

**2001 No. 22**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments) (Amendment)  
Regulations (Northern Ireland) 2001**

*Made* . . . . . 23rd January 2001

*Coming into operation* . . . . . 31st January 2001

The Department for Social Development, in exercise of the powers conferred by sections 5(1)(q) and 165(1), (5) and (6) of the Social Security Administration (Northern Ireland) Act 1992(a) and Article 40(2) of the Child Support (Northern Ireland) Order 1991(b) and now vested in it(c), 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 Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2001 and shall come into operation on 31st January 2001.

(2) In these Regulations “the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(d).

(3) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Assembly.

*Amendment of the Claims and Payments Regulations*

**2.—**(1) The Claims and Payments Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 34A(1)(f) (deductions which may be made from benefits and paid to third parties) at the end there shall be inserted “and Schedule 8C”.

(3) After Schedule 8B(g) there shall be inserted Schedule 8C as set out in the Schedule to these Regulations.

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(a) 1992 c. 8; section 165 was amended by paragraph 86 of Schedule 6 and Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671))

(b) S.I. 1991/2628 (N.I. 23); Article 40 was substituted by section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

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

(d) S.R. 1987 No. 465; relevant amending rules are S.R. 1988 Nos. 67 and 141, S.R. 1992 No. 271, S.R. 1993 No. 146, S.R. 1996 No. 65 and S.R. 1999 Nos. 246 (C.20) and 472 (C.36)

(e) 1954 c. 33 (N.I.)

(f) Regulation 34A(1) was inserted by regulation 2(2) of S.R. 1988 No. 67 and amended by regulation 7(a) of S.R. 1988 No. 141 and regulation 3 of S.R. 1992 No. 271

(g) Schedule 8B was inserted by regulation 5 of S.R. 1992 No. 271

*Transitional provisions*

**3.** No deduction shall be made under paragraph 7A or 7B of Schedule 8A(a) to the Claims and Payments Regulations in respect of maintenance to which Schedule 8C applies.

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

(L.S)

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

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(a) Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67, paragraph 7A was inserted by regulation 2(3) of S.R. 1993 No. 146 and amended by regulation 4 of S.R. 1996 No. 65, Article 5 of S.R. 1999 No. 246 (C. 20) and Article 9(2) and (13)(b) of S.R. 1999 No. 472 (C. 36) and paragraph 7B was inserted by regulation 2(8)(b) of S.R. 1996 No. 432 and amended by Article 9(2) of S.R. 1999 No. 472 (C. 36)

SCHEDULE

Regulation 2(3)

“SCHEDULE 8C

Regulation 34A

**Deductions from benefit in respect of child support maintenance and payment to persons with care**

*Interpretation*

1. In this Schedule—

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

“beneficiary” means a person who has been awarded a specified benefit and includes each member of a joint-claim couple awarded joint-claim jobseeker’s allowance;

“maintenance” means maintenance which a non-resident parent is liable to pay under the Order at a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or (2) of Schedule 1 to the Order(a), and includes such maintenance payable at a transitional rate in accordance with Regulations made under section 28(2)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(b);

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

“specified benefit” means either a benefit, pension or allowance mentioned in section 5(2) of the Administration Act(d) and which is prescribed for the purpose of paragraph 4(1)(b) or (c) of Schedule 1 to the Order or a war disablement pension or a war widows pension within the meaning in section 146(2) of the Contributions and Benefits Act.

*Deductions*

2.—(1) Subject to paragraphs 5 and 6, the Department may deduct from a specified benefit awarded to a beneficiary, an amount equal to the amount of maintenance which is payable by the beneficiary (or in the case of income support or income-based jobseeker’s allowance, payable either by the beneficiary or his partner) and pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the liability to pay maintenance.

(2) A deduction may only be made from one of the specified benefits in any one week.

(3) No deduction may be made unless the amount of the relevant specified benefit is not less than the total of the amounts to be deducted under this Schedule plus 10 pence.

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(a) Paragraph 4 was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

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

(c) S.R. 2001 No. 18

(d) Section 5(2) was amended by paragraph 22 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and Schedule 1 to the Tax Credits Act 1999 (c. 10)

### *Arrears*

3.—(1) Except where income support or income-based jobseeker's allowance is payable to the beneficiary or his partner, the Department may deduct the sum of £1 per week from a specified benefit which the beneficiary has been awarded and, subject to sub-paragraph (2), pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the beneficiary's liability to pay arrears of maintenance.

(2) Deductions made under sub-paragraph (1) may be retained by the Department in the circumstances set out in regulation 8 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(a).

### *Apportionment*

4. Where maintenance is payable to more than one person with care, the amount deducted shall be apportioned between the persons with care in accordance with paragraphs 6 to 8 of Schedule 1 to the Order(b).

### *Flat rate maintenance*

5.—(1) This sub-paragraph applies where the beneficiary and his partner are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Order and either of them has been awarded income support or income-based jobseeker's allowance.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5 may be deducted in respect of the sum of both partners' liability to pay maintenance, in the proportions described in regulation 4(3) of the Maintenance Calculations and Special Cases Regulations and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

### *Flat rate Maintenance (Polygamous Marriage)*

6.—(1) This sub-paragraph applies where two or more members of a polygamous marriage are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Order and any member of the polygamous marriage has been awarded income support or income-based jobseeker's allowance.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5 may be deducted in respect of the sum of all the members' liability to pay maintenance, in the proportions described in regulation 4(3) of the Maintenance Calculations and Special Cases Regulations and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

(3) In this regulation "polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy.

### *Notice*

7. When the Department commences making deductions, it shall notify the beneficiary in writing of the amount and frequency of the deduction and the

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(a) S.R. 1992 No. 342; regulation 8 was substituted by regulation 5(2) of S.R. 1995 No. 475 and amended by regulation 2(7) of S.R. 2001 No. 15  
(b) Paragraphs 6 to 8 were substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

benefit from which the deduction is made and shall give further such notice when there is a change to any of the particulars specified in the notice.

*General*

8. A deduction made in accordance with this Schedule is a deduction by way of recovery for the purposes of regulation 40(3) of the Income Support (General) Regulations (Northern Ireland) 1987<sup>(a)</sup> and regulation 103(3) of the Jobseeker's Allowance Regulations.”.

## EXPLANATORY NOTE

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

These Regulations provide for the Department for Social Development to deduct an amount in respect of certain child support maintenance liabilities from certain social security benefits or war pensions awarded to a beneficiary who is a non-resident parent (or in some cases his partner) and pay it to the person with care. The relevant provisions of the Child Support (Northern Ireland) Order 1991 come into operation on different dates for different types of cases. Consequently the right to make deductions under these Regulations will take effect on different dates for different types of cases.

Regulation 2 amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) to give effect to the provisions set out in the Schedule. By virtue of regulation 3, the right to deduct under the existing provisions of the Claims and Payments Regulations will be phased out.

The Schedule provides for deduction from specified benefits and payment to the persons with care (paragraph 2), deduction of £1 per week in respect of arrears (paragraph 3), apportionment of the amount deducted between persons with care (paragraph 4), deductions limited to £5 where partners (or parties to a polygamous marriage) are liable for flat rate maintenance (paragraphs 5 and 6) and notice requirements (paragraph 7).

Article 40(2) of the Child Support (Northern Ireland) Order 1991, one of the enabling provisions under which these Regulations are made, was substituted by section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000. Section 20 of that Act was brought into operation, for the purpose only of making regulations, on 22nd November 2000 by virtue of the Child Support Pensions and Social Security (2000 Act) (Commencement No. 1) Order (Northern Ireland) 2000 (S.R. 2000 No. 358 (C. 16)).

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose a charge on business.

Published and printed in the UK by The  
Stationery Office Limited  
under the authority and  
superintendence of Carol  
Tullo, Controller of  
Her Majesty's Stationery  
Office being the Government  
Printer for Northern Ireland and  
the Officer appointed to print the  
Acts of the Northern Ireland Assembly  
Dd. 703070. C2. 1/01. Gp. 130. 14567.  
£2.00