
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 152

FAMILY LAW
CHILD SUPPORT

**The Child Support (Miscellaneous Amendments)
Regulations (Northern Ireland) 1999**

Made - - - - 26th March 1999
Coming into operation in accordance with
regulation 1(2) and (3)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3, 16(3), 32(8) and (9), 39(1), 44, 47 and 48(4) of, and paragraph 5(1) and (2) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(1) 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 (Miscellaneous Amendments) Regulations (Northern Ireland) 1999.

(2) Subject to paragraph (3), these Regulations shall come into operation on 6th April 1999.

(3) Regulations 2(2) and 4(2)(a) and (5)(a) to (d) shall come into operation on 4th October 1999.

(4) In these Regulations—

“the first commencement day” means 6th April 1999;

“the second commencement day” means 4th October 1999.

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

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(2) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 3(2)(h) (purposes for which information or evidence may be required) after “name,” there shall be inserted “the total taxable profits derived from his employment as a self-employed earner, as submitted to, or as issued to him by, the Board of Commissioners of Inland Revenue,”.

(1) S.I. 1991/2628 (N.I. 23); Article 44 was amended by paragraph 11 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))

(2) S.R. 1992 No. 339; relevant amending regulations are S.R. 1995 Nos. 162 and 475

(3) Regulation 9 (disclosure of information to an appropriate authority for use in the exercise of housing benefit functions) is hereby revoked.

(4) In regulation 9A(1)(3) (disclosure of information to other persons) for “given to them by” there shall be substituted “held by them for the purposes of the Order relating to”.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

3. In Schedule 1 to the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(4) (meaning of “child” for the purposes of the Order)—

(a) in paragraphs 1(1)(a) and (3)(a) and 4(2)(a) after “youth training” there shall be inserted “or work-based training for young people”;

(b) in paragraph 6—

(i) for the definition of “youth training” there shall be substituted the following definition—

““youth training” means—

(a) Jobskills provision or arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950(5) (general functions of Department of Economic Development as to employment and training for employment); or

(b) for the purposes of the application of Council Regulation (EEC) No. 1408/71, any corresponding provisions operated in another member State,

for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.”;

(ii) after the definition of “youth training” there shall be added the following definition—

““work-based training for young people” means arrangements made by the Secretary of State for Defence for persons enlisted in Her Majesty’s forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966(6) (power of Defence Council to make regulations as to engagement of persons in regular forces) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.”.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations

4.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(7) shall be amended in accordance with paragraphs (2) to (6).

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

(a) in the definition of “earnings” for “1 or 3” there shall be substituted “1, 2A or 3”;

(b) after the definition of “the Independent Living (Extension) Fund”(8) there shall be inserted the following definition—

(3) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No. 162 and amended by regulation 2(6) of S.R. 1995 No. 475
(4) S.R. 1992 No. 340; to which there are amendments not relevant to these Regulations
(5) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))
(6) 1966 c. 45; section 2 was amended by section 2 of the Army Act 1992 (c. 39)
(7) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 No. 162, S.R. 1996 Nos. 289 and 590
(8) The definition of “the Independent Living (Extension) Fund” was inserted by regulation 5(2)(e) of S.R. 1993 No. 164

- “the Inland Revenue” means the Board of Commissioners of Inland Revenue;”;
- (c) for the definition of “youth training” there shall be substituted the following definition—
- ““youth training” means Jobskills provision or arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950 (general functions of Department of Economic Development as to employment and training for employment) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.”;
- (d) after the definition of “youth training” there shall be added the following definition—
- ““work-based training for young people” means arrangements made by the Secretary of State for Defence for persons enlisted in Her Majesty’s forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966 (power of Defence Council to make regulations as to engagement of persons in regular forces) for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.”.
- (3) In regulation 7(3)(a) (net income: calculation or estimation of N) after “youth training” there shall be inserted “or work-based training for young people”.
- (4) In regulation 19(4) (both parents are absent) for “parent.” there shall be substituted “parent, or, from the effective date as determined by regulation 29(2) of the Maintenance Assessment Procedure Regulations(9), whichever is the later.”.
- (5) In Schedule 1 (calculation of N and M)—
- (a) at the beginning of Chapter 2 (earnings of a self-employed earner) there shall be inserted the following paragraphs—
- “**2A.**—(1) Subject to paragraphs 2B, 2C, 4 and 5A, “earnings” in the case of employment as a self-employed earner shall have the meaning given in sub-paragraphs (2) to (4).
- (2) “Earnings” means the total taxable profits from self-employment of that earner as submitted to the Inland Revenue, less the following amounts—
- (a) any income tax relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (3);
- (b) any National Insurance Contributions relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (4);
- (c) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the self-employed earner’s home, 37·5 per centum of the contributions payable.
- (3) For the purposes of sub-paragraph (2)(a) the income tax to be deducted from the total taxable profits shall be determined in accordance with the following provisions—
- (a) subject to head (d), an amount of earnings equivalent to any personal allowance applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988(10) (personal reliefs) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the earnings remaining following the application of head (a) (the “remaining earnings”);

(9) Paragraph (2) was substituted by regulation 8(10)(b) of S.R. 1995 No. 162

(10) 1988 c. 1

- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings relate to a period greater or less than one year;
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the taxable profits bears to the period of one year.

(4) For the purposes of sub-paragraph (2)(b) the amount to be deducted in respect of National Insurance Contributions shall be the total of—

- (a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, (3), of the Contributions and Benefits Act⁽¹¹⁾; and
- (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,

at the rates applicable at the effective date.

2B.—(1) Where—

- (a) a self-employed earner cannot provide the child support officer with the total taxable profit figure from self-employment for the period concerned as submitted to the Inland Revenue, but can provide a copy of his tax calculation notice; or
- (b) the child support officer becomes aware that the total taxable profit figure from the self-employment submitted by the self-employed earner has been revised by the Inland Revenue,

the earnings of that earner shall be calculated by reference to the income from employment as a self-employment earner as set out in the tax calculation notice issued in relation to his case, and if a revision of the figures included in that notice has occurred, by reference to the revised notice.

(2) In this paragraph and elsewhere in this Schedule—

“submitted to” means submitted to the Inland Revenue in accordance with its requirements by or on behalf of the self-employed earner;

a “tax calculation notice” means a document issued by the Inland Revenue containing information as to the income of a self-employed earner;

a “revision of the figures” means the revision of the figures relating to the total taxable profit of a self-employed earner following an enquiry under section 9A of the Taxes Management Act 1970⁽¹²⁾ or otherwise by the Inland Revenue.

2C. Where the child support officer accepts that it is not reasonably practicable for the self-employed earner to provide information relating to his total taxable profits from self-employment in the form submitted to, or (where paragraph 2B applies) as issued or revised by, the Inland Revenue, “earnings” in relation to that earner shall have the meaning given by paragraph 3.”;

- (b) in paragraph 3(1) for “Subject” there shall be substituted “Where paragraph 2C applies, and subject”;

⁽¹¹⁾ Section 11(1) was amended by [S.R. 1999 No. 51](#)

⁽¹²⁾ [1970 c. 9](#); section 9A was inserted by sections 180 and 199(1) and (2)(a) of the Finance Act [1994 \(c. 9\)](#) and amended by section 133 of, and paragraph 2 of Schedule 19 to the Finance Act [1996 \(c. 8\)](#)

- (c) in paragraph 5 after sub-paragraph (5)(13) there shall be added the following sub-paragraph—

“(6) This paragraph applies only where the earnings of a self-employed earner have the meaning given by paragraph 3.”;

- (d) after paragraph 5 there shall be inserted the following paragraph—

“**5A.**—(1) Subject to sub-paragraph (2), the earnings of a self-employed earner may be determined in accordance with the provisions of paragraph 2A only where the total taxable profits concerned relate to a period of not less than 6, and not more than 15 months, which terminated not more than 24 months prior to the relevant week.

(2) Where there is more than one total taxable profit figure which would satisfy the conditions set out in sub-paragraph (1), the earnings calculation shall be based upon the figure pertaining to the latest such period.

(3) Where, in the opinion of the child support officer, information as to the total taxable profits of the self-employed earner which would satisfy the criteria set out in sub-paragraphs (1) and (2) does not accurately reflect the normal weekly earnings of the self-employed earner, the earnings of that earner can be calculated by reference to the provisions of paragraphs 3 and 5.”;

- (e) in paragraph 7(1A)(14) for “regulation 9(4) of the Jobseeker’s Allowance (Transitional Provisions) Regulations (Northern Ireland) 1996” there shall be substituted “regulation 10(4) of the Jobseeker’s Allowance (Transitional Provisions) (No. 2) Regulations (Northern Ireland) 1996(15)”;

- (f) after paragraph 9 there shall be inserted the following paragraph—

“**9A.**—(1) Where a war disablement pension includes an adult or child dependency increase—

- (a) if that pension, including the dependency increase, is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
- (b) if that pension, including the dependency increase, is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

(2) For the purposes of this paragraph, a “war disablement pension” includes a war widow’s pension, a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.”;

- (g) in paragraph 22(1A)(16) for “regulation 9(4) of the Jobseeker’s Allowance (Transitional Provisions) Regulations (Northern Ireland) 1996” there shall be substituted “regulation 10(4) of the Jobseeker’s Allowance (Transitional Provisions) (No. 2) Regulations (Northern Ireland) 1996”;

- (h) after paragraph 22 there shall be inserted the following paragraph—

“**22A.**—(1) Where a war disablement pension includes a dependency allowance paid in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.

(13) Sub-paragraph (5) was added by regulation 3(7)(d) of [S.R. 1996 No. 590](#)

(14) Sub-paragraph (1A) was inserted by regulation 21(4)(a) of [S.R. 1996 No. 289](#)

(15) [S.R. 1996 No. 518](#)

(16) Sub-paragraph (1A) was inserted by regulation 21(4)(b) of [S.R. 1996 No. 289](#)

(2) For the purposes of this paragraph, a “war disablement pension” includes a war widow’s pension, a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.”.

(6) In Schedule 3A(17) (amount to be allowed in respect of transfers of property)—

(a) in paragraph 1(1)—

(i) in the definition of a “qualifying transfer”—

(aa) in paragraph (b) after “child” there shall be inserted “, or both whether jointly or otherwise”;

(bb) for paragraphs (d) and (e) there shall be substituted the following paragraphs—

“(d) the effect of which is that (subject to any mortgage or charge) the parent with care or a relevant child is solely beneficially entitled to the property of which the property transferred forms the whole or part, or the business asset, or the parent with care is beneficially entitled to that property or that asset together with the relevant child or absent parent or both, jointly or otherwise, or the relevant child is so entitled together with the absent parent;

(e) which was not made for the purpose only of compensating the parent with care either for the loss of a right to apply for, or receive, periodical payments or a capital sum in respect of that parent with care, or for any reduction in the amount of such payments or sum;”;

(ii) in the definition of a “compensating transfer” for “or a relevant child” there shall be substituted “, or relevant child or both jointly or otherwise;”;

(b) in paragraph 4(1)—

(i) for “which is the subject of the transfer” there shall be substituted “transferred”;

(ii) for the words after “formula—” to the end there shall be substituted—

$$QV = \frac{(VP - MCP)}{2} - (VAP - MCR) - VCR$$

where—

QV is the qualifying value;

VP is the value at the relevant date of the business asset or the property of which the estate in land forms the whole or part, and for the purposes of this calculation it is assumed that the estate in land or asset held on the relevant date by the absent parent or by the absent parent and the parent with care is held by them jointly in equal shares;

MCP is the amount of any mortgage or charge outstanding immediately prior to the relevant date on the business asset or on the property of which the estate in land forms the whole or part;

VAP is the value calculated at the relevant date of the business asset or of the property of which the estate in land forms the whole or part beneficially owned by the absent parent immediately following the transfer (if any);

MCR is, where immediately after the transfer the absent parent is responsible for discharging a mortgage or charge on the business asset or on the property

of which the estate in land forms the whole or part, the amount calculated at the relevant date which is a proportion of any such mortgage or charge outstanding immediately following the transfer, being the same percentage as VAP bears to that property as a whole; and

VCR is the value of any charge in favour of the absent parent on the business asset or on the property of which the estate in land forms the whole or part, being the amount specified in the court order or written maintenance agreement in relation to the charge, or the amount of a proportion of the value of the business asset or the property on the relevant date specified in the court order or written maintenance agreement.”;

- (c) in paragraph 5 in the definition of “VT” after “on the relevant date” there shall be inserted “and for the purposes of this calculation it is assumed that the cash, balance or policy held on the relevant date by the absent parent and the parent with care is held by them jointly in equal shares”;
- (d) in paragraph 6—
 - (i) in sub-paragraph (a) for the words from “for the formula” to “MC” there shall be substituted “the qualifying value shall be treated as being twice the qualifying value calculated in accordance with that paragraph”;
 - (ii) in sub-paragraph (b) for “the value of the transfer.” there shall be substituted “treated as being twice the qualifying value calculated in accordance with that paragraph.”.

Amendment of the Child Support (Collection and Enforcement) Regulations

5. In regulation 25 of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(18) (offences) before paragraph (a) there shall be inserted the following paragraph—

“(za) regulation 14(1);”.

Amendment of the Fees Regulations

6. In regulation 3(3A) of the Child Support Fees Regulations (Northern Ireland) 1993(19) (liability to pay fees) for “1999” there shall be substituted “2001”.

Transitional provisions

7. A maintenance assessment in force on the first or second commencement day shall not be reviewed solely to give effect to these Regulations but on a revision of that assessment under Article 18 of the Child Support (Northern Ireland) Order 1991(20), or a review under Article 19, 20 or 21 of that Order these Regulations shall apply to any fresh maintenance assessment made following that revision or review from the effective date of that assessment, or from the first day of the first maintenance period which begins on or after the first or second commencement day, as the case may be, whichever is the later.

(18) S.R. 1992 No. 390; to which there are amendments not relevant to these Regulations

(19) S.R. 1993 No. 73; paragraph (3A) was inserted by regulation 5(2)(b) of S.R. 1995 No. 162 and amended by regulation 5 of S.R. 1996 No. 590

(20) Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and Articles 19 and 20 were amended by, and Article 21 was substituted by, Articles 6 to 9 respectively of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

26th March 1999.

John O'Neill
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend various regulations made under the Child Support (Northern Ireland) Order 1991, as amended by the Child Support (Northern Ireland) Order 1995 (S.I. [1995/2702 \(N.I. 13\)](#)).

Regulation 9 of the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992, which makes provision for the disclosure of certain information to an appropriate authority, is repealed to avoid overlap with the provision made by paragraph 69 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. [1998/1506 \(N.I. 10\)](#)) (regulation 2(3)). In addition the information available to be disclosed between the parties to an assessment is broadened by means of amendment to regulation 9A (regulation 2(4)).

The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 are amended in order to amend certain obsolete references to youth training schemes (regulation 3).

The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 are amended by regulation 4 in the following respects. Firstly, regulation 19 is amended to remove an anomaly relating to the effective dates of assessments made where both parents are absent (regulation 4(4)). Secondly, provision is made for the earnings of a self-employed earner to be calculated on the basis of taxable profit figures submitted to the Inland Revenue by that earner, rather than by reference to the provisions at present contained in Chapter 2 of Schedule 1 to the Regulations (regulation 4(5)(a)). Thirdly, in relation to transfers of property made in accordance with the terms of a court order or written maintenance agreement made or executed prior to 5th April 1993, provision is made to amend the definition of a “qualifying transfer” and for the calculation of the value of such transfers for the purposes of the allowance in exempt income (regulation 4(6)). Finally, several minor amendments are made, firstly, to bring up to date, references to youth training schemes (regulation 4(2)(c) and (d) and (3)) and to replace provisions in the Jobseeker’s Allowance legislation (regulation 4(5)(e) and (g)) and secondly to make provision as to the treatment in income terms of certain child and dependency allowances which may be paid in conjunction with a war pension (regulation 4(5)(f) and (h)).

The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 are amended to make it an offence, on the part of an employer, to fail to forward amounts deducted under a deduction from earnings order to the Department of Health and Social Services by the date set in regulation 14 of those Regulations (regulation 5).

The Child Support Fees Regulations (Northern Ireland) 1992 are amended to provide that no assessment fee or collection fee shall be payable where it would otherwise have become payable on or after 18th April 1995 and before 6th April 2001 (regulation 6).

Regulation 7 makes certain transitional provisions.