)
(7) Paragraph (6) was amended by regulation 3(22)(a) of [S.R. 1995 No. 475](#)

earlier maintenance assessment, except where regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations or paragraph (8) applies, and the first such period shall, subject to paragraph (9), commence not later than 7 days after the date of notification to the relevant persons of the later maintenance assessment.”; and

(b) after paragraph (8)(8) there shall be added the following paragraph—

“(9) Where the case is one to which, if paragraphs (6) and (7) did not apply, regulation 29(2)(a)(i) or (b)(i) would apply, and the first maintenance period would, under the provisions of paragraph (6), commence during the eight week period referred to in sub-paragraph (a) or (b) of that regulation, the first maintenance period shall commence not later than 7 days after the expiry of that period of eight weeks.”.

(6) In regulation 34 (periods for compliance with obligations imposed by Article 9 of the Order)—

(a) for paragraph (2) there shall be substituted the following paragraph—

“(2) The Department shall not refer a case to a child support officer prior to the expiry of a period of—

(a) 2 weeks from the date it serves notice under paragraph (1) on the parent in question; or

(b) 6 weeks from that date, where, before the expiry of 2 weeks from service of that notice, it has received from the parent in question in writing that parent’s reasons why that parent believes that if that parent were to be required to comply with an obligation imposed by Article 9 of the Order, there would be a risk, as a result of that compliance, of that parent or any child or children living with that parent suffering harm or undue distress,

and the notice shall contain a statement setting out the provisions of sub-paragraphs (a) and (b).”; and

(b) in paragraph (3) for “the Department refers a case to a child support officer and the” there shall be substituted “a”.

(7) In regulation 35 (amount of and period of reduction of relevant benefit under a reduced benefit direction)—

(a) in paragraph (2) for “26 weeks” there shall be substituted “156 weeks” and for the formula “ $0.2 \times B$ ” there shall be substituted the formula—

“ $0.4 \times B$.”

(b) paragraphs (3) and (9) shall be omitted;

(c) in paragraph (4)(9) after “paragraphs” there shall be inserted “(4A),”;

(d) after paragraph (4) there shall be inserted the following paragraph—

“(4A) Subject to paragraphs (5), (5A) and (5B), where a reduced benefit direction (“the subsequent direction”) is made on a day when a reduced benefit direction (“the earlier direction”) is in force in respect of the same parent, the subsequent direction shall come into operation on the day immediately following the day on which the earlier direction ceased to be in force.”; and

(e) for paragraph (6) there shall be substituted the following paragraph—

“(6) Where the benefit payable is income support or income-based jobseeker’s allowance and there is a change in the benefit week whilst a direction is in operation, the period of the reduction specified in paragraph (2) shall be a period greater than 155

(8) Paragraph (8) was added by regulation 3(22)(b) of S.R. 1995 No. 475

(9) Paragraph (4) was amended by regulation 8(12)(a) of S.R. 1995 No. 162

weeks but less than 156 weeks and ending on the last day of the last benefit week falling entirely within the period of 156 weeks specified in that paragraph.”.

(8) In regulation 37(4) (suspension of a reduced benefit direction when relevant benefit ceases to be payable) “and (3)” shall be omitted.

(9) In regulation 38(2) (reduced benefit direction where family credit or disability working allowance is payable and income support becomes payable) “and (3)” shall be omitted.

(10) In regulation 45 (reduced benefit directions where there is an additional qualifying child)—

(a) for paragraph (3) there shall be substituted the following paragraph—

“(3) Where—

(a) a direction (“the earlier direction”) has ceased to be in force by virtue of regulation 37(2); and

(b) a child support officer gives a direction (“the further direction”) with respect to the same parent on account of that parent’s failure to comply with the obligations imposed by Article 9 of the Order in relation to an additional qualifying child,

as long as that further direction remains in force, no additional direction shall be brought into force with respect to that parent on account of that parent’s failure to comply with the obligations imposed by Article 9 of the Order in relation to one or more children in relation to whom the earlier direction was given.”;

(b) in paragraph (4) for “shall be determined in accordance with paragraphs (6) and (7)” there shall be substituted “for the extended period shall be determined in accordance with regulation 35(2)”;

(c) in paragraph (5) for the formula “(78–F–S) weeks” there shall be substituted the formula—
“(156 – F – S) weeks ; and”

(d) paragraphs (6) and (7) shall be omitted.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations

4.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992⁽¹⁰⁾ shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(2) (citation, commencement and interpretation) for the definition of “family”⁽¹¹⁾ there shall be substituted the following definition—

““family” means—

- (a) a married or unmarried couple (including the members of a polygamous marriage);
- (b) 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;
- (c) where a person who is not a member of a married or unmarried couple has day to day care of a child or children, 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 or an HSS trust, is boarded-out or placed by that Board or that trust in accordance with the provisions of section 114 of the Children and Young Persons Act (Northern Ireland) 1968;”.

⁽¹⁰⁾ S.R. 1992 No. 341; relevant amending regulations are S.R. 1994 No. 65 and S.R. 1995 No. 162

⁽¹¹⁾ The definition of “family” was amended by paragraph 1 of Schedule 19 to S.R. 1994 No. 65

- (3) In regulation 9(1)(b) (exempt income) for “18” there shall be substituted “16 and 18”.
- (4) In regulation 11(12) (protected income)—
- (a) in paragraph (1) for “and (5A)” there shall be substituted “, (5A) and (5AA)”;
 - (b) after paragraph (5A) there shall be inserted the following paragraph—

“(5AA) In a case to which paragraph (5A) does not apply, if the application of paragraphs (1) to (5) and of regulation 12(1)(a) would result in the amount of child support maintenance payable being greater than 30 per centum of the absent parent’s net income calculated in accordance with regulation 7, paragraphs (1) to (5) shall not apply in his case and instead his protected income level shall be 70 per centum of his net income as so calculated.”; and
 - (c) in paragraph (5B) after “paragraph (5A)” there shall be inserted “or (5AA)”.
- (5) In regulation 12(1)(13) (disposable income) in sub-paragraphs (a) and (b) after “regulation 11(5A)” there shall be inserted “or (5AA)”.
- (6) For regulation 16(14) (weekly amount of housing costs) there shall be substituted the following regulation—

“Weekly amount of housing costs

16.—(1) Where a parent pays housing costs—

- (a) on a weekly basis, the amount of such housing costs shall, subject to paragraph (2), be the weekly rate payable at the effective date;
- (b) on a monthly basis, the amount of such housing costs shall, subject to paragraph (2), be the monthly rate payable at the effective date, multiplied by 12 and divided by 52;
- (c) by way of rent and rates payable to a housing association, as defined in Article 3 of the Housing (Northern Ireland) Order 1992, which is registered in accordance with Articles 14 to 16 of that Order, or to the Northern Ireland Housing Executive, on a free week basis, that is to say the basis that he pays an amount by way of rent and rates for a given number of weeks in a 52 week period, with a lesser number of weeks in which there is no liability to pay (“free weeks”), the amount of such housing costs shall be the amount which he pays—
 - (i) in the relevant week if it is not a free week, or
 - (ii) in the last week before the relevant week which is not a free week, if the relevant week is a free week;
- (d) on any other basis, the amount of such housing costs shall, subject to paragraph (2), be the rate payable at the effective date, multiplied by the number of payment periods, or the nearest whole number of payment periods (any fraction of one half being rounded up) falling within a period of 365 days and divided by 52.

(2) Where housing costs consist of payments on a repayment mortgage and the absent parent or parent with care has not provided information or evidence as to the rate of repayment of the capital secured and the interest payable on that mortgage at the effective date and that absent parent or parent with care has provided a statement from the lender, in respect of a period ending not more than 12 months prior to the first day of the relevant week, for the purposes of the calculation of exempt income under regulation 9 and protected income under regulation 11—

(12) Paragraph (1) was amended by, and paragraphs (5A) and (5B) inserted by, regulation 9(7) of [S.R. 1995 No. 162](#)

(13) Paragraph (1) was substituted by regulation 9(8) of [S.R. 1995 No. 162](#)

(14) Regulation 16 was amended by regulation 9(10) of [S.R. 1995 No. 162](#)

- (a) if the amount of capital repaid for the period covered by that statement is shown on it, the rate of repayment of capital owing under that mortgage shall be calculated by reference to that amount; and
- (b) if the amount of capital owing and the interest rate applicable at the end of the period covered by that statement are shown on it, the interest payable on that mortgage shall be calculated by reference to that amount and that interest rate.”.

(7) In regulation 19(2) (both parents are absent) after sub-paragraph (c) there shall be added the following sub-paragraph—

- “(d) where the application is made in relation to one absent parent only, the amount of the maintenance requirement applicable in that case shall be one half of the amount determined in accordance with paragraph 1(2) of Schedule 1 to the Order or, where regulation 23 applies (person caring for children of more than one absent parent), of the amount determined in accordance with paragraphs (2) to (3) of that regulation.”.

(8) In Schedule 1 (calculation of N and M)—

- (a) in paragraph 1(1) for head (d) there shall be substituted the following head—
 - “(d) any payments made by the parent’s employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the parent’s employer in respect of—
 - (i) travelling expenses incurred by that parent between his home and place of employment, and
 - (ii) expenses incurred by that parent under arrangements made for the care of a member of his family owing to that parent’s absence from home;”;
- (b) in paragraph 7(3)(a) before “weekly earnings” there shall be inserted “normal”; and
- (c) in paragraph 15 after “Schedule” there shall be inserted “except payments or other amounts which are excluded from the definition of “earnings” by virtue of paragraph 1(2)”.

Amendment of the Child Support (Collection and Enforcement) Regulations

5.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(15) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 8(1) (interpretation) in the definition of “interim maintenance assessment”(16) for “regulation 8(1B)” there shall be substituted “regulation 8(3)”.

(3) In regulation 11(3)(17) (protected earnings rate) after “interim maintenance assessment” there shall be inserted “, except a Category B interim maintenance assessment,”.

Amendment of the Child Support Appeal Tribunals (Procedure) Regulations

6. For regulation 17 of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993(18) (confidentiality) there shall be substituted the following regulation—

“Confidentiality

17.—(1) No information such as is mentioned in paragraph (2), and which has been provided for the purposes of any proceedings to which these Regulations apply, shall be

(15) S.R. 1992 No. 390; relevant amending regulations are S.R. 1995 No. 162

(16) The definition of “interim maintenance assessment” was inserted by regulation 4(4)(c) of S.R. 1995 No. 162

(17) Paragraph (3) was added by regulation 4(7)(b) of S.R. 1995 No. 162

(18) S.R. 1993 No. 50; to which there are amendments not relevant to these Regulations

disclosed if, before the expiry of the period of 21 days specified in paragraph (3), written notification has been received from the person to whom the information relates that he does not consent to such disclosure.

(2) The information referred to in paragraph (1) is—

- (a) the address of the person referred to in that paragraph; and
- (b) any other information the use of which could reasonably be expected to lead to that person being located.

(3) Except where the appeal is made under Article 43(7) of the Order or is one to which regulation 3(1)(b) applies, the clerk to the tribunal shall notify the person to whom the information referred to in paragraphs (1) and (2) relates of the provisions of those paragraphs and that disclosure of that information may be made, unless the written notification specified in paragraph (1) is received before the expiry of the period of 21 days, beginning with and including the date the notification by the clerk to the tribunal was given or sent to that person.”.

Transitional provisions

7.—(1) The provisions of regulation 32 of the Maintenance Assessment Procedure Regulations (maintenance periods) in operation prior to 5th August 1996 shall continue to apply to any application made prior to that date.

(2) The provisions of regulation 34 of the Maintenance Assessment Procedure Regulations (periods for compliance with obligations imposed by Article 9 of the Order) in operation prior to 7th October 1996 shall continue to apply to any case where the failure to comply referred to in paragraph (1) of that regulation arose prior to that date.

(3) The provisions of regulation 35 of the Maintenance Assessment Procedure Regulations (amount of and period of reduction of relevant benefit under a reduced benefit direction) in operation prior to 7th October 1996 shall continue to apply to a parent in respect of whom a reduced benefit direction was given prior to that date.

(4) The provisions of regulation 45 of the Maintenance Assessment Procedure Regulations (reduced benefit directions where there is an additional qualifying child) in operation prior to 7th October 1996 shall continue to apply to any reduced benefit direction made prior to that date, and in relation to an earlier direction referred to in paragraph (4) of that regulation, which was in force prior to that date, whether or not the further direction referred to in that paragraph was made after that date.

(5) The provisions of regulation 19 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 (both parents are absent) in operation prior to 7th October 1996 shall continue to apply to any application made prior to that date and those provisions, as amended by regulation 4(7), shall not apply to a maintenance assessment in force on that date until it is first reviewed after that date under Article 18, 19 or 20 of the Order.

Sealed with the Official Seal of the Department of Health and Social Services on 24th July 1996.

L.S.

W. G. Purdy
Assistant Secretary

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

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend various regulations made under the Child Support (Northern Ireland) Order 1991 (“the Order”).

The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 are amended to make provision for information to be given to enable the Department of Health and Social Services (“the Department”) to decide whether a court order for maintenance or a written maintenance agreement made before 5th April 1993 is in force and whether a person with care who has applied for a maintenance assessment has parental responsibility for the child in question (regulation 2).

The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 are amended in the following respects—

- (a) regulation 32 is amended to make provision for maintenance periods to coincide where more than one application for a maintenance assessment is being dealt with at the same time (regulation 3(5));
- (b) Part IX is amended to provide that a case may be referred by the Department to a child support officer two weeks after notification of intention to refer, if the parent with care has not set out in writing that parent’s reasons for contending that harm or undue distress might result from compliance with a requirement under Article 9 of the Order. It is also amended to allow for a further reduced benefit direction to be issued on the expiry of the previous one if the parent continues to fail to comply with a requirement imposed under that Article; and to provide for a reduction for 156 weeks of 40 per cent. of the income support personal allowance for a single claimant of 25 or over (regulation 3(6) to (10)).

The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 are amended in the following respects—

- (a) regulation 11 is amended to ensure that an absent parent is always left with 70 per cent. of his net income after deduction of maintenance (regulation 4(4));
- (b) regulation 19 is amended to provide for the maintenance requirement to be halved where an application is made in relation to only one parent, where both are absent (regulation 4(7));
- (c) Schedule 1 is amended to make it clear that earnings include reimbursement by an employer of travelling expenses between home and work and the expenses of caring for a member of the parent’s family while he is absent from the home (regulation 4(8)(a)).

For regulation 17 of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993, there is substituted a new regulation which allows disclosure to the parties to an appeal of an address or information which might lead to a person being located, except where the appeal relates to a reduced benefit direction, and in all other cases, unless that person gives notification that he does not consent to such disclosure (regulation 6).

Other amendments made are of a minor, technical, consequential or procedural nature.