

1990 No. 375

SOCIAL SECURITY

**The Income Support (Liable Relatives) Regulations
(Northern Ireland) 1990**

Made 11th October 1990

Coming into operation 15th October 1990

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 25A(1) and (11) and 25B(5) of the Social Security (Northern Ireland) Order 1986(a) 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 Income Support (Liable Relatives) Regulations (Northern Ireland) 1990 and shall come into operation on 15th October 1990.

(2) In these regulations—

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(b); and

“the Order” means the Social Security (Northern Ireland) Order 1986.

Prescribed amounts for the purposes of Article 25A of the Order

2.—(1) For the purposes of Article 25A of the Order (recovery of expenditure on income support: additional amounts and transfer of orders) the amount which may be included in the sum which the court may order the other parent to pay under Article 25(4) of the Order shall be the whole of the following amounts which are payable to or for the claimant—

(a) any personal allowance under paragraph 2 of Part I of Schedule 2 to the Income Support Regulations for each of the children whom the other parent is liable to maintain;

(b) any family premium under paragraph 3 of Part II of that Schedule;

(c) any lone parent premium under paragraph 8 of Part III of that Schedule;

(d) any disabled child premium under paragraph 14 of Part III of that Schedule in respect of a child whom the other parent is liable to maintain; and

(a) S.I. 1986/1888 (N.I. 18); Articles 25A and 25B are inserted by Article 10 of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)). Article 81(1) provides for section 155(1) to (3A) of the Social Security (Northern Ireland) Act 1975 (c. 15) (extent of powers) to apply to the regulation-making powers conferred by this Order; the said section 155(3A) was inserted by Article 63(1)

(b) S.R. 1987 No. 459; the relevant amending rules are S.R. 1988 No. 318 and S.R. 1990 Nos. 70, 213 and 346

- (e) any carer premium under paragraph 14ZA of Part III of that Schedule if, but only if, that premium is payable because the claimant is in receipt, or is treated as being in receipt, of an invalid care allowance by reason of the fact that he is caring for a severely disabled child or young person whom the other parent is liable to maintain.

(2) If the court is satisfied that in addition to the amounts specified in paragraph (1) the liable parent has the means to pay, the sum which the court may order him to pay under Article 25(4) of the Order may also include all or some of the amount of any personal allowance payable to or for the claimant under paragraph 1 of Part I of Schedule 2 to the Income Support Regulations.

Prescribed statutory provisions for the purposes of Article 25A(11) of the Order

3. The prescribed statutory provisions for the purposes of Article 25A(11) of the Order are—

- (a) the Maintenance Orders (Facilities for Enforcement) Act 1920(a) in so far as that Act applies to maintenance orders made in a Commonwealth country and registered in, or confirmed by, a court in Northern Ireland under that Act;
- (b) the Matrimonial Causes Act (Northern Ireland) 1939(b);
- (c) the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945(c);
- (d) section 16(2)(a) and (b) of the Maintenance Orders Act 1950(d);
- (e) the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1951(e);
- (f) Part X of the Children and Young Persons Act (Northern Ireland) 1968(f);
- (g) Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972(g) and section 10(5) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(h);
- (h) section 27 of the Judicature (Northern Ireland) Act 1978(i);
- (i) the Matrimonial Causes (Northern Ireland) Order 1978(j);
- (j) the Domestic Proceedings (Northern Ireland) Order 1980(k);
- (k) Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(l).

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- (a) 1920 c. 33
 - (b) 1939 c. 13 (N.I.)
 - (c) 1945 c. 14 (N.I.)
 - (d) 1950 c. 37
 - (e) 1951 c. 7 (N.I.)
 - (f) 1968 c. 34 (N.I.)
 - (g) 1972 c. 18
 - (h) 1966 c. 35 (N.I.)
 - (i) 1978 c. 23
 - (j) S.I. 1978/1045 (N.I. 15)
 - (k) S.I. 1980/563 (N.I. 5)
 - (l) S.I. 1989/677 (N.I. 4)

Notice to the Department of applications to alter etc. maintenance orders

4.—(1) For the purposes of Article 25B(5) of the Order (prescribed person in prescribed circumstances to notify the Department of application to alter etc. a maintenance order) the prescribed person is, and in paragraph (2) that expression means,—

- (i) in relation to the High Court, the Master (Probate and Matrimonial);
- (ii) in relation to a county court, the chief clerk;
- (iii) in relation to a magistrates' court, the clerk of petty sessions.

(2) For the purposes of Article 25B(5) of the Order the prescribed circumstances are that before the final determination of the application the Department has made a written request to the prescribed person that it be notified of any such application, and has not made a written withdrawal of that request.

Sealed with the Official Seal of the Department of Health and Social Services on 11th October 1990.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Articles 25A(1) and (11) and 25B(5) of the Social Security (Northern Ireland) Order 1986 ("the 1986 Order") are the enabling provisions under which these regulations are made. They are inserted by Article 10 of the Social Security (Northern Ireland) Order 1990 and brought into operation on 15th October 1990 by virtue of Article 2(h) of the Social Security (1990 Order) (Commencement No. 1) Order (Northern Ireland) 1990 (S.R. 1990 No. 307 (C. 13)). The regulations are made before the end of a period of 6 months from the commencement of the said Articles 25A(1) and (11) and 25B(5); they are accordingly exempt, by virtue of Article 62(5) of the 1986 Order (as amended by paragraph 11(2) of Schedule 8 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)), from reference to the Social Security Advisory Committee and have not been so referred.

When income support is claimed by or on behalf of a person who another person is liable to maintain, Article 25 of the 1986 Order enables a magistrates' court, on a complaint by the Department, to order the liable person to pay such sum as it considers appropriate. Article 25A of the 1986 Order provides that the sum which may be so ordered to be paid may include an amount, determined in accordance with regulations, in respect of income support paid to or for the claimant under such provisions as may be prescribed. Regulation 2 prescribes the amount and the provisions which are to be taken into account.

Regulation 3 sets out the prescribed statutory provisions for the purposes of maintenance orders referred to in Article 25A(11) of the 1986 Order.

Regulation 4 prescribes, under Article 25B (which enables the Department to enforce a maintenance order which already exists in favour of a claimant for income support), the person who is to give the Department notice of any application to alter etc. such an order, and the circumstances in which such notice is to be given.