
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 541

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

Part XII

Consequential Amendments

Amendment of the Child Support (Information, Evidence and Disclosure) Regulations

49.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(1) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 8 (disclosure of information to a court or tribunal)—

(a) the existing provision shall be numbered as paragraph (1);

(b) after paragraph (1) there shall be added the following paragraph—

“(2) For the purposes of this regulation “proceedings” includes the determination of an application referred to a child support appeal tribunal under Article 28D(1)(b) of the Order.”.

(3) In regulation 9A(2)(2) (disclosure of information to other persons) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) the personal representative of a relevant person where—

(i) a review of appeal was pending at the date of death of that person and the personal representative is dealing with that review or appeal on behalf of that person, or

(ii) an application for a departure direction had been made but not determined at the date of death of that person and the personal representative is dealing with that application on behalf of that person;”.

(4) In regulation 10(1)(3) (disclosure of information by the Department) for “or in connection with an assessment which is or has been in force” there shall be substituted “, an assessment which is or has been in force or in connection with a departure direction”.

(5) In regulation 10A(2)(4) (disclosure of information by a child support officer) the words “or in connection with” shall be omitted and at the end there shall be added “or in connection with a departure direction”.

Amendment of the Maintenance Assessment Procedure Regulations

50. In regulation 10 of the Maintenance Assessment Procedure Regulations (notification of a new or a fresh maintenance assessment)—

(1) [S.R. 1992 No. 339](#); relevant amending regulations are [S.R. 1995 Nos. 162](#) and [475](#)

(2) Regulation 9A was inserted by regulation 6(4) of [S.R. 1995 No. 162](#)

(3) Regulation 10 was substituted by regulation 2(7) of [S.R. 1995 No. 475](#)

(4) Regulation 10A was inserted by regulation 2(7) of [S.R. 1995 No. 475](#)

- (a) in paragraph (1)(5) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—
- “(a) makes a new or fresh maintenance assessment following an application under Article 7 or 9 of the Order(6), a review under Article 18, 19, 20 or 21 of the Order(7), or the giving or cancellation of a departure direction;
- (b) makes a new interim maintenance assessment under Article 14 of the Order, substitutes an interim maintenance assessment for one which is in force in accordance with regulation 8 or 9, or gives or cancels a departure direction; or”;
- (b) in paragraph (2) after sub-paragraph (h)(8) there shall be added the following sub-paragraph—
- “(i) where the notification under paragraph (1)(a) or (b) follows the giving, or cancellation of a departure direction, the amounts calculated in accordance with Part I of Schedule 1 to the Order, or in accordance with regulation 8A, which have been changed as a result of the giving or cancellation of that departure direction.”;
- (c) after paragraph (2A)(9) there shall be inserted the following paragraph—
- “(2AA) Where a fresh Category D interim maintenance assessment is made following the giving or cancellation of a departure direction, a notification under paragraph (1) shall set out in relation to that interim maintenance assessment the amounts calculated in accordance with regulation 8A which have changed as a result of the giving or cancellation of that departure direction.”;
- (d) in paragraph (2B)(10) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—
- “(a) the matters listed in paragraph (2)(a), (b) and (d) to (f);
- (b) where known, the absent parent’s assessable income; and
- (c) where the Category B interim maintenance assessment is made following the giving or cancellation of a departure direction, the amounts calculated in accordance with regulation 8A which have changed as a result of the giving or cancellation of that departure direction.”;
- (e) in paragraph (4) after sub-paragraph (d)(11) there shall be added the following sub-paragraph—
- “(e) where a fresh maintenance assessment is made following the giving of a departure direction, Articles 18, 19 and 20 of the Order.”; and
- (f) after paragraph (5)(12) there shall be added the following paragraph—
- “(6) Where a fresh Category D interim maintenance assessment is made following the giving or cancellation of a departure direction, a notification under paragraph (1) shall include information as to Articles 18 and 21(1) of the Order.”.

(5) Paragraph (1) was substituted by regulation 8(4)(a) of S.R. 1995 No. 162

(6) Article 7 was amended by Article 12(1) of the Child Support (Northern Ireland) Order 1995 (S.I.1995/2702 (N.I. 13)) and Article 9 was amended by paragraph 4(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

(7) Articles 19 to 21 were amended by Articles 6 to 9 of, and paragraph 4 of Schedule 3 to, the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))

(8) Sub-paragraph (h) was added by regulation 3(5)(b)(iv) of S.R. 1995 No. 475

(9) Paragraph (2A) was inserted by regulation 4(4)(b) of S.R. 1995 No. 19

(10) Paragraph (2B) was inserted by regulation 8(4)(d) of S.R. 1995 No. 162

(11) Sub-paragraph (d) was added by regulation 4(2) of S.R. 1994 No. 37

(12) Paragraph (5) was added by regulation 4(4)(d) of S.R. 1995 No. 19

Amendment of the Maintenance Assessments and Special Cases Regulations

51.—(1) The Maintenance Assessments and Special Cases Regulations shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2) after the definition of “day to day care”**(13)** there shall be inserted the following definition—

““Departure Direction and Consequential Amendments Regulations” means the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996;” and

(b) in paragraph (3) at the beginning there shall be inserted “These Regulations are subject to the provisions of Parts VIII and IX of the Departure Direction and Consequential Amendments Regulations and”.

(3) In regulation 9(2)(c) (exempt income: calculation or estimation of E) after head (iv) there shall be added the following head**(14)**—

“(v) where a departure direction has been given on the grounds that a case falls within regulation 27 of the Departure Direction and Consequential Amendments Regulations (partner’s contribution to housing costs), the amount of the housing costs which corresponds to the percentage of the housing costs mentioned in regulation 40(7) of those Regulations.”.

(4) In regulation 22(2)**(15)** (multiple applications relating to an absent parent)—

(a) after “and in these Regulations” there shall be inserted “, and subject to paragraph (2ZA),”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(2ZA) Where a case falls within regulation 39(1)(a) of the Departure Direction and Consequential Amendments Regulations, for the purposes of assessing the amount of child support maintenance payable in respect of an application for child support maintenance before a departure direction in respect of the maintenance assessment in question is given, for references to the assessable income of an absent parent in the Order and in these Regulations there shall be substituted references to the amount calculated by the formula—

$$\frac{B}{(A + T) \times \dots}$$

D

where, A, T, B and D have the same meanings as in paragraph (2).”.

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

52. In regulation 10(2) of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992**(16)** (adjustment of the amount payable under a maintenance assessment) after “subsequently” there shall be inserted “revised as a result of a departure direction having been given or”.

(13) The definition of “day to day care” was substituted by regulation 9(2)(a) of S.R. 1995 No. 162

(14) The original head (v) was omitted by regulation 9(5)(b) of S.R. 1995 No. 162

(15) Paragraph (2) was substituted by regulation 9(11) of S.R. 1995 No. 162

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

Amendment of the Child Support Appeal Tribunals (Procedure) Regulations

53.—(1) The Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993⁽¹⁷⁾ shall be amended in accordance with paragraphs (2) to (11).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in the definition of “party to the proceedings”—

(i) in sub-paragraph (c) after “officer” there shall be inserted “except where the proceedings relate only to an appeal under Article 28H of the Order or to a referral”;

(ii) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(cc) the Department where the proceedings relate to an appeal under Article 28H of the Order;”;

(b) in the definition of “proceedings” for “or application” there shall be substituted “, application or referral”;

(c) after the definition of “proceedings” there shall be inserted the following definition—

““referral” means a reference by the Department to a tribunal under Article 28D(1)(b) of the Order;” and

(d) in the definition of “tribunal” after “Article 23 of” there shall be inserted “or regulations made under paragraph 9 of Schedule 4A to,”.

(3) In regulation 3 (making an appeal or application and time limits)—

(a) in paragraph (1)(a)⁽¹⁸⁾ after “Article 22(1)” there shall be inserted “, 28H(1)”; and

(b) in paragraph (5) for “as the case may be, paragraph (4)” there shall be substituted “(4) or in Article 22(2) or 28H(3) of the Order, as the case may be”.

(4) In regulation 5⁽¹⁹⁾ (directions)—

(a) in paragraph (1) after “a chairman may” there shall be inserted “, subject to paragraph (3),”;

(b) in paragraph (2) after “may” there shall be inserted “, subject to paragraph (3),” and

(c) after paragraph (2) there shall be added the following paragraphs—

“(3) In the case of an appeal under Article 28H of the Order or of a referral, as the case may be, a direction requiring the Department to provide information shall have effect only if that information is information of which it is aware or which it has in its possession in connection with its functions under the Order.

(4) Where a chairman is considering whether to give a direction under paragraph (1) or the terms of any direction, he may direct that an oral hearing be held by a tribunal to determine whether a direction shall be given under that paragraph and the terms of any direction which may be given.

(5) The provisions of these Regulations shall apply to a hearing held under the provisions of paragraph (4).”.

(5) In regulation 6 after paragraph (1B)⁽²⁰⁾ (striking out of proceedings) there shall be inserted the following paragraph—

“(1C) In the case of an appeal under Article 28H of the Order, no direction shall be given under paragraph (1B) requiring the Department to provide information other than information of which it is aware of which it has in its possession in connection with its functions under the Order.”.

⁽¹⁷⁾ S.R. 1993 No. 50; relevant amending regulations are S.R. 1995 No. 162 and S.R. 1996 Nos. 24 and 457

⁽¹⁸⁾ Paragraph (1) was substituted by regulation 2(3) of S.R. 1995 No. 162

⁽¹⁹⁾ Regulation 5 was amended by regulation 2(3) of S.R. 1996 No. 457

⁽²⁰⁾ Paragraph (1B) was inserted by regulation 2(4)(b) of S.R. 1996 No. 457

- (6) In regulation 7 (withdrawal of appeals and applications)—
- (a) in paragraph (1)(b)(21) in heads (i) and (ii) after “child support officer” there shall be inserted “or, in the case of an appeal under Article 28H of the Order, the Department”; and
 - (b) in paragraph (1A)(22) after “child support officer” there shall be inserted “or, in the case of an appeal under Article 28H of the Order, the Department”.
- (7) In regulation 10(1) (summoning of witnesses) for the words “appeal or application” wherever they appear there shall be substituted “appeal, application or referral”.
- (8) In regulation 11(23) (hearings)—
- (a) in paragraphs (1), (2A) and (2B) for the words “appeal or application” wherever they appear there shall be substituted “appeal, application or referral”; and
 - (b) in paragraph (8) after sub-paragraph (d) there shall be inserted the following sub-paragraph—
—
“(dd) any person undergoing training to enable him to act in the name of the Department in relation to applications for a departure direction under Article 28A of the Order and any person acting on behalf of the Department in the training or supervision of persons undergoing that training or in the monitoring of standards of decisions made by persons on behalf of the Department in relation to those applications;”.
- (9) After regulation 11 there shall be inserted the following regulations—

“Hearing by chairman sitting alone

11A.—(1) The prescribed circumstances for the purpose of paragraph 9 of Schedule 4A to the Order (child support appeal tribunals) are—

- (a) in relation to a referral, where an application has been made on the grounds set out in paragraph 3 or 4 of Schedule 4B to the Order;
- (b) in relation to an appeal under Article 28H of the Order, where that appeal is against the rejection of an application by the Department under Article 28B(2) of the Order or a decision of the Department on an application made on the grounds set out in paragraph 3 or 4 of Schedule 4B to the Order; or
- (c) in relation to an appeal under Article 28H of the Order or to any referral, where a chairman has directed that an oral hearing be held by a tribunal under regulation 5(4).

(2) Where the circumstances set out in paragraph (1)(a), (b) or (c) apply, a chairman may decide that the appeal or referral shall be dealt with by a tribunal constituted by the chairman of the tribunal sitting alone.

Consideration of more than one appeal under Article 28H of the Order

11B. A tribunal which is considering an appeal under Article 28H of the Order in respect of a departure direction which relates to a maintenance assessment may, if it considers it appropriate to do so, consider at the same time any appeal under that Article in respect of another departure direction which relates to the same maintenance assessment.”.

- (10) In regulation 13(24) (decisions)—

(21) Sub-paragraph (b) was substituted by regulation 2(5)(a) of S.R. 1996 No. 457

(22) Paragraph (1A) was inserted by regulation 2(5)(b) of S.R. 1996 No. 457

(23) Regulation 11(1) was amended by regulation 2(7) of S.R. 1996 No. 457

(24) Regulation 13 was amended by regulation 3 of S.R. 1996 No. 24 and regulation 2(8) of S.R. 1996 No. 457

- (a) in paragraph (3A) for “and of the terms of any direction under Article 22(4) of the Order” there shall be substituted “, of the terms of any direction under Article 22(4) of the Order and of the terms of any decision made by the tribunal under Article 28H(4)(c) of the Order or on a referral”;
 - (b) after paragraph (3E) there shall be inserted the following paragraph—
 - “(3F) Paragraphs (1) and (3D) shall not apply where the tribunal is constituted in accordance with the provisions of regulation 11A.”; and
 - (c) for paragraph (4) there shall be substituted the following paragraph—
 - “(4) A child support officer may apply to the tribunal or another tribunal for directions or further directions and the tribunal may give such directions or further directions as it thinks fit where the child support officer—
 - (a) to whom a case is referred by the Department under Article 22(3) of the Order (procedure following a successful appeal) is uncertain, having regard to the terms of the decision and of any directions contained in it, how he should deal with the case; or
 - (b) who has been notified of a decision of a tribunal on an appeal under Article 28H of the Order or on a referral is uncertain, having regard to the terms of that decision or of any departure direction given by that tribunal, how he should deal with the case.”.
- (11) In regulation 14 (corrections)—
- (a) in paragraph (1) after “Subject to” there shall be inserted “paragraph (3) and”; and
 - (b) after paragraph (2) there shall be added the following paragraph—
 - “(3) Paragraphs (1) and (2) shall not apply to referrals.”.