
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 246 (C. 20)

**SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT**

The Social Security (1998 Order) (Commencement
No. 6 and Consequential and Transitional
Provisions) Order (Northern Ireland) 1999

Made - - - -

28th May 1999

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) and (4) of the Social Security (Northern Ireland) Order 1998(1) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Social Security (1998 Order) (Commencement No. 6 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999.

(2) In this Order “the Order” means the Social Security (Northern Ireland) Order 1998.

Appointed day

2. In so far as they are not already in operation, the day appointed for the coming into operation of the provisions of the Order specified in Schedule 1 is 1st June 1999.

Commencement

3.—(1) Subject to paragraphs (2) and (3), this Article and Articles 4 to 25 and 26(2) shall come into operation on 1st June 1999.

(2) Article 9(9)(c) and (f) shall come into operation on 4th October 1999.

(3) Article 7(7)(b) shall come into operation on 29th November 1999.

(4) Any provision of this Order which is due to come into operation on the same day as a provision of the Regulations set out in paragraph (5) shall come into operation immediately after that provision.

- (5) The provisions referred to in paragraph (4) are—
- (a) regulation 4(5)(a) and (d) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1999(2); and
 - (b) regulation 2(9)(c)(i), (12), (18) and (22) of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999(3).

CONSEQUENTIAL AMENDMENTS

Amendment of the Family Credit (General) Regulations

4. In regulation 51A of the Family Credit (General) Regulations (Northern Ireland) 1987(4) (reduced benefit direction)—

- (a) in paragraph (1)(a) “given by a child support officer” shall be omitted; and
- (b) paragraph (2)(a) shall be omitted.

Amendment of the Social Security (Claims and Payments) Regulations

5. In paragraph 7A(1) of Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(5) (payments in place of payments of child support maintenance) for “a child support officer (within the meaning of Article 15 of the Child Support (Northern Ireland) Order 1991)” there shall be substituted “the Department”.

Amendment of the Disability Working Allowance (General) Regulations

6. In regulation 56A of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(6) (reduced benefit direction)—

- (a) in paragraph (1)(a) “given by a child support officer” shall be omitted; and
- (b) paragraph (2)(a) shall be omitted.

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

7.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(7) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 2 (persons under a duty to furnish information or evidence)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A person falling within a category listed in paragraph (2) shall furnish such information or evidence—

(a) with respect to the matter or matters specified in that paragraph in relation to that category; and

(b) which is in his possession or which he can reasonably be expected to acquire, as is required by the Department to enable a decision to be made under Article 13, 14, 18 or 19 of the Order.”; and

(b) in paragraph (2)—

(2) [S.R. 1999 No. 152](#)

(3) [S.R. 1999 No. 167](#)

(4) [S.R. 1987 No. 463](#); relevant amending regulations are [S.R. 1993 No. 120](#)

(5) [S.R. 1987 No. 465](#); relevant amending regulations are [S.R. 1988 No. 67](#), [S.R. 1993 No. 146](#) and [S.R. 1996 No. 65](#)

(6) [S.R. 1992 No. 78](#); relevant amending regulations are [S.R. 1993 No. 120](#)

(7) [S.R. 1992 No. 339](#); relevant amending regulations are [S.R. 1995 Nos. 162 and 475](#), [S.R. 1996 No. 541](#), [S.R. 1998 No. 8](#) and [S.R. 1999 No. 152](#)

- (i) in sub-paragraph (b) “in respect of which a child support officer is conducting or proposing to conduct a review” shall be omitted, and
 - (ii) in sub-paragraphs (c) and (cc)(8) “and a child support officer is conducting or proposing to conduct a review of that assessment” shall be omitted.
- (3) In regulation 3(1) (purposes for which information or evidence may be required)—
- (a) “or a child support officer” shall be omitted; and
 - (b) in sub-paragraph (b) for “a child support officer” there shall be substituted “the Department”.
- (4) For regulation 3A(9) (contents of request for information or evidence) there shall be substituted the following regulation—

“Contents of request for information or evidence

3A. Any request by the Department in accordance with regulations 2 and 3 for the provision of information or evidence shall set out the possible consequences of failure to provide such information or evidence.”.

- (5) In regulation 5(10) (time within which information or evidence is to be furnished)—
- (a) in paragraph (1) “paragraph (2) and” shall be omitted and for “, 6(1) and 16(5)” there shall be substituted “and 6(1)”; and
 - (b) paragraph (2) shall be omitted.
- (6) In regulation 6 (continuing duty of persons with care) “or a child support officer” shall be omitted.
- (7) In regulation 8 (disclosure of information to a court or tribunal)—
- (a) in paragraphs (1) and (3)(11) “or a child support officer” shall be omitted and for “them” there shall be substituted “it”;
 - (b) paragraph (1)(c) shall be omitted; and
 - (c) in paragraph (2)(12) for “a child support appeal tribunal” there shall be substituted “an appeal tribunal”.
- (8) In regulation 9A(13) (disclosure of information to other persons)—
- (a) in paragraphs (1), (3) and (4) “or a child support officer” in each place where it occurs shall be omitted;
 - (b) in paragraph (1)—
 - (i) for “them” there shall be substituted “it”, and
 - (ii) in sub-paragraph (a) for “review under Article 19 or 20 of the Order” there shall be substituted “revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision”;
 - (c) in paragraph (2)—
 - (i) in sub-paragraph (b) for “regulation 3A of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993” there shall be substituted

(8) Sub-paragraph (cc) was inserted by regulation 6(2) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

(9) Regulation 3A was inserted by regulation 2(4) of S.R. 1995 No. 475

(10) Regulation 5 was substituted by regulation 2(5) of S.R. 1995 No. 475

(11) Paragraph (3) was added by regulation 2(3)(b) of S.R. 1998 No. 8

(12) Paragraph (2) was added by regulation 49(2)(b) of S.R. 1996 No. 541

(13) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475, S.R. 1996 No. 541, S.R. 1998 No. 8 and S.R. 1999 No. 152

“regulation 34 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(14)”, and

(ii) in sub-paragraph (c) for head (i) there shall be substituted the following head—

“(i) a revision, supersession or appeal was pending at the date of death of that person and the personal representative is dealing with that revision, supersession or appeal on behalf of that person, or”;

(d) in paragraph (4)(a) for “the child support officer concerned” there shall be substituted “the officer concerned who is exercising functions of the Department under the Order”.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

8.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(15) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 8(3)(d)(16) (categories of interim maintenance assessment) for “him” in the first place where it occurs there shall be substituted “it”.

(3) In regulation 10(2) (notification of a new or a fresh maintenance assessment) after “Article 13, 18 or 19” there shall be inserted “of the Order”.

(4) In regulation 22(17)(17) (date from which a superseding decision takes effect) “or (d)” shall be omitted.

(5) In regulation 34(b)(18) (periods for compliance with obligations imposed by Article 9 of the Order) for “she” and “her” in each place where they occur there shall be substituted “that parent”.

(6) In regulation 40(c)(ii)(19) (termination of reduced benefit direction) for “her” there shall be substituted “that other parent's”.

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

9.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(20) shall be amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) (interpretation)—

(a) in the definition of “day to day care”(21)—

(i) in paragraph (b) for “the child support officer, a period other than 12 months but ending with the relevant week” there shall be substituted “the Department, a period other than 12 months”, and

(ii) for sub-paragraphs (iii) and (iv) there shall be substituted the following sub-paragraph—

“(iii) in a case where notification is given under regulation 23 of the Maintenance Assessment Procedure Regulations to the relevant persons on different dates, “relevant week” means the period of 7 days immediately preceding the date of the latest notification;”;

(14) S.R. 1999 No. 162

(15) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 No. 475 and S.R. 1999 No. 167

(16) Regulation 8 was substituted by regulation 3(3) of S.R. 1995 No. 475

(17) Regulation 22 is substituted by regulation 2(12) of S.R. 1999 No. 167

(18) Regulation 34 is substituted by regulation 2(18) of S.R. 1999 No. 167

(19) Regulation 40 is substituted by regulation 2(22) of S.R. 1999 No. 167

(20) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 Nos. 164 and 191, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 590, S.R. 1998 No. 8 and S.R. 1999 No. 152

(21) The definition of “day to day care” was substituted by regulation 9(2)(a) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

- (b) in the definition of “home” for “the child support officer” and “that officer” there shall be substituted “the Department”; and
- (c) for the definition of “relevant week”(22) there shall be substituted the following definition—

““relevant week” means—

- (a) in relation to an application for child support maintenance—
 - (i) in the case of the applicant, the period of 7 days immediately preceding the date on which the appropriate maintenance assessment application form (being an effective application within the meaning of regulation 2(4) of the Maintenance Assessment Procedure Regulations) is submitted to the Department, or
 - (ii) in the case of a person to whom a maintenance assessment enquiry form is given or sent as the result of such an application, the period of 7 days immediately preceding the date on which that form is given or sent to him or, as the case may be, the date on which it is treated as having been given or sent to him under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;
- (b) where a decision (“the original decision”) is to be—
 - (i) revised under Article 18 of the Order, or
 - (ii) superseded by a decision under Article 19 of the Order on the basis that the original decision was made in ignorance of, or was based on a mistake as to, some material fact or was erroneous in point of law,
- (c) the period of 7 days which was the relevant week for the purposes of the original decision;
- (d) where a decision (“the original decision”) is to be superseded by a decision under Article 19 of the Order—
 - (i) on an application made for the purpose on the basis that a material change of circumstances has occurred since the original decision was made, the period of 7 days immediately preceding the date on which that application was made,
 - (ii) subject to paragraph (b), in a case where a relevant person is given notice under regulation 23 of the Maintenance Assessment Procedure Regulations, the period of 7 days immediately preceding the date of that notification,

except that where, under paragraph 15 of Schedule 1 to the Order, the Department makes separate maintenance assessments in respect of different periods in a particular case, because it is aware of one or more changes of circumstances which occurred after the date which is applicable to that case under paragraph (a), (b) or (c), the relevant week for the purposes of each separate maintenance assessment made to take account of each such change of circumstances, shall be the period of 7 days immediately preceding the date on which notification was given to the Department of the change of circumstances relevant to that separate maintenance assessment;”.

(22) The definition of “relevant week” was substituted by regulation 5(2)(f) of S.R. 1993 No. 164 and amended by S.R. 1995 No. 475 and S.R. 1998 No. 8

(3) In regulation 2(3) (calculation or estimation of amounts) for “A child support officer” there shall be substituted “The Department” and for “he” in both places where it occurs there shall be substituted “it”.

(4) In regulation 7(4) (net income: calculation or estimation of N) for “the child support officer” there shall be substituted “the Department”.

(5) In regulation 10A(2)(b)(ii)(**23**) (assessable income: family credit or disability working allowance paid to or in respect of a parent with care or an absent parent) for “the child support officer” there shall be substituted “the Department”.

(6) In regulation 19 (both parents are absent)—

(a) in paragraph (3) “or to a child support officer” shall be omitted; and

(b) in paragraph (4) for “the child support officer” there shall be substituted “the Department”.

(7) In regulation 20(2)(b)(ii) (persons treated as absent parents) for “the child support officer” there shall be substituted “the Department”.

(8) In regulation 22 (multiple applications relating to an absent parent)—

(a) in paragraph (2B)(**24**) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) any of those assessments falls to be replaced by a fresh assessment to be made under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision,”; and

(b) in paragraph (2C) for “it is not reviewed under any of the provisions set out in” there shall be substituted “not within”.

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

(a) in paragraph 1(3)(aa)(**25**) for “the child support officer” there shall be substituted “the Department”;

(b) in paragraph 2—

(i) in sub-paragraphs (1)(**26**), (1A) and (4) for “the child support officer” in each place where it occurs there shall be substituted “the Department”,

(ii) in sub-paragraph (1) for “he” there shall be substituted “it”, and

(iii) in sub-paragraph (3A)(**27**) for “a child support officer” there shall be substituted “the Department”;

(c) in paragraphs 2B(1)(a) and (b)(**28**) and 2C for “the child support officer” there shall be substituted “the Department”;

(d) in paragraph 3(6A)(**29**) for “the child support officer” there shall be substituted “the Department”;

(e) in paragraph 5—

(i) in sub-paragraphs (2A)(**30**), (3) and (5) for “the child support officer” in each place where it occurs there shall be substituted “the Department”, and

(23) Regulation 10A was inserted by regulation 3(3) of S.R. 1996 No. 590

(24) Paragraphs (2B) and (2C) were inserted by regulation 4(11) of S.R. 1998 No. 8

(25) Head (aa) was inserted by regulation 4(14)(a)(iii) of S.R. 1998 No. 8

(26) Sub-paragraph (1) was substituted by regulation 9(14)(c) of S.R. 1995 No. 162 and amended by S.R. 1996 No. 590 and sub-paragraph (1A) was inserted by regulation 3(7)(b)(ii) of S.R. 1996 No. 590

(27) Sub-paragraph (3A) was inserted by regulation 3(7)(b)(iv) of S.R. 1996 No. 590

(28) Paragraphs 2B and 2C are inserted by regulation 4(5)(a) of S.R. 1999 No. 152

(29) Sub-paragraph (6A) was inserted by regulation 4(14)(b)(iii) of S.R. 1998 No. 8

(30) Sub-paragraph (2A) was inserted by regulation 9(14)(e)(iii) of S.R. 1995 No. 162 and sub-paragraph (5) was added by regulation 3(7)(d) of S.R. 1996 No. 590

- (ii) in sub-paragraph (2A) for “the officer” there shall be substituted “the Department” and for “he” there shall be substituted “it”;
 - (f) in paragraph 5A(3)(31) for “the child support officer” there shall be substituted “the Department”;
 - (g) in paragraph 16(6) for “the child support officer” in both places where it occurs there shall be substituted “the Department”;
 - (h) in paragraphs 26, 27 and 30 for “a child support officer” in each place where it occurs there shall be substituted “the Department”; and
 - (i) in paragraphs 27, 30 and 31 for “the child support officer” there shall be substituted “the Department”.
- (10) In paragraph 2(k) of Schedule 3 (eligible housing costs) for “the child support officer” there shall be substituted “the Department”.
- (11) In Schedule 3A(32) (amount to be allowed in respect of transfers of property)—
- (a) in paragraph 2(2) for “a child support officer” and “the officer” there shall be substituted “it”; and
 - (b) for paragraph 3 there shall be substituted the following paragraph—

3.—(1) Where an absent parent has notified the Department that he wishes it to consider whether an amount should be allowed in respect of the relevant value of a qualifying transfer, the Department shall—

 - (a) give notice to the other parent of that application; and
 - (b) have regard in determining the application to any representations made by the other parent which are received within the period specified in sub-paragraph (2).

(2) The period specified in this sub-paragraph is one month from the date on which the notice referred to in sub-paragraph (1)(a) was given or such longer period as the Department is satisfied is reasonable in the circumstances of the case.”.
- (12) In Schedule 3B(33) (amount to be allowed in respect of travelling costs)—
- (a) in paragraph 1 in the definition of “work place” for “the child support officer” there shall be substituted “the Department”; and
 - (b) in paragraphs 4(b), 8(2), 10, 15(2) and 17(34) for “the child support officer” there shall be substituted “the Department”.
- (13) In Schedule 5(35) (provisions applying to cases to which Article 40 of the Order and regulation 28 apply) paragraphs 1 to 8 shall be omitted.

Amendment of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations

- 10.—**(1) The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(36) shall be amended in accordance with paragraphs (2) to (6).
- (2) In regulation 3 (liability to make payments of interest with respect to arrears)—

(31) Paragraph 5A is inserted by regulation 4(5)(d) of S.R. 1999 No. 152

(32) Schedule 3A was inserted by Schedule 1 to S.R. 1995 No. 162

(33) Schedule 3B was inserted by Schedule 2 to S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

(34) Paragraph 17 was substituted by regulation 4(11) of S.R. 1995 No. 475

(35) Schedule 5 was added by the Schedule to S.R. 1993 No. 164 and amended by S.R. 1993 No. 191 and S.R. 1995 No. 162

(36) S.R. 1992 No. 342; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 541 and S.R. 1998 No. 400

- (a) in paragraph (4) for “following a review under Article 18, 19, 20 or 21 of the Order or” there shall be substituted “by virtue of a revision under Article 18 of the Order, a decision under Article 19 of the Order superseding an earlier decision or of”;
 - (b) in paragraph (5) for “following a review under Article 18, 19, 20 or 21 of the Order or” there shall be substituted “made by virtue of a revision under Article 18 of the Order, a decision under Article 19 of the Order superseding an earlier decision or of”;
 - (c) in paragraph (6) for “the review under Article 18, 19, 20 or 21 of the Order or an appeal under Article 22 of the Order results in” there shall be substituted “by virtue of a revision under Article 18 of the Order, a decision under Article 19 of the Order superseding an earlier decision or of an appeal under Article 22 of the Order there is”.
- (3) In regulation 4(2)(b) (circumstances in which no liability to pay interest arises) “or a child support officer” shall be omitted.
- (4) In regulation 10(37) (adjustment of the amount payable under a maintenance assessment)—
- (a) subject to sub-paragraph (c), in paragraphs (1) to (3) for “a child support officer” in each place where it occurs there shall be substituted “the Department”;
 - (b) in paragraph (1)(b) for “he” there shall be substituted “it”;
 - (c) in paragraph (2) for the words from “revised as a result” to “and a fresh maintenance assessment made” there shall be substituted “replaced by a fresh maintenance assessment made by virtue of a revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision”; and
 - (d) in paragraph (3) for “he” in each place where it occurs there shall be substituted “it”.
- (5) In regulation 11 (notifications following a cancellation or adjustment under the provisions of regulation 10)—
- (a) in paragraph (1)(38) for “a child support officer” there shall be substituted “the Department” and for “he” there shall be substituted “it”; and
 - (b) in paragraph (2) for the words from “of regulation 12(1)” to the end there shall be substituted “of regulations 12 to 15”.
- (6) For regulations 12 to 15(39) there shall be substituted the following regulations—

“Extension of the application of Schedule 4C to the Order

12. Schedule 4C to the Order is hereby extended so that it applies to any decision with respect to the adjustment of amounts payable under maintenance assessments for the purpose of taking account of overpayments of child support maintenance.

Revision of decisions

13.—(1) A decision may be revised by the Department—

- (a) if the Department receives an application for the revision of a decision under Article 18 of the Order as extended by regulation 12 within one month of the date of notification of the decision or within such longer time as may be allowed by regulation 14;
- (b) if the decision arose from an official error;

(37) Regulation 10 was substituted by regulation 3(3) of S.R. 1995 No. 162 and amended by S.R. 1996 No. 541 and S.R. 1998 No. 400

(38) Paragraph (1) was substituted by regulation 3(4)(b) of S.R. 1995 No. 162

(39) Regulation 12 was substituted by regulation 3(5) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475 and regulation 13 was amended by S.R. 1993 No. 164 and S.R. 1995 Nos. 162 and 475

- (c) if the Department commences action leading to the revision of a decision within one month of the date of notification of the decision; or
- (d) if the Department is satisfied that the original decision was erroneous due to a misrepresentation of, or failure to disclose, a material fact and that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error.

(2) In paragraph (1)—

“decision” means a decision of the Department—

- (a) adjusting the amount payable under a maintenance assessment; or
- (b) cancelling an adjustment of an amount payable under a maintenance assessment, under regulation 10 and a decision superseding such a decision;

“official error” means an error made by an officer of the Department acting as such which no person outside the Department caused or to which no person outside the Department materially contributed.

(3) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the date on which the decision took effect.

Late application for a revision

14.—(1) The period of one month specified in regulation 13(1)(a) may be extended where the requirements specified in the following provisions of this regulation are satisfied.

(2) An application for an extension of time shall be made by a relevant person or a person acting on his behalf.

(3) An application for an extension of time shall—

- (a) be made within 13 months of the date on which notification of the decision which it is sought to have revised was given or sent; and
- (b) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified.

(4) An application for an extension of time shall not be granted unless the person making the application or any person acting for him satisfies the Department that—

- (a) it is reasonable to grant the application;
- (b) the application for a decision to be revised has merit; and
- (c) special circumstances are relevant to the application for an extension of time,

and as a result of those special circumstances, it was not practicable for the application for a decision to be revised to be made within one month of the date of notification of the decision which it is sought to have revised.

(5) In determining whether it is reasonable to grant an application for an extension of time, the Department shall have regard to the principle that the greater the time that has elapsed between the expiry of the period of one month described in regulation 13(1)(a) from the date of notification of the decision which it is sought to have revised and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant an application for an extension of time, no account shall be taken of the following—

- (a) that the person making the application for an extension of time or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Child Support Commissioner or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

(8) In this regulation “Child Support Commissioner” includes a Child Support Commissioner appointed under section 22 of the Child Support Act 1991(40).

Date from which revised decision takes effect

15. Where the date from which a decision took effect is found to be erroneous on a revision under Article 18 of the Order as extended by regulation 12, the revision shall take effect from the date on which the revised decision would have taken effect had the error not been made.

Supersession of decisions

16.—(1) For the purposes of Article 19 of the Order as extended by regulation 12, the cases and circumstances in which a decision adjusting the amount payable under a maintenance assessment may be superseded by a decision under that Article as extended are set out in paragraphs (2) to (4).

(2) A decision may be superseded by a decision made by the Department acting on its own initiative where it is satisfied that the decision—

- (a) is one in respect of which there has been a material change of circumstances since the decision was made; or
- (b) was made in ignorance of, or was based on a mistake as to, some material fact.

(3) A decision may be superseded by a decision made by the Department where an application is made on the basis that—

- (a) there has been a change of circumstances since the decision was made and the Department is satisfied that the change of circumstances is or would be material; or
- (b) the decision was made in ignorance of, or was based on a mistake as to, a fact and the Department is satisfied that the fact is or would be material.

(4) A decision, other than a decision made on appeal, may be superseded by a decision made by the Department—

- (a) acting on its own initiative where it is satisfied that the decision was erroneous in point of law; or
- (b) where an application is made on the basis that the decision was erroneous in point of law.

(5) The cases and circumstances in which a decision may be superseded under Article 19 of the Order as extended by regulation 12 shall not include any case or circumstance in which a decision may be revised.

Application of regulations 1(6), 10(3) and 53 of the Maintenance Assessment Procedure Regulations

17.—(1) The provisions of regulation 10(3) of the Maintenance Assessment Procedure Regulations shall apply to any notification—

- (a) under regulation 11; and
- (b) of a decision under the provisions of regulation 13, 14 or 16.

(2) Regulations 1(6) and 53 of the Maintenance Assessment Procedure Regulations shall apply to the provisions of these Regulations.”.

Amendment of the Child Support (Collection and Enforcement) Regulations

11. In regulation 11 of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(41) (protected earnings rate) for paragraph (4)(42) there shall be substituted the following paragraph—

“(4) Where there is a liability to make payments of child support maintenance but no maintenance assessment is in force—

- (a) in a case where the last maintenance assessment was a Category A or Category C interim maintenance assessment, the protected earnings rate shall be the amount which would be produced by the application of the provisions of paragraph (3) if a Category A or Category C interim maintenance assessment were in force;
- (b) subject to sub-paragraph (a), in a case where the absent parent provides sufficient evidence to satisfy the Department that his circumstances have changed since the last occasion on which his exempt income was calculated for the purposes of a decision under the Order, the protected earnings rate shall be the exempt amount as it would be calculated in consequence of that change of circumstances if regulation 9 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 applied in his case; and
- (c) in any other case, the protected earnings rate shall be the amount of the liable person’s exempt income as it was on the last occasion that amount was calculated for the purposes of a decision under the Order.”.

Amendment of the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order

12. In Part II of the Schedule to the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992(43) (modification of maintenance assessment in certain cases)—

- (a) in paragraph 5 in the definition of “formula amount” and in paragraph 7 for “consequent on a review under Article 19, 20 or 21 of the Order” there shall be substituted “by virtue of a revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision”;
- (b) in paragraph 9 for “a child support officer” there shall be substituted “the Department”; and
- (c) in paragraph 11—
 - (i) in sub-paragraph (1) for “there is a review of a previous assessment under Article 19 of the Order (reviews on change of circumstances)” there shall be substituted “a decision is made under Article 19 of the Order which supersedes an earlier decision

(41) S.R. 1992 No. 390; relevant amending regulations are S.R. 1995 No. 162 and S.R. 1998 No. 400

(42) Paragraph (4) was added by regulation 4(7)(b) of S.R. 1995 No. 162 and amended by S.R. 1998 No. 400

(43) S.R. 1992 No. 467 (C. 20), to which there are amendments not relevant to this order

on the ground that there has been a material change of circumstances since the decision took effect”,

- (ii) in sub-paragraph (2) for “the child support officer determines that, were a fresh assessment to be made as a result of the review” there shall be substituted “the Department determines that, were a fresh assessment to be made by virtue of a decision under Article 19 of the Order superseding an earlier decision”, and
- (iii) in sub-paragraph (3) for “The child support officer” there shall be substituted “The Department” and for “19 to 21” there shall be substituted “20 and 21”.

Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations

13.—(1) The Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992⁽⁴⁴⁾ shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(3) (relationship between maintenance assessments and certain agreements) for “a child support officer” there shall be substituted “the Department”.

(3) In regulation 5 (notifications by child support officers)—

- (a) in the heading for “by child support officers” there shall be substituted “by the Department”; and
- (b) in paragraph (1) for “a child support officer” there shall be substituted “the Department” and for “he” there shall be substituted “it”.

(4) In regulation 7 (cancellation of maintenance assessment on grounds of lack of jurisdiction)—

- (a) for “a child support officer” in both places where it occurs there shall be substituted “the Department”; and
- (b) in paragraph (3) for “the child support officer” there shall be substituted “the Department”.

(5) In regulation 8(1)(c) (maintenance assessments and maintenance orders made in error) for “the child support officer” there shall be substituted “the Department”.

Amendment of the Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations

14.—(1) The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations (Northern Ireland) 1994⁽⁴⁵⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 6 (interpretation)—

- (a) in paragraph (1) in the definition of “transitional period” in paragraph (a) for “is reviewed” there shall be substituted “was reviewed or, as the case may be, a decision is made superseding an earlier decision,”; and
- (b) in paragraph (2) for “the child support officer” there shall be substituted “the Department”.

(3) In regulation 9 (procedure)—

- (a) in paragraph (1) at the end there shall be added “before 1st June 1999 or an application on or after that date for a decision under Article 19 of the Order superseding an earlier decision”; and
- (b) for paragraph (3) there shall be substituted the following paragraph—

“(3) Regulation 10(2) of the Maintenance Assessment Procedure Regulations shall not apply in respect of a decision made solely for the purpose of applying Part III but

⁽⁴⁴⁾ S.R. 1992 No. 466, to which there are amendments not relevant to this order

⁽⁴⁵⁾ S.R. 1994 No. 37; relevant amending regulations are S.R. 1995 Nos. 162 and 475

instead the Department shall notify the relevant persons (as defined in regulation 1(2) of the Maintenance Assessment Procedure Regulations) of the detail of how the provisions of Part III have been applied in that case.”.

(4) For regulations 10 and 11 there shall be substituted the following regulations—

“Revision and supersession

10.—(1) The provisions of the following paragraphs shall apply where the Department proposes to make a decision under Article 18 or 19 of the Order with respect to a maintenance assessment under which the amount payable was the transitional amount.

(2) Where a fresh maintenance assessment would be made by virtue of a decision under Article 18 or 19 of the Order and the amount payable under that assessment (disregarding the provisions of Part III) (in this regulation called “the new formula amount”) would be—

- (a) more than the formula amount, the amount of child support maintenance payable shall be the transitional amount plus the difference between the formula amount and the new formula amount;
- (b) less than the formula amount but more than the transitional amount, the amount of the child support maintenance payable shall be the transitional amount; or
- (c) less than the transitional amount, the amount of child support maintenance payable shall be the new formula amount.

(3) Regulations 21 and 22 of the Maintenance Assessment Procedure Regulations shall apply as if the new formula amount were the amount which would be fixed in accordance with a decision superseding an earlier decision.

(4) Where the effective date of a fresh maintenance assessment made by virtue of a revision under Article 18 of the Order or of a decision under Article 19 of the Order superseding an earlier decision would, apart from this regulation, be before 18th April 1995—

- (a) the fresh maintenance assessment; and
- (b) the decision under Article 18 or, as the case may be, Article 19,

shall take effect from 18th April 1995.

Decisions consequent on the amendments made by Part II

11.—(1) A fresh maintenance assessment shall not be made by virtue of a decision under Article 19 of the Order superseding an earlier decision in consequence only of the amendments made by Part II where the amount of child support maintenance fixed by the assessment currently in force and the amount that would be fixed if a fresh assessment were to be made under that Article is less than £1£00 per week.

(2) Except in relation to the amendment made by regulation 5(6), where a fresh maintenance assessment is made by virtue of a decision under Article 19 of the Order superseding an earlier decision in consequence only of the amendments made by Part II, the date from which—

- (a) the fresh maintenance assessment; and
- (b) the decision under Article 18 or, as the case may be, Article 19,

shall take effect shall be 7th February 1994.”.

Amendment of the Child Support and Income Support (Amendment) Regulations

15.—(1) The Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995⁽⁴⁶⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) before the definition of “the Appeals Regulations” there shall be inserted the following definition—

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

(3) In regulation 12 (reviews consequent upon the amendments made by these regulations)—

(a) in paragraph (1) for the words from the beginning to “result of the review is—” there shall be substituted “Subject to paragraph (3), a decision with respect to a maintenance assessment in force on 13th April 1995 or 18th April 1995 shall not be superseded by a decision under Article 19 of the Order if the difference between the amount of child support maintenance currently in force and the amount that would be fixed if the fresh assessment were to be made as a result of a supersession is—”;

(b) in paragraph (3)—

(i) for “a review which is made” there shall be substituted “a decision under Article 19 of the Order which falls to be made”, and

(ii) for “notifies” there shall be substituted “notified”;

(c) paragraphs (4) and (5) shall be omitted; and

(d) in paragraph (6)—

(i) in sub-paragraph (a) for “a child support officer to consider the question of” there shall be substituted “the question to be considered”, and

(ii) for “upon a review under Article 21 of the Order” there shall be substituted “by virtue of a decision under Article 19 of the Order superseding an earlier decision”.

(4) In regulation 13 (transitional provisions)—

(a) in paragraph (3) for the words from “a child support officer” to the end there shall be substituted “a relevant person applies for a decision under Article 19 of the Order superseding an earlier decision on the ground that a qualifying transfer of property has been made or that he has travelling costs”; and

(b) in paragraph (4)—

(i) in sub-paragraph (a) for “a review of” there shall be substituted “a decision under Article 19 of the Order superseding a decision with respect to”; and

(ii) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) a decision under regulation 13 or 16 of the Arrears Regulations is made on an application made by a relevant person.”.

Amendment of the Child Support (Miscellaneous Amendments No. 2) Regulations

16.—(1) The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1995⁽⁴⁷⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) For regulation 11 (reviews consequent on amendments made by these Regulations) there shall be substituted the following regulation—

⁽⁴⁶⁾ S.R. 1995 No. 162; relevant amending regulations are S.R. 1995 No. 475

⁽⁴⁷⁾ S.R. 1995 No. 475

“Supersessions consequent on amendments made by these Regulations

11.—(1) Where a fresh assessment is made by virtue of a decision under Article 19 of the Order superseding an earlier decision in consequence of the coming into operation of regulation 4(10)—

- (a) the decision under Article 19; and
- (b) that fresh maintenance assessment,

shall take effect from the first day of the maintenance period following 18th December 1995.

(2) In this regulation and regulation 12 “the Order” means the Child Support (Northern Ireland) Order 1991.”.

(3) In regulation 12 (transitional and consequential provisions)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A decision with respect to a maintenance assessment shall not be superseded by a decision under Article 19 of the Order solely to give effect to the provisions set out in paragraph (2).”;

(b) in paragraph (3) for “Where a review” there shall be substituted “Where a decision is made under Article 19 of the Order superseding an earlier decision” and for “that review” there shall be substituted “that decision”; and

(c) paragraph (4) shall be omitted.

Amendment of the Child Support (Compensation for Recipients of Family Credit and Disability Working Allowance) Regulations

17. In regulation 5 of the Child Support (Compensation for Recipients of Family Credit and Disability Working Allowance) Regulations (Northern Ireland) 1995⁽⁴⁸⁾ (calculation of compensation in particular cases) for paragraphs (1) to (4) there shall be substituted the following paragraphs—

“(1) Where a revised assessment is replaced by a fresh maintenance assessment of a different amount by virtue of a revision under Article 18 of the Order of 1991, the compensation payment calculated under Article 17 of the 1995 Order shall be recalculated using the amount due under the fresh maintenance assessment in place of the amount due under the revised assessment.

(2) Subject to paragraph (3), where the earlier assessment is replaced by a fresh assessment—

- (a) which was made after the revised assessment, and
- (b) the effective date of that fresh assessment is before the date on which the revised assessment was made,

the amount payable under the fresh assessment shall be ignored for the purposes of the calculation of a compensation payment under Article 17 of the 1995 Order.

(3) In a case where the circumstances in paragraphs (1) and (2) apply the compensation payable under Article 17 of the 1995 Order shall be recalculated using the amount due under the fresh assessments referred to in paragraphs (1) and (2).”.

Amendment of the Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations

18. For regulation 11 of the Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 1996⁽⁴⁹⁾ (transitional provision relating to maintenance assessments) there shall be substituted the following regulation—

“**11.**—(1) A decision with respect to a maintenance assessment in force on 7th April 1997 shall not be superseded by a decision under Article 19 of the Order solely to give effect to these Regulations.

(2) These Regulations shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

as from the effective date of that revision under Article 18 of the Order or, as the case may be, decision under Article 19 of the Order.

(3) In this regulation “the Order” means the Child Support (Northern Ireland) Order 1991.”.

Amendment of the Child Support (Miscellaneous Amendments) Regulations

19. In regulation 7(5) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1996⁽⁵⁰⁾ (transitional provisions) for the words from “and those provisions” to the end there shall be substituted “and a decision with respect to a maintenance assessment in force on that date shall not be superseded by a decision under Article 19 of the Child Support (Northern Ireland) Order 1991 solely to give effect to the provisions of regulation 19 as amended by regulation 4(7).”.

Amendment of the Child Support (Miscellaneous Amendments No. 2) Regulations

20. In regulation 6 of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1996⁽⁵¹⁾ (transitional provisions)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A decision with respect to a maintenance assessment in force on 13th January 1997 shall not be superseded by a decision under Article 19 of the Child Support (Northern Ireland) Order 1991 solely to give effect to these Regulations.”; and

(b) in paragraph (2) “made following a review mentioned in paragraph (1)” shall be omitted.

Amendment of the Child Support (Miscellaneous Amendments) Regulations

21. For regulation 11 of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1998⁽⁵²⁾ (transitional provisions) there shall be substituted the following regulation—

“**11.**—(1) A decision with respect to a maintenance assessment in force on 19th January 1998 shall not be superseded by a decision under Article 19 of the Order solely to give effect to regulation 4(2)(a)(iii), (8) or (14)(a)(i) and (ii).

⁽⁴⁹⁾ S.R. 1996 No. 288

⁽⁵⁰⁾ S.R. 1996 No. 317, to which there are amendments not relevant to this order

⁽⁵¹⁾ S.R. 1996 No. 590

⁽⁵²⁾ S.R. 1998 No. 8

(2) The regulations specified in paragraph (1) shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

from whichever is the later of—

- (i) the date from which that revision or, as the case may be, supersession takes effect, or
- (ii) the first day of the first maintenance period which begins on or after 19th January 1998, as the case may be.

(3) A decision with respect to a maintenance assessment in force on 6th April 1998 shall not be superseded by a decision under Article 19 of the Order solely to give effect to regulations 4(4), (5), (10), (12), (13) and (14)(d) and 5.

(4) The regulations specified in paragraph (3) shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

from whichever is the later of—

- (i) the date from which that revision or, as the case may be, supersession takes effect, or
- (ii) the first day of the first maintenance period which begins on or after 6th April 1998, as the case may be.

(5) In this regulation “the Order” means the Child Support (Northern Ireland) Order 1991.”.

Amendment of the Child Support (Miscellaneous Amendments) Regulations

22. For regulation 7 of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1999(53) (transitional provisions) there shall be substituted the following regulation—

“7.—(1) A decision with respect to a maintenance assessment in force on the first or second commencement day shall not be superseded by a decision under Article 19 of the Order solely to give effect to these Regulations.

(2) These Regulations shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

from whichever is the later of—

- (i) the date from which that revision or, as the case may be, supersession takes effect, or

- (ii) the first day of the first maintenance period which begins on or after the first or second commencement day, as the case may be.
- (3) In this regulation “the Order” means the Child Support (Northern Ireland) Order 1991.”.

TRANSITIONAL PROVISIONS AND REVOCATIONS

Child support

23.—(1) Any decision which fell to be made, but was not made, before 1st June 1999 by a child support officer shall be made by the Department.

(2) Except for the purposes of paragraph (6) and any provision as to the time within which an appeal is to be brought, a decision of a child support officer shall be treated as a decision of the Department made under—

- (a) subject to sub-paragraph (b) and paragraph (3), the provision under which the child support officer made the decision; or
- (b) Article 19 of the Child Support Order where the child support officer made the decision under Article 20 or 21 of that Order.

(3) A fresh maintenance assessment made pursuant to Article 18(4) of the Child Support Order by virtue of the saving in Article 3(3) of the Social Security (1998 Order) (Commencement No. 2) Order (Northern Ireland) 1998⁽⁵⁴⁾ shall be treated for the purpose of subsequent decisions as if it were made by virtue of a decision of the Department under Article 19 of the Child Support Order.

(4) For the purposes of a fresh maintenance assessment which falls to be made pursuant to Article 18(4) of the Child Support Order by virtue of the saving in Article 3(3) of the Social Security (1998 Order) (Commencement No. 2) Order (Northern Ireland) 1998, “relevant week” in the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 shall mean, notwithstanding regulation 1(2) of those Regulations, the period of 7 days immediately preceding the date on which a request for information or evidence was made under regulation 16(5) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 as that provision was in operation when that request was sent.

(5) The date on which the fresh maintenance assessment mentioned in paragraph (4) made on or after 1st June 1999 takes effect shall be determined in accordance with the provisions of Article 18(5) of the Child Support Order and regulations made thereunder as those provisions were in operation immediately before 1st June 1999.

(6) An application which was not determined before 1st June 1999 for a review of a decision of a child support officer shall be treated—

- (a) in a case where the application—
 - (i) is received within one month of the date of notification of the decision which is the subject of the application or such longer period as may be allowed by Article 20; and
 - (ii) is made other than on the ground of a relevant change of circumstances,
 as an application to the Department for a revision of a decision under Article 18 of the Child Support Order; and
- (b) in any other case, as an application to the Department for a decision under Article 19 of the Child Support Order superseding an earlier decision.

(7) A revision under Article 18 of the Child Support Order of a decision made before 22nd January 1996 to cancel a Category B interim maintenance assessment (within the meaning of

(54) S.R. 1998 No. 395 (C. 19)

regulation 8(3)(b) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(55) shall take effect from 22nd January 1996.

(8) For the purposes of paragraph (9), this paragraph applies where the decision of the Department—

- (a) supersedes a decision of a child support officer; and
- (b) is made on the basis of information or evidence which was not provided by a relevant person directly.

(9) Where paragraph (8) applies, a decision which supersedes an earlier decision shall take effect from the first day of the maintenance period in which that information or evidence was received by—

- (a) except where sub-paragraph (b) applies, an officer of the Department exercising functions under the Child Support Order; or
- (b) a child support officer.

(10) Where—

- (a) a departure direction under Article 28F of the Child Support Order takes effect on 1st June 1999;
- (b) the applicant in response to whose application that direction was given made a later application before 1st June 1999 for a departure direction—
 - (i) on grounds additional to the grounds in respect of which the earlier direction was given, or
 - (ii) on the basis that there has been a change of circumstances in respect of any of those grounds; and
- (c) that later application was not determined before 1st June 1999,

that application shall be treated as if it were made under Article 19 of, as extended by paragraph 2 of Schedule 4C to, the Child Support Order for a decision superseding an earlier decision.

(11) A decision made by virtue of paragraph (10) which supersedes an earlier decision shall take effect from the first day of the maintenance period in which the later application was made.

(12) A decision made—

- (a) by the Department on its own initiative under Article 19 of, as extended by paragraph 2 of Schedule 4C to, the Child Support Order superseding an earlier decision with respect to a departure direction; and
- (b) made on the basis of information or evidence provided to it before 1st June 1999 by a person who is not the applicant in response to whose application the departure direction was given,

shall take effect from the first day of the maintenance period in which that information or evidence was provided to the Department.

(13) A decision of—

- (a) the Department made before 1st June 1999 with respect to a departure direction; or
- (b) a child support appeal tribunal upon referral under Article 28D(1)(b) of the Child Support Order,

may be revised under Article 18 of, as extended by paragraph 1 of Schedule 4C to, the Child Support Order in consequence of information or evidence—

- (i) received by the Department from a relevant person within one month of the date of notification of that decision or such longer period as may be allowed by Article 24, and

(ii) not acted upon before 1st June 1999 .

(14) Except for the purposes of paragraph (16), an appeal to a child support appeal tribunal which was not determined before 1st June 1999—

- (a) shall be treated as an appeal to an appeal tribunal;
- (b) brought against a decision of a child support officer, shall be treated as an appeal brought against a decision of the Department; and
- (c) may not be withdrawn without the consent in writing of every other party to the proceedings.

(15) In paragraphs (14) and (28) “party to the proceedings” means—

- (a) the absent parent (within the meaning given to that expression in Article 4(2) of the Child Support Order);
- (b) the person with care (within the meaning given to that expression in Article 4(3) of the Child Support Order); and
- (c) the Department.

(16) Regulations 3(1A) to (11B) (making an appeal or application and time limits) and 15 (setting aside) of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993⁽⁵⁶⁾ (in this Article referred to as “the Procedure Regulations”) shall continue to apply (notwithstanding their revocation) for the purposes specified in paragraph (17) subject to the modifications to those regulations specified respectively in paragraphs (18) and (19).

(17) Paragraph (16) applies for the purposes of—

- (a) any appeal against a decision—
 - (i) of the Department, made before 1st June 1999 on an application for a departure direction, or
 - (ii) of a child support officer; and
- (b) any application to set aside a decision of a child support appeal tribunal.

(18) In regulation 3 of the Procedure Regulations—

- (a) in paragraph (1A)⁽⁵⁷⁾ for “in paragraph (1)” there shall be substituted “in Article 23(17) of the Social Security (1998 Order) (Commencement No. 6 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999”;
- (b) in paragraph (3) for “under Article 22(1) of the Order” there shall be substituted “against a decision of a child support officer”;
- (c) for paragraph (6) there shall be substituted the following paragraph—
 - “(6) Where an appeal or application is made—
 - (a) after the specified time has expired; and
 - (b) before 1st July 2000,
 that time may for special reasons be extended by a legally qualified panel member to the date of the making of the appeal or application.”;
 - (d) in paragraph (7) for “a chairman” there shall be substituted “a legally qualified panel member”;
 - (e) in paragraphs (7), (9A)⁽⁵⁸⁾, (11) and (11A) for “the chairman” there shall be substituted “the legally qualified panel member”;

⁽⁵⁶⁾ S.R. 1993 No. 50; relevant amending regulations are S.R. 1996 Nos. 457, 541 and 590 and S.R. 1998 No. 8

⁽⁵⁷⁾ Paragraph (1A) was substituted by regulation 2(2)(a) of S.R. 1996 No. 457

⁽⁵⁸⁾ Paragraph (9A) was inserted by regulation 2(2)(b) of S.R. 1996 No. 457; paragraph (11) was substituted by, and paragraphs (11A) and (11B) were inserted by, regulation 2(2)(d) of those regulations

- (f) in paragraph (8) for “any chairman” there shall be substituted “a legally qualified panel member”; and
- (g) after paragraph (11B) there shall be added the following paragraph—
- “(11C) In this regulation—
- “legally qualified panel member” has the same meaning as in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999⁽⁵⁹⁾; and
- “tribunal” means an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998⁽⁶⁰⁾.”.
- (19) In regulation 15 of the Procedure Regulations—
- (a) in paragraph (1) after “on an application made” there shall be inserted “before 1st July 2000” and for “the tribunal who gave the decision or by another tribunal” there shall be substituted “a tribunal”;
- (b) in paragraph (5) “regulation 2 and” shall be omitted; and
- (c) after paragraph (5) there shall be added the following paragraph—
- “(6) Except in paragraph (1)(a) “tribunal” in this regulation means an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998.”.
- (20) Paragraphs (21) to (24) shall apply where—
- (a) the clerk to the tribunal gave a direction under regulation 11(1)⁽⁶¹⁾ (hearings) of the Procedure Regulations; and
- (b) notification under that provision was not received by him before the appointed day.
- (21) A notification in response to a direction given under regulation 11(1) of the Procedure Regulations shall be in writing and shall be made within 14 days of receipt of the direction or within such other period as the clerk to the appeal tribunal may direct.
- (22) An appeal may be struck out by a clerk to the appeal tribunal where a notification referred to in paragraph (21) is not received within the period specified in that paragraph.
- (23) An appeal which has been struck out in accordance with paragraph (22) shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.
- (24) An oral hearing of the appeal shall be held where—
- (a) notification is received by the clerk to the appeal tribunal under paragraph (21); or
- (b) the chairman, or in the case of an appeal tribunal which has only one member, that member, is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.
- (25) A legally qualified panel member may reinstate an appeal which has been struck out under regulation 6 of the Procedure Regulations on application made by any party to the proceedings not later than three months from the date of the order under paragraph (1) of that regulation if he is satisfied that—
- (a) the applicant did not receive a notice under paragraph (2) of that regulation; and
- (b) the conditions in paragraph (2A) of that regulation were not satisfied.

⁽⁵⁹⁾ S.R. 1999 No. 162

⁽⁶⁰⁾ S.I. 1998/1506 (N.I. 10)

⁽⁶¹⁾ Paragraph (1) was substituted by regulation 2(7)(a) of S.R. 1996 No. 457 and amended by S.R. 1996 No. 541 and S.R. 1998 No. 8

(26) In paragraph (25) “legally qualified panel member” has the same meaning as in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.

(27) Notwithstanding the revocation of the Procedure Regulations, information such as was mentioned in regulation 17(2) of those Regulations immediately before that regulation was revoked shall not be disclosed if a written notification is received under that regulation within the period specified in that regulation.

(28) A copy of a statement of—

- (a) the reasons for a child support appeal tribunal’s decision;
- (b) its findings on questions of fact material thereto; and
- (c) the terms of any—
 - (i) direction under Article 22(4) of the Child Support Order (before that provision was substituted by Article 42 of the Order); and
 - (ii) decision made by the tribunal under Article 28H(4)(c) of the Child Support Order (before that provision was substituted by paragraph 24 of Schedule 6 to the Order) or on a referral,

shall be supplied to each party to the proceedings if requested by any of them within 21 days of the date on which notification of the decision was given or sent.

(29) Except for the purposes of—

- (a) the Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1999(62);
- (b) paragraphs (16) and (28); or
- (c) determining whether any irregularity resulted from failure to comply with the requirements of the Procedure Regulations,

a decision of a child support appeal tribunal shall be treated as a decision of an appeal tribunal.

(30) An appeal tribunal shall completely rehear any appeal to a child support appeal tribunal which stands adjourned immediately before 1st June 1999.

(31) For the purpose of Article 19(1) of the Child Support Order, a decision of a Child Support Commissioner on an appeal from a child support appeal tribunal shall be treated as a decision of a Child Support Commissioner on an appeal from an appeal tribunal.

(32) In this Article “maintenance period” has the same meaning as in regulation 1(2) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992.

(33) In this Article and Article 24 “relevant person” has the same meaning as in regulation 1(2) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992.

Late application for a revision

24.—(1) The period of one month specified in Article 23(6)(a)(i) or (13)(i) may be extended where the requirements specified in the following provisions of this Article are satisfied.

(2) An application for an extension of time shall—

- (a) be made before 1st July 2000 by a relevant person or a person acting on his behalf; and
- (b) contain—
 - (i) particulars of the grounds on which the extension of time is sought, and
 - (ii) sufficient details of the decision which it is sought to have revised to enable that decision to be identified.

(3) An application for an extension of time shall not be granted unless the person making the application or any person acting for him satisfies the Department that—

- (a) it is reasonable to grant the application;
- (b) the application for a decision to be revised has merit; and
- (c) special circumstances are relevant to the application for an extension of time,

and as a result of those special circumstances, it was not practicable for the application for a decision to be revised to be made within one month of the date of notification of the decision which it is sought to have revised.

(4) In determining whether it is reasonable to grant an application for an extension of time, no account shall be taken of the following—

- (a) that the person making the application for an extension of time or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by Article 23(6)(a)(i) or (13)(i)); or
- (b) that a Child Support Commissioner or a court has taken a different view of the law from that previously understood and applied.

(5) An application under this Article for an extension of time which has been refused may not be renewed.

(6) In this Article “Child Support Commissioner” includes a Child Support Commissioner appointed under section 22 of the Child Support Act 1991(63).

Transitional functions of staff of appeal tribunals and of the President of appeal tribunals

25. Any appointment under paragraph 6 of Schedule 1 to the Social Security (Northern Ireland) Order 1998 shall be treated during the period commencing on 1st June 1999 and ending on—

- (a) 28th November 1999 as being, in addition, an appointment for—
 - (i) social security appeal tribunals, and
 - (ii) the President and full-time chairmen of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals;
- (b) 17th October 1999 as being, in addition, an appointment for disability appeal tribunals; and
- (c) 5th September 1999 as being, in addition, an appointment for medical appeal tribunals.

Revocations

26.—(1) Regulation 2(4)(b)(iv) of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999(64) is hereby revoked.

(2) The Regulations specified in column (1) of Schedule 2 are revoked to the extent mentioned in column (3) of that Schedule.

(63) 1991 c. 48

(64) S.R. 1999 No. 167

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Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

28th May 1999.

John O'Neill
Assistant Secretary

SCHEDULE 1

Article 2

Provisions coming into operation on 1st June 1999

<i>Provisions of the Order</i>	<i>Subject Matter</i>
Article 3(c)	Transfer of functions to the Department
Article 5(1)(b) and (2)(b)	Unified appeal tribunals
Article 6	President of appeal tribunals
Article 7	Panel for appointment to appeal tribunals
Article 8	Constitution of appeal tribunals
Article 26(8)	Appeals involving issues that arise on appeal in other cases
Part II, Chapter III	Child support decisions and appeals
Schedule 1, paragraphs 1 to 9 and 11 to 13 provisions	Appeal tribunals: supplementary
The following paragraphs of Schedule 6 and Article 78(1) in so far as it to 13 provisions relates to them—	Minor and consequential amendments
paragraph 1	Enforcement of maintenance assessment by deductions from pay
paragraph 2	Enforcement of maintenance assessment by deductions from pay
paragraph 3(3) in so far as it applies to the following entry— disqualified	Bodies of which all members are
Full-time chairman of a child support appeal tribunal established under Article 23 of the Child Support (Northern Ireland) Order 1991(65)	
paragraph 3(4)	
paragraph 5(a) and sub-paragraph (b) of that paragraph in so far as it applies to the definitions of “Chief Child Support Officer”, “child support appeal tribunal” and “child support officer”	Amendments to the Child Support Order
paragraphs 6 to 37	
paragraph 92(1) and sub-paragraph (2) of that paragraph in so far as it applies to the following entry—	Other appointments
Chairman of child support appeal tribunals in Northern Ireland	

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<i>Provisions of the Order</i>	<i>Subject Matter</i>
<p>paragraph 93(1) and sub-paragraph (2) of that paragraph in so far as it applies to the following entry—</p> <p>Chairman of child support appeal tribunals in Northern Ireland</p>	Retirement provisions: the relevant offices
<p>paragraph 115(a) in so far as it applies to the following entry—</p> <p>Child support appeal tribunals constituted under Article 23 of the Child Support (Northern Ireland) Order 1991.</p> <p>paragraph 115(b)</p>	Tribunals referred to in Article 9(4)
<p>The following repeals in Schedule 7 and Article 78(2) in so far as it relates to them—</p> <p>the Northern Ireland Assembly Disqualification Act 1975⁽⁶⁶⁾—</p> <p>in Schedule 1, in Part III, the following entry—</p> <p>Full-time chairman of a child support appeal tribunal established under Article 23 of the Child Support (Northern Ireland) Order 1991</p> <p>the provisions of the Child Support (Northern Ireland) Order 1991</p> <p>the Judicial Pensions and Retirement Act 1993⁽⁶⁷⁾—</p> <p>in Schedule 1, in Part II, the following entry—</p> <p>Chairman of child support appeal tribunals in Northern Ireland</p> <p>in Schedule 5, the following entry—</p> <p>Chairman of child support appeal tribunals in Northern Ireland</p> <p>in Schedule 6, paragraph 24</p> <p>in Schedule 8, paragraph 22</p> <p>the provisions of the Child Support (Northern Ireland) Order 1995⁽⁶⁸⁾</p> <p>the Ombudsman (Northern Ireland) Order 1996⁽⁶⁹⁾—</p>	Repeals

⁽⁶⁶⁾ 1975 c. 25

⁽⁶⁷⁾ 1993 c. 8

⁽⁶⁸⁾ S.I. 1995/2702 (N.I. 13)

⁽⁶⁹⁾ S.I. 1996/1298 (N.I. 8)

<i>Provisions of the Order</i>	<i>Subject Matter</i>
in Schedule 3, the following entry— Child support appeal tribunals constituted under Article 23 of the Child Support (Northern Ireland) Order 1991.	

SCHEDULE 2

Article 26(2)

Regulations revoked

<i>Column (1) Citation</i>	<i>Column (2) Reference</i>	<i>Column (3) Extent of revocation</i>
The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992	S.R. 1992 No. 339	Regulations 10 and 10A
The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993	S.R. 1993 No. 164	Regulations 2(2) and (7) and 5(2)(f)
The Child Support (Maintenance Assessments and Special Cases) (Amendment) Regulations (Northern Ireland) 1993	S.R. 1993 No. 191	Regulation 2(3)
The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations (Northern Ireland) 1994	S.R. 1994 No. 37	Regulations 12 and 13
The Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995	S.R. 1995 No. 162	Regulations 3(5) and (6), 9(19) and 10(3)
The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1995	S.R. 1995 No. 475	Regulations 2(2)(a), (3), (4) and (7), 4(2)(a)(ii) and (iii), 5(4) and (5) and 9(3)
The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996	S.R. 1996 No. 541	Regulations 49(4) and (5) and 52
The Child Support (Miscellaneous Amendments)	S.R. 1998 No. 8	Regulation 4(2)(a)(iii)

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Column (1) <i>Citation</i>	Column (2) <i>Reference</i>	Column (3) <i>Extent of revocation</i>
Regulations (Northern Ireland) 1998		
The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1998	S.R. 1998 No. 400	Regulations 3 and 4

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order provides for the coming into operation on 1st June 1999 of provisions of the Social Security (Northern Ireland) Order 1998 relating to child support.

The Order also makes consequential and transitional provisions.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order.)

The following provisions of the Social Security (Northern Ireland) Order 1998 have been brought into operation by earlier commencement orders as from the dates shown.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. Number</i>
Article 4(1) and (2)(b) to (h)	9.9.98	1998 No. 312 (C. 15)
Articles 7(3), 8(6) and (7), 10(1), (4) and (6), 11(3) and (6), 12(1), 13(1) to (3), (6) and (7), 15(3), (10) and (11) and 16(1) to (3) and (9) and Schedules 1 to 4 (partially)	10.3.99	1999 No. 102 (C. 13)
Article 16(4)(a) and (5)	9.9.98	1998 No. 312 (C. 15)
Article 16(4)(b)	6.4.99	1998 No. 312 (C. 15)
Articles 17, 18(1), 20 to 24, 25(3)(b) and (5)(c), 26(6)(c), 28, 31(2) and (3) and 38(1)(a) and (3) (partially)	10.3.99	1999 No. 102 (C. 13)
Article 40	16.11.98 and 7.12.98	1998 No. 395 (C. 19)
Articles 41 to 44 (partially)	10.3.99	1999 No. 102 (C. 13)
Articles 45 and 46	9.9.98	1998 No. 312 (C. 15)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. Number</i>
Article 47(1) (partially)	9.9.98	1998 No. 312 (C. 15)
Article 48	24.2.99 and 6.4.99	1999 No. 72 (C. 9)
Article 49	9.9.98	1998 No. 312 (C. 15)
Article 50	9.9.98 and 6.4.99	1998 No. 312 (C. 15)
Article 51	10.3.99 and 6.4.99	1999 No. 102 (C. 13)
Article 52	9.9.98	1998 No. 312 (C. 15)
Articles 53, 54 and 56	10.3.99 and 6.4.99	1999 No. 102 (C. 13)
Article 57 (partially)	10.3.99 and 6.4.99	1999 No. 102 (C. 13)
Article 58	6.4.99	1999 No. 102 (C. 13)
Article 59	10.3.99 and 6.4.99	1999 No. 102 (C. 13)
Article 60	6.4.99	1999 No. 102 (C. 13)
Article 61	9.9.98 and 6.4.99	1998 No. 312 (C. 15)
Article 64	9.9.98	1998 No. 312 (C. 15)
Articles 66 and 67	5.4.99	1999 No. 168 (C. 16)
Article 69	6.4.99	1998 No. 312 (C. 15)
Article 70 (partially)	10.3.99	1999 No. 102 (C. 13)
Article 71	5.10.98	1998 No. 312 (C. 15)
Article 72	16.11.98	1998 No. 395 (C. 19)
Article 78(1) and Schedule 6 (partially)	9.9.98, 16.11.98, 10.3.99, 5.4.99 and 6.4.99	1998 No. 312 (C. 15)1998 No. 395 (C. 19)1999 No. 72 (C. 9)1999 No. 102 (C. 13)1999 No. 168 (C. 16)
Article 78(2) and Schedule 7 (partially)	9.9.98, 5.4.99 and 6.4.99	1998 No. 312 (C. 15)1999 No. 72 (C. 9)1999 No. 102 (C. 13)1999 No. 168 (C. 16)