

2013 No. 190

FAMILY LAW

CHILD SUPPORT

SOCIAL SECURITY

**The Child Support and Claims and Payments (Miscellaneous
Amendments and Change to the Minimum Amount of Liability)
Regulations (Northern Ireland) 2013**

Made - - - - *10th July 2013*

Coming into operation in accordance with regulation 1

Approved by resolution of the Assembly on 4th November 2013

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 16(1), 38E, 40, and 48(4) of, and paragraphs 3(2) and 10A(1)(b) of Schedule 1, paragraphs 4(1) and 5 of Schedule 4B to, the Child Support (Northern Ireland) Order 1991(a), and section 5(1)(q) of the Social Security Administration (Northern Ireland) Act 1992(b), and now vested in it(c).

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support and Claims and Payments (Miscellaneous Amendments and Change to the Minimum Amount of Liability) Regulations (Northern Ireland) 2013.

(2) These Regulations come into operation in relation to a case to which the new calculation rules apply on the day which paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008(d) (calculation by reference to gross weekly income) comes into operation for all purposes.

(a) S.I. 1991/2628 (N.I. 23); Article 16(1) was amended by section 12 of, and is amended by paragraph 16 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and by Schedule 5 to the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.)); Article 38E was inserted by section 24 of the Child Maintenance Act (Northern Ireland) 2008; Article 40 was amended by paragraph 25 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and is substituted by section 20 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; paragraph 3(2) of Schedule 1 is substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; paragraph 10A(1)(b) is substituted by section 1(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and was amended by paragraph 1(26) of Schedule 4 to the Child Maintenance Act (Northern Ireland) 2008; Schedule 4B was inserted by Article 3(3) and Schedule 2 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and is substituted by section 6 and Schedule 2 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(b) 1992 c. 8

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

(d) 2008 (c. 10 (N.I.))

(3) In paragraph (2), “a case to which the new calculation rules apply” means a case in which liability to pay child support maintenance is calculated in accordance with Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991 (calculation of weekly amount of child support maintenance) as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008.

Amendment of the Child Support Order

2. Paragraph 5A(2) of Schedule 1 to the Child Support (Northern Ireland) Order 1991(a) (non-resident party to other maintenance arrangement) shall have effect as if for “£5” there is substituted “£7”.

Amendment of the Social Security (Claims and Payments) Regulations

3. In paragraphs 5(2) and 6(2) of Schedule 8C to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b) (deductions from benefit in respect of child support maintenance and payment to persons with care)—

- (a) for “£5” substitute “the flat rate of maintenance”, and
- (b) after Regulations” insert “or regulation 43(3) of the Child Maintenance Calculation Regulations (Northern Ireland) 2012(c).”

Amendment of the Child Support Information Regulations

4. In regulation 9A(9) of the Child Support Information Regulations (Northern Ireland) 2008(d) (duty to notify increase in current income), for “£5” substitute “£7”.

Amendment of the Child Support (Management of Payments and Arrears) Regulations

5. In regulation 13F of the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009(e) (circumstances in which the Department may exercise the power in Article 38E of the Order), after paragraph (a) insert—

“(aa) the person with care, has died;”.

(a) Part 1 of Schedule 1 is substituted by section 1(3) of and Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 5A is inserted by paragraph 5 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008

(b) S.R. 1987 No. 465; Schedule 8C was inserted by regulation 2(3) of S.R. 2001 No. 22

(c) S.R. 2012 No. 427

(d) S.R. 2008 No. 403; regulation 9A was inserted by regulation 8(4) of S.R. 2012 No. 438

(e) S.R. 2009 No. 422; regulation 13F was inserted by regulation 2 of S.R. 2012 No. 439

Amendment of the Child Support Maintenance Calculation Regulations

6.—(1) The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012 are amended as follows.

(2) In regulation 42 (reduced rate), for the Table substitute—

	“Number of relevant other children of the non-resident parent	T (%)
1 qualifying child of the non-resident parent	0	17.0
	1	14.1
	2	13.2
	3 or more	12.4
2 qualifying children of the non-resident parent	0	25.0
	1	21.2
	2	19.9
	3 or more	18.9
3 or more qualifying children of the non-resident parent	0	31.0
	1	26.4
	2	24.9
	3 or more	23.8”

(3) In regulation 68 (non-resident parent with unearned income)—

(a) In paragraph (5), at the end of sub-paragraph (a) omit “or” and after sub-paragraph (b) insert—

“; or

(c) the Department is unable, for whatever reason, to request or obtain the information from HMRC,”;

(b) after paragraph (7) add—

“(8) Subject to paragraph (9), where the non-resident parent makes relievable pension contributions, which have not been otherwise taken into account for the purposes of the maintenance calculation, there is to be deducted from the additional weekly income calculated in accordance with paragraph (7) an amount determined by the Department as representing the weekly average of those contributions.

(9) An amount must only be deducted in accordance with paragraph (8) where the relievable pension contributions referred to in that paragraph relate to the same tax year that has been used for the purposes of determining the additional weekly income.”.

(4) In regulation 69(1)(c) (non-resident parent on a flat rate or nil rate with gross weekly income), omit “equal to or”.

(5) In regulation 73 (effect on maintenance calculation – general), after paragraph (1) insert—

“(1A) Where the application of a variation agreed to (or of the aggregate of variations agreed to) would decrease the amount of child support maintenance payable by the non-resident parent to less than the figure equivalent to the flat rate referred to in paragraph 4(1) of Schedule 1 (or in that sub-paragraph as modified by regulations under paragraph 10A of that Schedule), the non-resident parent is instead liable to pay child support maintenance at a rate equivalent to that flat rate apportioned if appropriate as provided in paragraph 6 of Schedule 1.”.

Sealed with the Official Seal of the Department for Social Development on 10th July 2013

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Support (Northern Ireland) Order 1991, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, the Child Support Information Regulations (Northern Ireland) 2008, the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009 and the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012.

Regulation 2 makes a consequential amendment to Schedule 1 to the Child Support (Northern Ireland) Order 1991 (“the Order”) arising from the increase to the flat rate of child support maintenance from £5 to £7 for cases in which liability for child support maintenance is calculated under Part 1 of Schedule 1 to the Order as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 (the “2012 scheme rules”). The flat rate of child support maintenance was increased from £5 to £7 by paragraph 4 of Schedule 1 and paragraph 1(24) of Schedule 4 to the Child Maintenance Act (Northern Ireland) 2008 for cases subject to the 2012 scheme rules.

Regulations 3 and 4 also make consequential amendments arising from the increase to the flat rate of child support maintenance from £5 to £7.

Regulation 5 adds to the list of circumstances in which the Department may exercise the power in Article 38E(1) of the Order.

Regulation 6 amends provisions of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012 as they relate to the reduced rate provisions and variations. Paragraph (2) substitutes the table contained in regulation 42 concerning the calculation of the reduced rate of child support maintenance as a consequence of the increase to the flat rate from £5 to £7. Paragraph (3)(a) amends regulation 68 so that, in cases where the Department is unable to request or obtain information from Her Majesty’s Revenue and Customs, the Department can determine the amount of the non-resident parent’s unearned income by reference to the most recent tax year, based, as far as possible, on information that would be required to be provided in a self-assessment tax return. Paragraph (3)(b) amends regulation 68 so that relievable pension contributions can be taken account of for the purposes of calculating unearned income. Paragraph (4) amends regulation 69 so that a case can be subject to a variation in circumstances where the nil rate or the flat rate apply and the non-resident parent has a gross weekly income of more than £100 per week. Paragraph (5) amends regulation 73 so that, where the application of a variation would otherwise decrease the amount payable to less than the flat rate, the non-resident parent will be liable to pay child support maintenance at a rate equal to the flat rate.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions 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, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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£4.00

N5974 11/2013 435974T 19585

ISBN 978-0-337-99216-2



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