
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 246

**The Social Security (1998 Order) (Commencement
No. 6 and Consequential and Transitional
Provisions) Order (Northern Ireland) 1999**

CONSEQUENTIAL AMENDMENTS

Amendment of the Family Credit (General) Regulations

4. In regulation 51A of the Family Credit (General) Regulations (Northern Ireland) 1987(1) (reduced benefit direction)—

- (a) in paragraph (1)(a) “given by a child support officer” shall be omitted; and
- (b) paragraph (2)(a) shall be omitted.

Amendment of the Social Security (Claims and Payments) Regulations

5. In paragraph 7A(1) of Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(2) (payments in place of payments of child support maintenance) for “a child support officer (within the meaning of Article 15 of the Child Support (Northern Ireland) Order 1991)” there shall be substituted “the Department”.

Amendment of the Disability Working Allowance (General) Regulations

6. In regulation 56A of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(3) (reduced benefit direction)—

- (a) in paragraph (1)(a) “given by a child support officer” shall be omitted; and
- (b) paragraph (2)(a) shall be omitted.

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

7.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(4) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 2 (persons under a duty to furnish information or evidence)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A person falling within a category listed in paragraph (2) shall furnish such information or evidence—

- (a) with respect to the matter or matters specified in that paragraph in relation to that category; and

(1) S.R. 1987 No. 463; relevant amending regulations are S.R. 1993 No. 120

(2) S.R. 1987 No. 465; relevant amending regulations are S.R. 1988 No. 67, S.R. 1993 No. 146 and S.R. 1996 No. 65

(3) S.R. 1992 No. 78; relevant amending regulations are S.R. 1993 No. 120

(4) S.R. 1992 No. 339; relevant amending regulations are S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 541, S.R. 1998 No. 8 and S.R. 1999 No. 152

(b) which is in his possession or which he can reasonably be expected to acquire, as is required by the Department to enable a decision to be made under Article 13, 14, 18 or 19 of the Order.”; and

(b) in paragraph (2)—

(i) in sub-paragraph (b) “in respect of which a child support officer is conducting or proposing to conduct a review” shall be omitted, and

(ii) in sub-paragraphs (c) and (cc)(5) “and a child support officer is conducting or proposing to conduct a review of that assessment” shall be omitted.

(3) In regulation 3(1) (purposes for which information or evidence may be required)—

(a) “or a child support officer” shall be omitted; and

(b) in sub-paragraph (b) for “a child support officer” there shall be substituted “the Department”.

(4) For regulation 3A(6) (contents of request for information or evidence) there shall be substituted the following regulation—

“Contents of request for information or evidence

3A. Any request by the Department in accordance with regulations 2 and 3 for the provision of information or evidence shall set out the possible consequences of failure to provide such information or evidence.”.

(5) In regulation 5(7) (time within which information or evidence is to be furnished)—

(a) in paragraph (1) “paragraph (2) and” shall be omitted and for “, 6(1) and 16(5)” there shall be substituted “and 6(1)”; and

(b) paragraph (2) shall be omitted.

(6) In regulation 6 (continuing duty of persons with care) “or a child support officer” shall be omitted.

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

(a) in paragraphs (1) and (3)(8) “or a child support officer” shall be omitted and for “them” there shall be substituted “it”;

(b) paragraph (1)(c) shall be omitted; and

(c) in paragraph (2)(9) for “a child support appeal tribunal” there shall be substituted “an appeal tribunal”.

(8) In regulation 9A(10) (disclosure of information to other persons)—

(a) in paragraphs (1), (3) and (4) “or a child support officer” in each place where it occurs shall be omitted;

(b) in paragraph (1)—

(i) for “them” there shall be substituted “it”, and

(5) Sub-paragraph (cc) was inserted by regulation 6(2) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

(6) Regulation 3A was inserted by regulation 2(4) of S.R. 1995 No. 475

(7) Regulation 5 was substituted by regulation 2(5) of S.R. 1995 No. 475

(8) Paragraph (3) was added by regulation 2(3)(b) of S.R. 1998 No. 8

(9) Paragraph (2) was added by regulation 49(2)(b) of S.R. 1996 No. 541

(10) Regulation 9A was inserted by regulation 6(4) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475, S.R. 1996 No. 541, S.R. 1998 No. 8 and S.R. 1999 No. 152

- (ii) in sub-paragraph (a) for “review under Article 19 or 20 of the Order” there shall be substituted “revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision”;
- (c) in paragraph (2)—
 - (i) in sub-paragraph (b) for “regulation 3A of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993” there shall be substituted “regulation 34 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(11)”, and
 - (ii) in sub-paragraph (c) for head (i) there shall be substituted the following head—
 - “(i) a revision, supersession or appeal was pending at the date of death of that person and the personal representative is dealing with that revision, supersession or appeal on behalf of that person, or”;
- (d) in paragraph (4)(a) for “the child support officer concerned” there shall be substituted “the officer concerned who is exercising functions of the Department under the Order”.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

8.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(12) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 8(3)(d)(13) (categories of interim maintenance assessment) for “him” in the first place where it occurs there shall be substituted “it”.

(3) In regulation 10(2) (notification of a new or a fresh maintenance assessment) after “Article 13, 18 or 19” there shall be inserted “of the Order”.

(4) In regulation 22(17)(14) (date from which a superseding decision takes effect) “or (d)” shall be omitted.

(5) In regulation 34(b)(15) (periods for compliance with obligations imposed by Article 9 of the Order) for “she” and “her” in each place where they occur there shall be substituted “that parent”.

(6) In regulation 40(c)(ii)(16) (termination of reduced benefit direction) for “her” there shall be substituted “that other parent's”.

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

9.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(17) shall be amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) (interpretation)—

(a) in the definition of “day to day care”(18)—

- (i) in paragraph (b) for “the child support officer, a period other than 12 months but ending with the relevant week” there shall be substituted “the Department, a period other than 12 months”, and

(11) S.R. 1999 No. 162

(12) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 No. 475 and S.R. 1999 No. 167

(13) Regulation 8 was substituted by regulation 3(3) of S.R. 1995 No. 475

(14) Regulation 22 is substituted by regulation 2(12) of S.R. 1999 No. 167

(15) Regulation 34 is substituted by regulation 2(18) of S.R. 1999 No. 167

(16) Regulation 40 is substituted by regulation 2(22) of S.R. 1999 No. 167

(17) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 Nos. 164 and 191, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 590, S.R. 1998 No. 8 and S.R. 1999 No. 152

(18) The definition of “day to day care” was substituted by regulation 9(2)(a) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

(ii) for sub-paragraphs (iii) and (iv) there shall be substituted the following sub-paragraph—

“(iii) in a case where notification is given under regulation 23 of the Maintenance Assessment Procedure Regulations to the relevant persons on different dates, “relevant week” means the period of 7 days immediately preceding the date of the latest notification;”;

(b) in the definition of “home” for “the child support officer” and “that officer” there shall be substituted “the Department”; and

(c) for the definition of “relevant week”⁽¹⁹⁾ there shall be substituted the following definition—

““relevant week” means—

(a) in relation to an application for child support maintenance—

(i) in the case of the applicant, the period of 7 days immediately preceding the date on which the appropriate maintenance assessment application form (being an effective application within the meaning of regulation 2(4) of the Maintenance Assessment Procedure Regulations) is submitted to the Department, or

(ii) in the case of a person to whom a maintenance assessment enquiry form is given or sent as the result of such an application, the period of 7 days immediately preceding the date on which that form is given or sent to him or, as the case may be, the date on which it is treated as having been given or sent to him under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;

(b) where a decision (“the original decision”) is to be—

(i) revised under Article 18 of the Order, or

(ii) superseded by a decision under Article 19 of the Order on the basis that the original decision was made in ignorance of, or was based on a mistake as to, some material fact or was erroneous in point of law,

(c) the period of 7 days which was the relevant week for the purposes of the original decision;

(d) where a decision (“the original decision”) is to be superseded by a decision under Article 19 of the Order—

(i) on an application made for the purpose on the basis that a material change of circumstances has occurred since the original decision was made, the period of 7 days immediately preceding the date on which that application was made,

(ii) subject to paragraph (b), in a case where a relevant person is given notice under regulation 23 of the Maintenance Assessment Procedure Regulations, the period of 7 days immediately preceding the date of that notification,

except that where, under paragraph 15 of Schedule 1 to the Order, the Department makes separate maintenance assessments in respect of different periods in a particular case, because it is aware of one or more changes of circumstances which occurred after the date which is applicable to that case under paragraph (a), (b) or (c), the relevant week for the purposes of each

(19) The definition of “relevant week” was substituted by regulation 5(2)(f) of S.R. 1993 No. 164 and amended by S.R. 1995 No. 475 and S.R. 1998 No. 8

separate maintenance assessment made to take account of each such change of circumstances, shall be the period of 7 days immediately preceding the date on which notification was given to the Department of the change of circumstances relevant to that separate maintenance assessment.”.

(3) In regulation 2(3) (calculation or estimation of amounts) for “A child support officer” there shall be substituted “The Department” and for “he” in both places where it occurs there shall be substituted “it”.

(4) In regulation 7(4) (net income: calculation or estimation of N) for “the child support officer” there shall be substituted “the Department”.

(5) In regulation 10A(2)(b)(ii)(**20**) (assessable income: family credit or disability working allowance paid to or in respect of a parent with care or an absent parent) for “the child support officer” there shall be substituted “the Department”.

(6) In regulation 19 (both parents are absent)—

(a) in paragraph (3) “or to a child support officer” shall be omitted; and

(b) in paragraph (4) for “the child support officer” there shall be substituted “the Department”.

(7) In regulation 20(2)(b)(ii) (persons treated as absent parents) for “the child support officer” there shall be substituted “the Department”.

(8) In regulation 22 (multiple applications relating to an absent parent)—

(a) in paragraph (2B)(**21**) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) any of those assessments falls to be replaced by a fresh assessment to be made under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision,”; and

(b) in paragraph (2C) for “it is not reviewed under any of the provisions set out in” there shall be substituted “not within”.

(9) In Schedule 1 (calculation of N and M)—

(a) in paragraph 1(3)(aa)(**22**) for “the child support officer” there shall be substituted “the Department”;

(b) in paragraph 2—

(i) in sub-paragraphs (1)(**23**), (1A) and (4) for “the child support officer” in each place where it occurs there shall be substituted “the Department”;

(ii) in sub-paragraph (1) for “he” there shall be substituted “it”, and

(iii) in sub-paragraph (3A)(**24**) for “a child support officer” there shall be substituted “the Department”;

(c) in paragraphs 2B(1)(a) and (b)(**25**) and 2C for “the child support officer” there shall be substituted “the Department”;

(d) in paragraph 3(6A)(**26**) for “the child support officer” there shall be substituted “the Department”;

(e) in paragraph 5—

(20) Regulation 10A was inserted by regulation 3(3) of S.R. 1996 No. 590

(21) Paragraphs (2B) and (2C) were inserted by regulation 4(11) of S.R. 1998 No. 8

(22) Head (aa) was inserted by regulation 4(14)(a)(iii) of S.R. 1998 No. 8

(23) Sub-paragraph (1) was substituted by regulation 9(14)(c) of S.R. 1995 No. 162 and amended by S.R. 1996 No. 590 and sub-paragraph (1A) was inserted by regulation 3(7)(b)(ii) of S.R. 1996 No. 590

(24) Sub-paragraph (3A) was inserted by regulation 3(7)(b)(iv) of S.R. 1996 No. 590

(25) Paragraphs 2B and 2C are inserted by regulation 4(5)(a) of S.R. 1999 No. 152

(26) Sub-paragraph (6A) was inserted by regulation 4(14)(b)(iii) of S.R. 1998 No. 8

- (i) in sub-paragraphs (2A)(**27**), (3) and (5) for “the child support officer” in each place where it occurs there shall be substituted “the Department”, and
 - (ii) in sub-paragraph (2A) for “the officer” there shall be substituted “the Department” and for “he” there shall be substituted “it”;
 - (f) in paragraph 5A(3)(**28**) for “the child support officer” there shall be substituted “the Department”;
 - (g) in paragraph 16(6) for “the child support officer” in both places where it occurs there shall be substituted “the Department”;
 - (h) in paragraphs 26, 27 and 30 for “a child support officer” in each place where it occurs there shall be substituted “the Department”; and
 - (i) in paragraphs 27, 30 and 31 for “the child support officer” there shall be substituted “the Department”.
- (10) In paragraph 2(k) of Schedule 3 (eligible housing costs) for “the child support officer” there shall be substituted “the Department”.
- (11) In Schedule 3A(**29**) (amount to be allowed in respect of transfers of property)—
- (a) in paragraph 2(2) for “a child support officer” and “the officer” there shall be substituted “it”; and
 - (b) for paragraph 3 there shall be substituted the following paragraph—
 - “**3.—**(1) Where an absent parent has notified the Department that he wishes it to consider whether an amount should be allowed in respect of the relevant value of a qualifying transfer, the Department shall—
 - (a) give notice to the other parent of that application; and
 - (b) have regard in determining the application to any representations made by the other parent which are received within the period specified in sub-paragraph (2).
 - (2) The period specified in this sub-paragraph is one month from the date on which the notice referred to in sub-paragraph (1)(a) was given or such longer period as the Department is satisfied is reasonable in the circumstances of the case.”.
- (12) In Schedule 3B(**30**) (amount to be allowed in respect of travelling costs)—
- (a) in paragraph 1 in the definition of “work place” for “the child support officer” there shall be substituted “the Department”; and
 - (b) in paragraphs 4(b), 8(2), 10, 15(2) and 17(**31**) for “the child support officer” there shall be substituted “the Department”.
- (13) In Schedule 5(**32**) (provisions applying to cases to which Article 40 of the Order and regulation 28 apply) paragraphs 1 to 8 shall be omitted.

(27) Sub-paragraph (2A) was inserted by regulation 9(14)(e)(iii) of S.R. 1995 No. 162 and sub-paragraph (5) was added by regulation 3(7)(d) of S.R. 1996 No. 590

(28) Paragraph 5A is inserted by regulation 4(5)(d) of S.R. 1999 No. 152

(29) Schedule 3A was inserted by Schedule 1 to S.R. 1995 No. 162

(30) Schedule 3B was inserted by Schedule 2 to S.R. 1995 No. 162 and amended by S.R. 1995 No. 475

(31) Paragraph 17 was substituted by regulation 4(11) of S.R. 1995 No. 475

(32) Schedule 5 was added by the Schedule to S.R. 1993 No. 164 and amended by S.R. 1993 No. 191 and S.R. 1995 No. 162

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

10.—(1) The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(**33**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 3 (liability to make payments of interest with respect to arrears)—

- (a) in paragraph (4) for “following a review under Article 18, 19, 20 or 21 of the Order or” there shall be substituted “by virtue of a revision under Article 18 of the Order, a decision under Article 19 of the Order superseding an earlier decision or of”;
- (b) in paragraph (5) for “following a review under Article 18, 19, 20 or 21 of the Order or” there shall be substituted “made by virtue of a revision under Article 18 of the Order, a decision under Article 19 of the Order superseding an earlier decision or of”; and
- (c) in paragraph (6) for “the review under Article 18, 19, 20 or 21 of the Order or an appeal under Article 22 of the Order results in” there shall be substituted “by virtue of a revision under Article 18 of the Order, a decision under Article 19 of the Order superseding an earlier decision or of an appeal under Article 22 of the Order there is”.

(3) In regulation 4(2)(b) (circumstances in which no liability to pay interest arises) “or a child support officer” shall be omitted.

(4) In regulation 10(**34**) (adjustment of the amount payable under a maintenance assessment)—

- (a) subject to sub-paragraph (c), in paragraphs (1) to (3) for “a child support officer” in each place where it occurs there shall be substituted “the Department”;
- (b) in paragraph (1)(b) for “he” there shall be substituted “it”;
- (c) in paragraph (2) for the words from “revised as a result” to “and a fresh maintenance assessment made” there shall be substituted “replaced by a fresh maintenance assessment made by virtue of a revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision”; and
- (d) in paragraph (3) for “he” in each place where it occurs there shall be substituted “it”.

(5) In regulation 11 (notifications following a cancellation or adjustment under the provisions of regulation 10)—

- (a) in paragraph (1)(**35**) for “a child support officer” there shall be substituted “the Department” and for “he” there shall be substituted “it”; and
- (b) in paragraph (2) for the words from “of regulation 12(1)” to the end there shall be substituted “of regulations 12 to 15”.

(6) For regulations 12 to 15(**36**) there shall be substituted the following regulations—

“Extension of the application of Schedule 4C to the Order

12. Schedule 4C to the Order is hereby extended so that it applies to any decision with respect to the adjustment of amounts payable under maintenance assessments for the purpose of taking account of overpayments of child support maintenance.

(33) S.R. 1992 No. 342; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 541 and S.R. 1998 No. 400

(34) Regulation 10 was substituted by regulation 3(3) of S.R. 1995 No. 162 and amended by S.R. 1996 No. 541 and S.R. 1998 No. 400

(35) Paragraph (1) was substituted by regulation 3(4)(b) of S.R. 1995 No. 162

(36) Regulation 12 was substituted by regulation 3(5) of S.R. 1995 No. 162 and amended by S.R. 1995 No. 475 and regulation 13 was amended by S.R. 1993 No. 164 and S.R. 1995 Nos. 162 and 475

Revision of decisions

13.—(1) A decision may be revised by the Department—

- (a) if the Department receives an application for the revision of a decision under Article 18 of the Order as extended by regulation 12 within one month of the date of notification of the decision or within such longer time as may be allowed by regulation 14;
- (b) if the decision arose from an official error;
- (c) if the Department commences action leading to the revision of a decision within one month of the date of notification of the decision; or
- (d) if the Department is satisfied that the original decision was erroneous due to a misrepresentation of, or failure to disclose, a material fact and that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error.

(2) In paragraph (1)—

“decision” means a decision of the Department—

- (a) adjusting the amount payable under a maintenance assessment; or
- (b) cancelling an adjustment of an amount payable under a maintenance assessment, under regulation 10 and a decision superseding such a decision;

“official error” means an error made by an officer of the Department acting as such which no person outside the Department caused or to which no person outside the Department materially contributed.

(3) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the date on which the decision took effect.

Late application for a revision

14.—(1) The period of one month specified in regulation 13(1)(a) may be extended where the requirements specified in the following provisions of this regulation are satisfied.

(2) An application for an extension of time shall be made by a relevant person or a person acting on his behalf.

(3) An application for an extension of time shall—

- (a) be made within 13 months of the date on which notification of the decision which it is sought to have revised was given or sent; and
- (b) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified.

(4) An application for an extension of time shall not be granted unless the person making the application or any person acting for him satisfies the Department that—

- (a) it is reasonable to grant the application;
- (b) the application for a decision to be revised has merit; and
- (c) special circumstances are relevant to the application for an extension of time,

and as a result of those special circumstances, it was not practicable for the application for a decision to be revised to be made within one month of the date of notification of the decision which it is sought to have revised.

(5) In determining whether it is reasonable to grant an application for an extension of time, the Department shall have regard to the principle that the greater the time that has elapsed between the expiry of the period of one month described in regulation 13(1)(a) from the date of notification of the decision which it is sought to have revised and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant an application for an extension of time, no account shall be taken of the following—

- (a) that the person making the application for an extension of time or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Child Support Commissioner or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

(8) In this regulation “Child Support Commissioner” includes a Child Support Commissioner appointed under section 22 of the Child Support Act 1991(37).

Date from which revised decision takes effect

15. Where the date from which a decision took effect is found to be erroneous on a revision under Article 18 of the Order as extended by regulation 12, the revision shall take effect from the date on which the revised decision would have taken effect had the error not been made.

Supersession of decisions

16.—(1) For the purposes of Article 19 of the Order as extended by regulation 12, the cases and circumstances in which a decision adjusting the amount payable under a maintenance assessment may be superseded by a decision under that Article as extended are set out in paragraphs (2) to (4).

(2) A decision may be superseded by a decision made by the Department acting on its own initiative where it is satisfied that the decision—

- (a) is one in respect of which there has been a material change of circumstances since the decision was made; or
- (b) was made in ignorance of, or was based on a mistake as to, some material fact.

(3) A decision may be superseded by a decision made by the Department where an application is made on the basis that—

- (a) there has been a change of circumstances since the decision was made and the Department is satisfied that the change of circumstances is or would be material; or
- (b) the decision was made in ignorance of, or was based on a mistake as to, a fact and the Department is satisfied that the fact is or would be material.

(4) A decision, other than a decision made on appeal, may be superseded by a decision made by the Department—

- (a) acting on its own initiative where it is satisfied that the decision was erroneous in point of law; or
- (b) where an application is made on the basis that the decision was erroneous in point of law.

(5) The cases and circumstances in which a decision may be superseded under Article 19 of the Order as extended by regulation 12 shall not include any case or circumstance in which a decision may be revised.

Application of regulations 1(6), 10(3) and 53 of the Maintenance Assessment Procedure Regulations

17.—(1) The provisions of regulation 10(3) of the Maintenance Assessment Procedure Regulations shall apply to any notification—

- (a) under regulation 11; and
- (b) of a decision under the provisions of regulation 13, 14 or 16.

(2) Regulations 1(6) and 53 of the Maintenance Assessment Procedure Regulations shall apply to the provisions of these Regulations.”

Amendment of the Child Support (Collection and Enforcement) Regulations

11. In regulation 11 of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(38) (protected earnings rate) for paragraph (4)(39) there shall be substituted the following paragraph—

“(4) Where there is a liability to make payments of child support maintenance but no maintenance assessment is in force—

- (a) in a case where the last maintenance assessment was a Category A or Category C interim maintenance assessment, the protected earnings rate shall be the amount which would be produced by the application of the provisions of paragraph (3) if a Category A or Category C interim maintenance assessment were in force;
- (b) subject to sub-paragraph (a), in a case where the absent parent provides sufficient evidence to satisfy the Department that his circumstances have changed since the last occasion on which his exempt income was calculated for the purposes of a decision under the Order, the protected earnings rate shall be the exempt amount as it would be calculated in consequence of that change of circumstances if regulation 9 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 applied in his case; and
- (c) in any other case, the protected earnings rate shall be the amount of the liable person’s exempt income as it was on the last occasion that amount was calculated for the purposes of a decision under the Order.”

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

12. In Part II of the Schedule to the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992(40) (modification of maintenance assessment in certain cases)—

- (a) in paragraph 5 in the definition of “formula amount” and in paragraph 7 for “consequent on a review under Article 19, 20 or 21 of the Order” there shall be substituted “by virtue of a revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision”;
- (b) in paragraph 9 for “a child support officer” there shall be substituted “the Department”; and

(38) S.R. 1992 No. 390; relevant amending regulations are S.R. 1995 No. 162 and S.R. 1998 No. 400

(39) Paragraph (4) was added by regulation 4(7)(b) of S.R. 1995 No. 162 and amended by S.R. 1998 No. 400

(40) S.R. 1992 No. 467 (C. 20), to which there are amendments not relevant to this order

(c) in paragraph 11—

- (i) in sub-paragraph (1) for “there is a review of a previous assessment under Article 19 of the Order (reviews on change of circumstances)” there shall be substituted “a decision is made under Article 19 of the Order which supersedes an earlier decision on the ground that there has been a material change of circumstances since the decision took effect”,
- (ii) in sub-paragraph (2) for “the child support officer determines that, were a fresh assessment to be made as a result of the review” there shall be substituted “the Department determines that, were a fresh assessment to be made by virtue of a decision under Article 19 of the Order superseding an earlier decision”, and
- (iii) in sub-paragraph (3) for “The child support officer” there shall be substituted “The Department” and for “19 to 21” there shall be substituted “20 and 21”.

Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations

13.—(1) The Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(**41**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 4(3) (relationship between maintenance assessments and certain agreements) for “a child support officer” there shall be substituted “the Department”.

(3) In regulation 5 (notifications by child support officers)—

- (a) in the heading for “by child support officers” there shall be substituted “by the Department”; and
- (b) in paragraph (1) for “a child support officer” there shall be substituted “the Department” and for “he” there shall be substituted “it”.

(4) In regulation 7 (cancellation of maintenance assessment on grounds of lack of jurisdiction)—

- (a) for “a child support officer” in both places where it occurs there shall be substituted “the Department”; and
- (b) in paragraph (3) for “the child support officer” there shall be substituted “the Department”.

(5) In regulation 8(1)(c) (maintenance assessments and maintenance orders made in error) for “the child support officer” there shall be substituted “the Department”.

Amendment of the Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations

14.—(1) The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations (Northern Ireland) 1994(**42**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 6 (interpretation)—

- (a) in paragraph (1) in the definition of “transitional period” in paragraph (a) for “is reviewed” there shall be substituted “was reviewed or, as the case may be, a decision is made superseding an earlier decision,”; and
- (b) in paragraph (2) for “the child support officer” there shall be substituted “the Department”.

(3) In regulation 9 (procedure)—

(41) S.R. 1992 No. 466, to which there are amendments not relevant to this order

(42) S.R. 1994 No. 37; relevant amending regulations are S.R. 1995 Nos. 162 and 475

- (a) in paragraph (1) at the end there shall be added “before 1st June 1999 or an application on or after that date for a decision under Article 19 of the Order superseding an earlier decision”; and
- (b) for paragraph (3) there shall be substituted the following paragraph—
 - “(3) Regulation 10(2) of the Maintenance Assessment Procedure Regulations shall not apply in respect of a decision made solely for the purpose of applying Part III but instead the Department shall notify the relevant persons (as defined in regulation 1(2) of the Maintenance Assessment Procedure Regulations) of the detail of how the provisions of Part III have been applied in that case.”
- (4) For regulations 10 and 11 there shall be substituted the following regulations—

“Revision and supersession

10.—(1) The provisions of the following paragraphs shall apply where the Department proposes to make a decision under Article 18 or 19 of the Order with respect to a maintenance assessment under which the amount payable was the transitional amount.

(2) Where a fresh maintenance assessment would be made by virtue of a decision under Article 18 or 19 of the Order and the amount payable under that assessment (disregarding the provisions of Part III) (in this regulation called “the new formula amount”) would be—

- (a) more than the formula amount, the amount of child support maintenance payable shall be the transitional amount plus the difference between the formula amount and the new formula amount;
- (b) less than the formula amount but more than the transitional amount, the amount of the child support maintenance payable shall be the transitional amount; or
- (c) less than the transitional amount, the amount of child support maintenance payable shall be the new formula amount.

(3) Regulations 21 and 22 of the Maintenance Assessment Procedure Regulations shall apply as if the new formula amount were the amount which would be fixed in accordance with a decision superseding an earlier decision.

(4) Where the effective date of a fresh maintenance assessment made by virtue of a revision under Article 18 of the Order or of a decision under Article 19 of the Order superseding an earlier decision would, apart from this regulation, be before 18th April 1995—

- (a) the fresh maintenance assessment; and
- (b) the decision under Article 18 or, as the case may be, Article 19,

shall take effect from 18th April 1995.

Decisions consequent on the amendments made by Part II

11.—(1) A fresh maintenance assessment shall not be made by virtue of a decision under Article 19 of the Order superseding an earlier decision in consequence only of the amendments made by Part II where the amount of child support maintenance fixed by the assessment currently in force and the amount that would be fixed if a fresh assessment were to be made under that Article is less than £1£00 per week.

(2) Except in relation to the amendment made by regulation 5(6), where a fresh maintenance assessment is made by virtue of a decision under Article 19 of the Order superseding an earlier decision in consequence only of the amendments made by Part II, the date from which—

- (a) the fresh maintenance assessment; and
- (b) the decision under Article 18 or, as the case may be, Article 19,

shall take effect shall be 7th February 1994.”.

Amendment of the Child Support and Income Support (Amendment) Regulations

15.—(1) The Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995⁽⁴³⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) before the definition of “the Appeals Regulations” there shall be inserted the following definition—

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

(3) In regulation 12 (reviews consequent upon the amendments made by these regulations)—

(a) in paragraph (1) for the words from the beginning to “result of the review is—” there shall be substituted “Subject to paragraph (3), a decision with respect to a maintenance assessment in force on 13th April 1995 or 18th April 1995 shall not be superseded by a decision under Article 19 of the Order if the difference between the amount of child support maintenance currently in force and the amount that would be fixed if the fresh assessment were to be made as a result of a supersession is—”;

(b) in paragraph (3)—

(i) for “a review which is made” there shall be substituted “a decision under Article 19 of the Order which falls to be made”, and

(ii) for “notifies” there shall be substituted “notified”;

(c) paragraphs (4) and (5) shall be omitted; and

(d) in paragraph (6)—

(i) in sub-paragraph (a) for “a child support officer to consider the question of” there shall be substituted “the question to be considered”, and

(ii) for “upon a review under Article 21 of the Order” there shall be substituted “by virtue of a decision under Article 19 of the Order superseding an earlier decision”.

(4) In regulation 13 (transitional provisions)—

(a) in paragraph (3) for the words from “a child support officer” to the end there shall be substituted “a relevant person applies for a decision under Article 19 of the Order superseding an earlier decision on the ground that a qualifying transfer of property has been made or that he has travelling costs”; and

(b) in paragraph (4)—

(i) in sub-paragraph (a) for “a review of” there shall be substituted “a decision under Article 19 of the Order superseding a decision with respect to”; and

(ii) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) a decision under regulation 13 or 16 of the Arrears Regulations is made on an application made by a relevant person.”.

Amendment of the Child Support (Miscellaneous Amendments No. 2) Regulations

16.—(1) The Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1995⁽⁴⁴⁾ shall be amended in accordance with paragraphs (2) and (3).

(2) For regulation 11 (reviews consequent on amendments made by these Regulations) there shall be substituted the following regulation—

⁽⁴³⁾ S.R. 1995 No. 162; relevant amending regulations are S.R. 1995 No. 475

⁽⁴⁴⁾ S.R. 1995 No. 475

“Supersessions consequent on amendments made by these Regulations

11.—(1) Where a fresh assessment is made by virtue of a decision under Article 19 of the Order superseding an earlier decision in consequence of the coming into operation of regulation 4(10)—

- (a) the decision under Article 19; and
- (b) that fresh maintenance assessment,

shall take effect from the first day of the maintenance period following 18th December 1995.

(2) In this regulation and regulation 12 “the Order” means the Child Support (Northern Ireland) Order 1991.”.

(3) In regulation 12 (transitional and consequential provisions)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A decision with respect to a maintenance assessment shall not be superseded by a decision under Article 19 of the Order solely to give effect to the provisions set out in paragraph (2).”;

(b) in paragraph (3) for “Where a review” there shall be substituted “Where a decision is made under Article 19 of the Order superseding an earlier decision” and for “that review” there shall be substituted “that decision”; and

(c) paragraph (4) shall be omitted.

Amendment of the Child Support (Compensation for Recipients of Family Credit and Disability Working Allowance) Regulations

17. In regulation 5 of the Child Support (Compensation for Recipients of Family Credit and Disability Working Allowance) Regulations (Northern Ireland) 1995⁽⁴⁵⁾ (calculation of compensation in particular cases) for paragraphs (1) to (4) there shall be substituted the following paragraphs—

“(1) Where a revised assessment is replaced by a fresh maintenance assessment of a different amount by virtue of a revision under Article 18 of the Order of 1991, the compensation payment calculated under Article 17 of the 1995 Order shall be recalculated using the amount due under the fresh maintenance assessment in place of the amount due under the revised assessment.

(2) Subject to paragraph (3), where the earlier assessment is replaced by a fresh assessment—

- (a) which was made after the revised assessment, and
- (b) the effective date of that fresh assessment is before the date on which the revised assessment was made,

the amount payable under the fresh assessment shall be ignored for the purposes of the calculation of a compensation payment under Article 17 of the 1995 Order.

(3) In a case where the circumstances in paragraphs (1) and (2) apply the compensation payable under Article 17 of the 1995 Order shall be recalculated using the amount due under the fresh assessments referred to in paragraphs (1) and (2).”.

Amendment of the Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations

18. For regulation 11 of the Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 1996⁽⁴⁶⁾ (transitional provision relating to maintenance assessments) there shall be substituted the following regulation—

“**11.**—(1) A decision with respect to a maintenance assessment in force on 7th April 1997 shall not be superseded by a decision under Article 19 of the Order solely to give effect to these Regulations.

(2) These Regulations shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

as from the effective date of that revision under Article 18 of the Order or, as the case may be, decision under Article 19 of the Order.

(3) In this regulation “the Order” means the Child Support (Northern Ireland) Order 1991.”.

Amendment of the Child Support (Miscellaneous Amendments) Regulations

19. In regulation 7(5) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1996⁽⁴⁷⁾ (transitional provisions) for the words from “and those provisions” to the end there shall be substituted “and a decision with respect to a maintenance assessment in force on that date shall not be superseded by a decision under Article 19 of the Child Support (Northern Ireland) Order 1991 solely to give effect to the provisions of regulation 19 as amended by regulation 4(7).”.

Amendment of the Child Support (Miscellaneous Amendments No. 2) Regulations

20. In regulation 6 of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1996⁽⁴⁸⁾ (transitional provisions)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A decision with respect to a maintenance assessment in force on 13th January 1997 shall not be superseded by a decision under Article 19 of the Child Support (Northern Ireland) Order 1991 solely to give effect to these Regulations.”; and

(b) in paragraph (2) “made following a review mentioned in paragraph (1)” shall be omitted.

Amendment of the Child Support (Miscellaneous Amendments) Regulations

21. For regulation 11 of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1998⁽⁴⁹⁾ (transitional provisions) there shall be substituted the following regulation—

“**11.**—(1) A decision with respect to a maintenance assessment in force on 19th January 1998 shall not be superseded by a decision under Article 19 of the Order solely to give effect to regulation 4(2)(a)(iii), (8) or (14)(a)(i) and (ii).

⁽⁴⁶⁾ S.R. 1996 No. 288

⁽⁴⁷⁾ S.R. 1996 No. 317, to which there are amendments not relevant to this order

⁽⁴⁸⁾ S.R. 1996 No. 590

⁽⁴⁹⁾ S.R. 1998 No. 8

(2) The regulations specified in paragraph (1) shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

from whichever is the later of—

- (i) the date from which that revision or, as the case may be, supersession takes effect, or
- (ii) the first day of the first maintenance period which begins on or after 19th January 1998, as the case may be.

(3) A decision with respect to a maintenance assessment in force on 6th April 1998 shall not be superseded by a decision under Article 19 of the Order solely to give effect to regulations 4(4), (5), (10), (12), (13) and (14)(d) and 5.

(4) The regulations specified in paragraph (3) shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

from whichever is the later of—

- (i) the date from which that revision or, as the case may be, supersession takes effect, or
- (ii) the first day of the first maintenance period which begins on or after 6th April 1998, as the case may be.

(5) In this regulation “the Order” means the Child Support (Northern Ireland) Order 1991.”.

Amendment of the Child Support (Miscellaneous Amendments) Regulations

22. For regulation 7 of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1999⁽⁵⁰⁾ (transitional provisions) there shall be substituted the following regulation—

“7.—(1) A decision with respect to a maintenance assessment in force on the first or second commencement day shall not be superseded by a decision under Article 19 of the Order solely to give effect to these Regulations.

(2) These Regulations shall apply to a fresh maintenance assessment made by virtue of—

- (a) a revision under Article 18 of the Order of a decision with respect to a maintenance assessment; or
- (b) a decision under Article 19 of the Order which supersedes a decision with respect to a maintenance assessment,

from whichever is the later of—

- (i) the date from which that revision or, as the case may be, supersession takes effect, or

- (ii) the first day of the first maintenance period which begins on or after the first or second commencement day, as the case may be.
- (3) In this regulation “the Order” means the Child Support (Northern Ireland) Order 1991.”.