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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 400**

**FAMILY LAW**  
**CHILD SUPPORT**

**The Child Support (Miscellaneous Amendments  
No. 2) Regulations (Northern Ireland) 1998**

*Made - - - - 18th November 1998*

*Coming into operation 7th December 1998*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 18, 23, 47 and 48(4) of the Child Support (Northern Ireland) Order 1991(1) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1998 and shall come into operation on 7th December 1998.

**Amendment of the Child Support (Maintenance Assessment Procedure) Regulations**

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(2) shall be amended in accordance with paragraphs (2) to (11).

(2) In regulation 8B(3) (review of an interim maintenance assessment)—

(a) in paragraph (1) after “child support officer” there shall be inserted “in respect of a maintenance assessment the effective date of which is on or before 8th December 1996”;

(b) in paragraph (4) for “Article 18 or” there shall be substituted “Article 18 of the Order of a maintenance assessment the effective date of which is on or before 8th December 1996 or a review under Article”.

(3) In regulation 9(4) (cancellation of an interim maintenance assessment), in paragraphs (1)(c), (15) and (16) for “Article 18,” there shall be substituted “Article 18 of the Order of a maintenance assessment the effective date of which is on or before 8th December 1996 or a review under Article”.

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(1) [S.I. 1991/2628 \(N.I. 23\)](#); Article 18 was substituted by Article 40 of, and Article 47 was amended by paragraph 31 of Schedule 6 to, the Social Security (Northern Ireland) Order 1998 ([S.I. 1998/1506 \(N.I. 10\)](#))

(2) [S.R. 1992 No. 340](#); relevant amending regulations are [S.R. 1994 No. 37](#), [S.R. 1995 Nos. 19, 162 and 475](#) and [S.R. 1996 Nos. 317 and 541](#)

(3) Regulation 8B was inserted by regulation 3(3) of [S.R. 1995 No. 475](#)

(4) Regulation 9 was substituted by, and regulation 9A was inserted by, regulation 3(4) of [S.R. 1995 No. 475](#)

(4) In regulation 9A(5) (application for cancellation of an interim maintenance assessment) for “Article 18 and” there shall be substituted “Article”.

(5) In regulation 10 (notification of a new or a fresh maintenance assessment)–

(a) in paragraph (1)(a)(5) for “Article 18,” there shall be substituted “Article 18 of the Order of a maintenance assessment the effective date of which is on or before 8th December 1996 or a review under Article”;

(b) after paragraph (1) there shall be inserted the following paragraphs–

“(1A) Where the Department makes a fresh maintenance assessment on a revision under Article 18 of the Order, it shall immediately notify the relevant persons, so far as that is reasonably practicable, of the amount of the child support maintenance under that assessment.

(1B) Where a fresh Category A, Category C or Category D interim maintenance assessment is made, on a revision under Article 18 of the Order, a notification under paragraph (1A) shall set out, in relation to that interim maintenance assessment, the maintenance requirement and the effective date and shall include information as to Articles 18 to 21(1) of the Order.

(1C) Where a fresh maintenance assessment is made on a revision under Article 18 of the Order, a notification under paragraph (1A) shall include information as to Articles 18, 19 and 20 of the Order.”;

(c) in paragraph (2A)(6) for “Article 18 or” there shall be substituted “Article 18 of the Order of a maintenance assessment the effective date of which is on or before 8th December 1996 or a review under Article”;

(d) in paragraph (4)(7)–

(i) in sub-paragraph (a) for “, Articles 18, 19 and 20 of the Order” there shall be substituted “of a maintenance assessment the effective date of which is on or before 8th December 1996, Articles 19 and 20 of the order”;

(ii) in sub-paragraph (b) for “Articles 18 and” there shall be substituted “Article”;

(iii) in sub-paragraphs (d) and (e)(8) “18,” shall be omitted;

(e) in paragraph (5)(9) for “Article 18 or 21(1) of the Order” there shall be substituted “Article 18 of the Order of a maintenance assessment the effective date of which is on or before 8th December 1996 or under Article 21(1) of the Order”, and for “Articles 18 and” there shall be substituted “Article”;

(f) in paragraph (6)(10) for “Article 18 and” there shall be substituted “Article”.

(6) In regulation 11 (notification of a refusal to conduct a review) after paragraph (2)(11) there shall be added the following paragraph–

“(2A) Where the Department refuses an application for a revision of a decision under Article 18 of the Order, it shall immediately notify the applicant, so far as that is reasonably practicable, and shall give the reasons for its refusal in writing.”.

(7) In regulation 16 (intervals between periodical reviews and notice of a periodical review) after paragraph (7) there shall be added the following paragraph–

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(5) Paragraph (1)(a) was substituted by regulation 50(a) of S.R. 1996 No. 541

(6) Paragraph (2A) was inserted by regulation 4(4) of S.R. 1995 No. 19 was amended by regulation 8(4) of S.R. 1995 No. 162

(7) Paragraph (4) was amended by regulation 4(4)(c) of S.R. 1995 No. 19

(8) Paragraph (4)(d) was inserted by regulation 4 of S.R. 1994 No. 37 and paragraph (4)(e) was inserted by regulation 50(e) of S.R. 1996 No. 541

(9) Paragraph (5) was added by regulation 4(4) of S.R. 1995 No. 19 and amended by regulation 8(4) of S.R. 1995 No. 162

(10) Paragraph (6) was inserted by regulation 50(f) of S.R. 1996 No. 541

(11) Paragraph (2) was substituted by regulation 8(5) of S.R. 1995 No. 162

“(8) Nothing in this Part requires a review of a maintenance assessment which has not been in force for 104 weeks before 7th December 1998.”

(8) After Part V (periodical reviews) there shall be inserted the following Part—

## “Part VA

### Revision of decisions

#### **Circumstances in which decisions may be revised**

**17A.**—(1) An application may be made for a revision of, or the Department may decide on its own initiative to revise, a decision described in paragraph (2) and referred to in this Part as a “relevant decision”.

(2) A decision for the purposes of paragraph (1) is a maintenance assessment made under Article 13 (maintenance assessments) or 14 (interim maintenance assessments) of the Order<sup>(12)</sup> in respect of which—

- (a) an application for a review has been made under Article 20 (reviews of decisions of child support officers) of the Order<sup>(13)</sup>; and
- (b) an appeal to a child support appeal tribunal has been made under Article 22 (appeals) of the Order<sup>(14)</sup> either on a review under Article 20 of the Order or in respect of a refusal of such a review.

#### **Procedure**

**17B.**—(1) Where notice of an appeal referred to in regulation 17A(2)(b) has been received by the Department in accordance with regulations made under Article 23 (child support appeal tribunals) of the Order it shall acknowledge receipt in writing and notify the other relevant persons in writing of the receipt and such acknowledgement or notification shall include information as to the ability for the decision to be revised under Article 18 of the Order, including any time limits for such a revision.

(2) An application under Article 18(1)(b) of the Order for revision of a relevant decision may be made by any party to the appeal referred to in regulation 17A(2)(b) and shall be made in writing to the Department within the period of 28 days beginning with the date of receipt of the acknowledgement or notification, as the case may be, referred to in paragraph (1).

(3) Where an application is received by the Department under paragraph (2), or where it is on its own initiative considering whether to revise a relevant decision, the Department shall consider whether in its opinion the relevant decision as made in ignorance of a fact or based on a mistake as to a fact or was wrong in law.

(4) The Department shall give 14 days' notice of its intention to revise the decision to the relevant persons and invite representations, either in person or in writing, from the relevant persons on any matter relating to the relevant decision within 14 days of the date on which the notice of the intention to revise was given.

(5) Subject to paragraph (6), where the Department—

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(12) Articles 13 and 14 were amended by the [Child Support \(Northern Ireland\) Order 1995 \(S.I. 1995 No. 2702 \(N.I. 13\)\)](#)

(13) Article 20 was amended by Articles 7 and 8 of, and paragraph 4 of Schedule 3 to, the [Child Support \(Northern Ireland\) Order 1995](#)

(14) Article 22 was amended by Schedule 3 to the [Child Support \(Northern Ireland\) Order 1995](#) and paragraph 9 of Schedule 5 to the [Social Security \(Northern Ireland\) Order 1998](#)

- (a) does not within 14 days of the date on which notice was given receive a request from the relevant person to make representations in person;
- (b) receives a request by the date referred to in sub-paragraph (a) and arranges for an appointment but that appointment is not kept; or
- (c) does not receive written representations from a relevant person within 14 days of the date referred to in sub-paragraph (a),

it may revise the relevant decision in the absence of such representations from that person.

(6) Where the Department is satisfied that there was good reason for failure to keep an appointment, it shall provide for a further opportunity for the making of representations by the relevant person concerned before it revises the relevant decision.

### **Effective date**

**17C.** Where on a revision of a relevant decision in the opinion of the Department the effective date of that decision was based on ignorance of a fact or on a mistake as to a fact or was wrong in law, the effective date of that revised decision shall be a date determined by the Department as being the date which should have been the effective date of the relevant decision.

### **Lapse of appeals**

**17D.—(1)** In the circumstances described in paragraph (2) an appeal referred to in regulation 17A(2)(b) shall not lapse if the relevant decision is revised under Article 18 of the Order before the appeal is determined.

(2) The circumstances for the purposes of paragraph (1) are where—

- (a) in the case of an appeal brought by an absent parent, either the maintenance assessment under the revision is more than the maintenance assessment under the relevant decision or the effective date of the revision is prior to the effective date of the relevant decision; or
- (b) in the case of an appeal brought by a person with care, either the maintenance assessment under the revision is less than the maintenance assessment under the relevant decision or the effective date of the revision is later than the effective date of the relevant decision.”.

(9) In regulation 30(1) and (2)(**15**) (effective dates of maintenance assessments following a review under Article 18 or 19 of the Order) after “a review under Article 18 of the Order” there shall be inserted “of a maintenance assessment the effective date of which is on or before 8th December 1996”.

(10) In regulation 30C(1)(**16**) (provisions as to effective dates of maintenance assessments in specific cases) after “Article 18 of the Order” there shall be inserted “by a child support officer of a maintenance assessment the effective date of which is on or before 8th December 1996, or a revision by the Department under that Article after 6th December 1998”.

(11) In regulation 32(3) (maintenance periods) for “Article 18,” there shall be substituted “Article 18 of the Order by a child support officer of a maintenance assessment the effective date of which is on or before 8th December 1996, or a revision by the Department under that Article after 6th December 1998, or a review under Article ”.

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(15) Regulation 30 was substituted by regulation 3(20) of S.R. 1995 No. 475 and amended by regulation 3(3) of S.R. 1996 No. 317

(16) Regulation 30C was inserted by regulation 3(20) of S.R. 1995 No. 475

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

3. In regulation 10(2) of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(17) (adjustment of the amount payable under a maintenance assessment) for “reviewed under Article 18,” there shall be substituted “in the case of a maintenance assessment the effective date of which is on or before 8th December 1996, reviewed by a child support officer under Article 18 of the Order, or, in the case of any assessment, revised by the Department under Article 18 of the Order after 6th December 1998, or reviewed under Article”.

### **Amendment of the Child Support (Collection and Enforcement) Regulations**

4. In regulation 11(4)(a) of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(18) (protected earnings rate) in heads (i) and (ii) for “Article 18,” there shall be substituted “Article 18 of the Order by a child support officer of a maintenance assessment the effective date of which is on or before 8th December 1996 or a revision by the Department under that Article after 6th December 1998, or a review under Article”.

### **Amendment of the Child Support Departure Direction and Consequential Amendments Regulations**

5.—(1) The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(19) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 11A(b)(20) (meaning of “current assessment” for the purposes of the Order) for “reviewed under Article 18,” there shall be substituted “, in the case of a maintenance assessment the effective date of which is on or before 8th December 1996, reviewed by a child support officer under Article 18 of the order, or, in the case of any assessment, revised by the Department under Article 18 of the Order after 6th December 1998, or reviewed under Article”.

(3) In regulations 33(1) (cancellation of a departure direction following a review under Article 18, 19, 20 or 21 of the order or on a change of circumstances) and 41(6) (child support maintenance payable were effect of a departure direction would be to decrease an absent parent’s assessable income) for “Article 18,” there shall be substituted “Article 18 of the Order by a child support officer of a maintenance assessment the effective date of which is on or before 8th December 1996 or a revision by the Department under that Article after 6th December 1998, or a review under Article”.

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

L.S.

18th November 1998.

*Leslie Frew*  
Assistant Secretary

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(17) S.R. 1992 No. 342; regulation 10 was substituted by regulation 3(3) of S.R. 1995 No. 162

(18) S.R. 1992 No. 390; paragraph (4) was added by regulation 4(7)(b) of S.R. 1995 No. 162

(19) S.R. 1996 No. 541; relevant amending regulations are S.R. 1998 No. 8

(20) Regulation 11A was inserted by regulation 9(5) of S.R. 1998 No. 8

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

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## EXPLANATORY NOTE

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

These Regulations make provision for revision of decisions under Article 18 of the Child Support (Northern Ireland) Order 1991 (“the Order”). Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 ([S.I. No. 1506 \(N.I. 10\)](#)).

Regulation 2(2) to (7) and (9) to (11) makes consequential amendments to the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 ([S.R. 1992 No. 340](#)) (“the Maintenance Assessment Procedure Regulations”) and makes a savings provision for assessments the effective date of which is at least 104 weeks before the coming into operation of these Regulations. These are assessments in respect of which a review would have become due under Article 18 of the Order before the new Article 18 was introduced.

Regulation 2(8) inserts a new Part VA containing regulations 17A to 17D into the Maintenance Assessment Procedure Regulations.

Decisions which can be revised by the Department of Health and Social Services (“the Department”) are described in the inserted regulation 17A. They are maintenance assessments under Article 13 or 14 of the Order which have been reviewed under Article 20 of that Order and are subject to appeal under Article 22 of that Order. Revision under Article 18 of the Order offers an alternative route to resolving a dispute in these cases.

The inserted regulation 17B provides that an application for a revision must be made within 28 days of notification or acknowledgement from the Department of receipt of notice of the appeal; the application must be made to the Department. The Department may also revise a decision on its own initiative.

The inserted regulation 17C sets out the circumstances in which a revised decision is to take effect from a date other than the date of the original decision. This is where the effective date of the original decision is considered to have been wrong.

The inserted regulation 17D provides that the appeal against the decision of the child support officer is not to lapse under Article 18(6) of the Order where the decision is revised under Article 18 before the appeal is determined where the revised decision is a less advantageous decision so far as the appellant is concerned either as regards the amount of the assessment or its effective date.

Regulations 3, 4 and 5 contain consequential amendments and savings provisions in relation to the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992 ([S.R. 1992 No. 342](#)), the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 ([S.R. 1992 No. 390](#)) and the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996 ([S.R. 1996 No. 541](#)).