

**1993 No. 174 (C. 9)****FAMILY LAW****CHILD SUPPORT****The Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) (Amendment) Order (Northern Ireland) 1993***Made**2nd April 1993*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) to (5) of the Child Support (Northern Ireland) Order 1991(a) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(b) and of all other powers enabling it in that behalf, hereby makes the following order:

*Citation*

1. This order may be cited as the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) (Amendment) Order (Northern Ireland) 1993.

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

2.—(1) The Schedule to the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992(c) shall be amended in accordance with paragraphs (2) and (3).

(2) For Part I (phased take-on of cases) there shall be substituted the following Part—

**“PART I****PHASED TAKE-ON OF CASES**

1.—(1) In this Part—

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

“benefit” means income support, family credit or disability working allowance under Part VII of the Social Security Contributions and

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(a) S.I. 1991/2628 (N.I. 23)

(b) 1974 c. 28

(c) S.R. 1992 No. 467 (C. 20)

Benefits (Northern Ireland) Act 1992(a), or any other benefit prescribed under Article 9(1) of the Order (applications by parents receiving benefit);

“the Matrimonial Causes Rules” means the Matrimonial Causes Rules (Northern Ireland) 1981(b);

“parent with care” means a person who, in respect of the same child or children, is both a parent and a person with care;

“transitional period” means the period beginning with and including 5th April 1993 and ending on 6th April 1997.

(2) For the purposes of paragraph 4, an application for a maintenance order is pending before a court if, before 5th April 1993—

- (i) a summons has been issued in accordance with the Magistrates’ Courts (Domestic Proceedings) Rules (Northern Ireland) 1980(c) or the Matrimonial Causes Rules;
- (ii) notice of application for ancillary relief has been filed in accordance with the Matrimonial Causes Rules;
- (iii) in the case of an application contained in a petition for divorce, nullity or judicial separation, or the answer to it, notice of intention to proceed with it was given, in the form required by the Matrimonial Causes Rules.

2. Subject to paragraph 3, during the transitional period no application under Article 7 of the Order (applications for child support maintenance) in relation to a qualifying child or any qualifying children may be made at any time when—

- (a) there is in force a maintenance order or written maintenance agreement (being an agreement made before 5th April 1993) in respect of that qualifying child or those qualifying children and the absent parent; or
- (b) benefit is being paid to a parent with care of that child or those children.

3.—(1) Paragraph 2 does not apply to an application made—

- (a) in that part of the transitional period beginning with and including 8th April 1996, if the surname of the person with care begins with any of the letters A to D inclusive;
- (b) in that part of the transitional period beginning with and including 1st July 1996, if the surname of the person with care begins with any of the letters E to K inclusive;
- (c) in that part of the transitional period beginning with and including 7th October 1996, if the surname of the person with care begins with any of the letters L to R inclusive; and

(a) 1992 c. 7. Disability working allowance is prescribed for the purposes of Article 9(1) of the Child Support (Northern Ireland) Order 1991 by regulation 33 of S.R. 1992 No. 340

(b) S.R. 1981 No. 184; relevant amending rules are S.R. 1993 No. 134

(c) S.R. 1980 No. 371; relevant amending rules are S.R. 1993 No. 138

- (d) in that part of the transitional period beginning with and including 6th January 1997, if the surname of the person with care begins with any of the letters S to Z inclusive.

4.—(1) For so long as either—

- (a) paragraph 2 operates in a case so as to prevent an application being made under Article 7 of the Order, and no application has been made under Article 9 of the Order; or  
 (b) an application has been made under Article 9 of the Order but no maintenance assessment has yet been made pursuant to that application,

then in relation to that case—

- (i) Article 10(3) of the Order (role of the courts with respect to maintenance orders) shall be modified so as to have effect as if the word “vary” were omitted;  
 (ii) in a case falling within head (a), Article 11(3) of the Order shall not apply; and  
 (iii) Article 11(5) of the Order shall be modified so as to have effect as if paragraph (b) were omitted.

(2) In a case where there is, at any time during the transitional period, pending before a court an application for a maintenance order or an application for an order varying a written maintenance agreement, Article 10(3) or, as the case may be, Article 11(5)(b) of the Order, shall not apply in relation to that case.”.

(3) In paragraph 6—

- (a) in sub-paragraph 1(a) after “4th April 1993” there shall be inserted “, and at all times thereafter until the date when a maintenance assessment is made under the Order,”; and  
 (b) in sub-paragraph (2) for “an interim maintenance assessment” there shall be substituted “a Category A interim maintenance assessment within the meaning of regulation 8(1B) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(a)”.

Sealed with the Official Seal of the Department of Health and Social Services on 2nd April 1993.

(L.S.)

*A. Devlin*

Assistant Secretary

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

This order makes amendments to the transitional provisions contained in the Schedule to the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992 ("the Schedule").

Part I of the Schedule (phased take-on of cases) is substituted. The main differences are—

- (a) a definition of when an application is pending before a court is included in paragraph 1;
- (b) paragraph 2 now applies only where benefit is being paid to a parent with care of a child rather than simply to a parent of that child, and in that paragraph the references to maintenance agreements are now references to written maintenance agreements made before 5th April 1993;
- (c) paragraph 4 now provides that a court may, until such time as a maintenance assessment under the Child Support (Northern Ireland) Order 1991 ("the 1991 Order") is made, vary an existing maintenance order or written agreement, and may also continue to exercise its existing powers where an application for an order is pending when the 1991 Order comes into operation.

Additionally, paragraph 6(1)(a) is amended so that the provisions of Part II (which modify maintenance assessments in certain cases) apply only where one or more of the orders, arrangements or agreements mentioned in that sub-paragraph are in force throughout the period beginning on 4th April 1993 and ending on the date a maintenance assessment is made, and paragraph 6(2) is amended to take account of the introduction of two categories of interim maintenance assessment by regulation 4(3) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993 which inserts new provisions into regulation 8 of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992.