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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 541**

**The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996**

**Part IV**

**Property or Capital Transfers**

**Prescription of certain terms for the purposes of paragraphs 3 and 4 of Schedule 4B to the Order**

**21.**—(1) For the purposes of paragraphs 3(1)(a) and 4(1)(a) of Schedule 4B to the Order—

(a) a court order means an order made—

(i) under one or more of the statutory provisions listed in or prescribed under Article 10(11) of the Order, and

(ii) in connection with the transfer of property of a kind defined in paragraph (2);

(b) an agreement means a written agreement made in connection with the transfer of property of a kind defined in paragraph (2).

(2) Subject to paragraphs (3) to (5), for the purposes of paragraphs 3(1)(b) and 4(1)(b) of Schedule 4B to the Order, a transfer of property is a transfer by the absent parent of his beneficial interest in any asset to the person with care, to a child in respect of whom the current assessment was made, or to trustees where the object or one of the objects of the trust is the provision of maintenance.

(3) Where a transfer of property would not originally have fallen within paragraph (2) but the Department is satisfied that some or all of the amount of that property transferred was subsequently transferred to the person currently with care of a child in respect of whom the current assessment was made, the transfer of that property to the person currently with care shall count as a transfer of property for the purposes of paragraphs 3(1)(b) and 4(1)(b) of Schedule 4B to the Order.

(4) Where, if the Order had been in operation at the time a transfer of property falling within paragraph (2) was made, the person who, at the time the application is made is the person with care would have been the absent parent and the person who, at the time the application is made is the absent parent would have been the person with care, that transfer shall not count as a transfer of property for the purposes of this regulation.

(5) For the purposes of paragraph 3(3) of Schedule 4B to the Order, the effect of a transfer of property is properly reflected in the current assessment if—

(a) the amount of child support maintenance payable under any fresh maintenance assessment which would be made in consequence of a departure direction differs from the amount of child support maintenance payable under that current assessment by less than £1·00; or

(b) the transfer referred to in paragraph (2) was for a specified period only and that period ended before the effective date of any departure direction which would otherwise have been given.

**Value of a transfer of property and its equivalent weekly value for a case falling within paragraph 3 of Schedule 4B to the Order**

22.—(1) Where the conditions specified in paragraph 3(1) of Schedule 4B to the Order are satisfied, the value of a transfer of property for the purposes of that paragraph shall be that part of the transfer made by the absent parent (making allowance for any transfer by the person with care to the absent parent) which the Department is satisfied is in lieu of maintenance.

(2) The Department shall, in determining the value of a transfer of property in accordance with paragraph (1), assume that, unless evidence to the contrary is provided to it—

- (a) the person with care and the absent parent had equal beneficial interests in the assets in relation to which the court order or agreement was made;
- (b) where the person with care was married to the absent parent, one half of the value of the transfer was a transfer for the benefit of the person with care; and
- (c) where the person with care has never been married to the absent parent, none of the value of the transfer was a transfer for the benefit of the person with care.

(3) The equivalent weekly value of a transfer of property shall be determined in accordance with the provisions of the Schedule.

(4) For the purposes of regulation 21 and this regulation, the term “maintenance” means the normal day-to-day living expenses of the child with respect to whom the current assessment was made.