

1993 No. 73

## FAMILY LAW

## CHILD SUPPORT

**The Child Support Fees Regulations (Northern Ireland) 1993**

*Made* . . . . . 23rd February 1993

*Coming into operation* . . . . . 5th April 1993

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 44 of the Child Support (Northern Ireland) Order 1991(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 Child Support Fees Regulations (Northern Ireland) 1993 and shall come into operation on 5th April 1993.

(2) In these regulations—

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

“assessable income” means income calculated in accordance with paragraph 5 of Schedule 1 to the Order;

“assessment fee” means a fee in respect of the assessment of child support maintenance;

“collection fee” means a fee in respect of the Department arranging for the collection of child support maintenance which becomes due, in accordance with a maintenance assessment, after that fee becomes payable, and (if necessary) arranging for the enforcement of the obligation to pay that child support maintenance in accordance with that assessment;

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

*Circumstances where fees are payable*

2. Where a maintenance assessment is made following an application under Article 7 or 9 of the Order fees shall be payable to the Department in accordance with regulations 3 and 4.

*Liability to pay fees*

3.—(1) Subject to paragraphs (4) and (5), where a maintenance assessment is in force the following persons shall be liable to pay fees, in accordance with regulation 4—

- (a) where an application has been made under Article 7 of the Order—
  - (i) the person with care if he is a parent with care, and
  - (ii) the absent parent,
 with respect to whom the assessment was made;

- (b) where an application has been made under Article 9 of the Order and the parent with care remains within Article 9(1) of the Order, the absent parent with respect to whom the assessment was made.

(2) In a case falling within paragraph (1)(a), the fees payable shall be the assessment fee and, where the Department exercises its powers under Article 7(2) of the Order, the collection fee.

(3) In a case falling within paragraph (1)(b), the fees payable shall be the assessment fee and the collection fee.

(4) Where—

- (a) an application has been made under Article 9 of the Order; and
- (b) the parent with care no longer falls within Article 9(1) of the Order but has not requested the Department to cease taking action under Article 9 of the Order,

the case shall for the purposes of paragraph (1) be treated as if the application had been made under Article 7 of the Order.

(5) No fees shall be payable by the following categories of person—

- (a) any person to or in respect of whom income support, family credit or disability working allowance under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) is paid;
- (b) any person under the age of 16 or under the age of 19 and receiving full-time education which is not advanced education;
- (c) any person whose assessable income is nil;
- (d) an absent parent to whom paragraph 6 of Schedule 1 to the Order (protected income) apply.

(6) Paragraph (5) shall—

- (a) be applied in relation to any occasion when a liability to pay fees under regulation 4 would otherwise arise; and
- (b) have no effect on the fees payable by any other person.

(7) For the purposes of paragraph (5)(b), “advanced education” has the same meaning as in paragraph 2 of Schedule 1 to the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(b) (meaning of “child” for the purposes of the Order), and education is to be treated as full-time education if it satisfies the conditions set out in paragraph 3 of that Schedule.

(a) 1992 c. 7

(b) S.R. 1992 No. 340

*Fees*

4.—(1) The first assessment fee shall become payable on the date a maintenance assessment is made following an application under Article 7 or 9 of the Order and an assessment fee shall thereafter become payable on each anniversary of that date.

(2) The first collection fee shall become payable on the date the Department arranges for the collection of child support maintenance and a collection fee shall thereafter become payable on the date the assessment fee becomes payable.

(3) Subject to paragraphs (4) and (6)—

(a) the assessment fee shall be £44.00;

(b) the collection fee shall be £34.00.

(4) Where the first collection fee becomes payable on a date (“the first collection date”) later than the date the first assessment fee becomes payable or an anniversary of that date, the amount of that fee shall be an amount equal to the collection fee specified in paragraph (3)(b), multiplied by the number of complete weeks between the first collection date and the date the assessment fee next becomes payable, and divided by 52.

(5) This regulation in relation to collection fees shall apply where there has been an earlier period, which has terminated, during which collection fees were payable and the Department again arranges for the collection of child support maintenance, and references to “the first collection fee” shall be construed accordingly.

(6) No additional assessment fees or collection fees shall be payable by a person with respect to whom more than one maintenance assessment is in force.

(7) Where a liability to pay assessment fees or collection fees under these regulations arises, the fees shall become due on the fourteenth day after the date the fee invoice is given or sent by the Department.

(8) If a fee invoice is sent by post to a person’s last known or notified address, it shall, for the purposes of paragraph (7), be treated as having been given or sent on the second day after the day of posting, excluding any Sunday or any day which is a bank holiday in England, Wales, Scotland or Northern Ireland under the Banking and Financial Dealings Act 1971(a).

Sealed with the Official Seal of the Department of Health and Social Services on 23rd February 1993.

(L.S.)

*A. Devlin*

Assistant Secretary

## EXPLANATORY NOTE

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

These regulations provide for the payment of fees under the Child Support (Northern Ireland) Order 1991.

Regulation 1 contains interpretation provisions, including definitions of “assessment fee” and “collection fee”.

Regulation 2 provides that where a maintenance assessment is made following an application for an assessment, fees shall be payable in accordance with regulations 3 and 4.

Regulation 3 prescribes who is liable to pay fees and which fees are payable, and lists the categories of person who are exempted from paying fees.

Regulation 4 prescribes when the assessment and the collection fees become payable, and the amounts of those fees.

Article 44 of the Child Support (Northern Ireland) Order 1991 is the enabling provision under which these regulations are made. It is brought into operation on 18th June 1992 by the Child Support (1991 Order) (Commencement No. 1) Order 1992 (S.R. 1992 No. 278 (C. 13)).