

Regulations made by the Department for Social Development and laid before the Assembly under Article 48(2) of the Child Support (Northern Ireland) Order 1991, for approval by resolution of the Assembly before the expiration of 6 months from the date of their coming into operation:

STATUTORY RULES OF NORTHERN IRELAND

2002 No. 164

**FAMILY LAW
SOCIAL SECURITY
CHILD SUPPORT**

**The Social Security and Child Support (Miscellaneous
Amendments) Regulations (Northern Ireland) 2002**

Made - - - - 29th April 2002

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 16(1), 18(1) and (4), 19(5), 22(4), 28B(2)(c), 28E(1), 28G, 43(10), 47, 48(4) and 50 of, and paragraphs 5, 10 and 11 of Schedule 1 and paragraphs 3, 4 and 5 of Schedule 4B to, the Child Support (Northern Ireland) Order 1991⁽¹⁾ and now vested in it⁽²⁾, and section 28 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000⁽³⁾ and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2002 and, subject to paragraph (2), shall come into operation on 30th April 2002.

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- (1) S.I.1991/2628 (N.I. 23); Article 16(1) was amended by paragraph 3 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and paragraph 14 of Schedule 6 and Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); Articles 18 and 19 were substituted respectively, by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998; Articles 22 and 28B are substituted respectively, by sections 10 and 5(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 28E was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 and amended by section 5(4) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Articles 28G and 43 are substituted respectively, by sections 7 and 18 of that Act; Article 47 was amended by paragraph 31 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and paragraph 10 of Schedule 1 and Schedule 4B are substituted respectively, by section 1(3) of, and Schedule 1 to, and section 6(2) of, and Part II of Schedule 2 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
- (2) See Article 8(b) of S.R. 1999 No. 481
- (3) 2000 c. 4 (N.I.)

(2) Regulations 2(3)(a) and 6 shall come into operation in relation to a particular case on the day on which sections 1(2), 8, 9 and 10 of, and paragraphs 12 and 27 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 come into operation for the purposes of that type of case.

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

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(4) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement and interpretation) for the definition of “appropriate authority” there shall be substituted the following definition—

““appropriate authority” means an authority administering housing benefit;”.

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

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

“(aa) where regulation 8(1) of the Maintenance Calculations and Special Cases Regulations applies (persons treated as non-resident parents), a parent of or a person who provides day to day care for the child in respect of whom a maintenance calculation has been applied for or has been treated as applied for or is or has been in force, with respect to the matter listed in sub-paragraph (l) of regulation 3(1);”;

(b) in sub-paragraph (h)(5)—

(i) in head (i) after “1981” there shall be inserted “, sections 97 to 99A of the Road Traffic Act 1988(6)”, and

(ii) in head (ii) after “under” there shall be inserted “the Prison Act 1952(7),” and after “1953” there shall be inserted “or the Prisons (Scotland) Act 1989(8)”.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

3. In the heading to regulation 31A of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(9) (notification of intention to cancel a maintenance assessment) and in paragraph (1) for “16(4A)” there shall be substituted “16(5)”.

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

4. In regulation 9(1) of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(10) (exempt income: calculation or estimation of E)—

(a) in sub-paragraph (e) after head (ii) there shall be added the following head—

“(iii) if the parent were a claimant, the conditions in paragraph 13A of the relevant Schedule(11) (income support enhanced disability premium) would be

(4) S.R. 1992 No. 339; relevant amending regulations are S.R. 2001 No. 16

(5) Sub-paragraph (h) was added by regulation 2(5)(d) of S.R. 2001 No. 16

(6) 1988 c. 52; sections 97 to 99A were amended by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22), the Road Traffic Act 1991 (c. 40), the Driving Licence (Community Driving Licence) Regulations (S.I. 1990/144), the Driving Licence (Community Driving Licence) Regulations 1996 (S.I. 1996/1974) and the Driving Licence (Community Driving Licence) Regulations 1998 (S.I. 1998/1420)

(7) 1952 c. 52

(8) 1989 c. 45

(9) 1992 No. 340; regulation 31A was inserted by regulation 3(21) of S.R. 1995 No. 475 and amended by regulation 2(16) of S.R. 1999 No. 167

(10) S.R. 1992 No. 341; to which there are amendments not relevant to these Regulations

(11) Paragraph 13A was substituted by regulation 2(e)(ii) of S.R. 2000 No. 367

satisfied in respect of him, an amount equal to the amount specified in column (2) of paragraph 15(8)(b) of that Schedule(12);” and

(b) in sub-paragraph (g) after head (ii) there shall be added the following head—

“(iii) if the conditions set out in paragraph 13A of the relevant Schedule (income support enhanced disability premium) are satisfied in respect of that child, an amount equal to the amount specified in column (2) of paragraph 15(8)(a) of that Schedule or, where paragraph (2) applies, half that amount;”.

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

5. In regulation 23(2) of the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(13) (assets capable of producing income or higher income) after sub-paragraph (b) there shall be added—

“; or

(c) if the non-applicant were a claimant, paragraph 59 of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987(14) (treatment of relevant trust payments) would apply to the asset referred to in that paragraph.”.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

6.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(15) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 3A(16) (revision of child support decisions)—

(a) in paragraph (1)—

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

“(cc) if an appeal is made under Article 22 of the Child Support Order against a decision within the time prescribed in regulation 31, or in a case to which regulation 32 applies within the time prescribed in that regulation, but the appeal has not been determined;” and

(ii) after sub-paragraph (e) there shall be added—

“; or

(f) if the grounds for revision are that a person with respect to whom a maintenance calculation was made was not, at the time the calculation was made, a parent of a child to whom the calculation relates.”;

(b) for paragraph (3) there shall be substituted the following paragraph—

“(3) In paragraphs (1), (2) and (5A) and in regulation 4(3) “decision” means a decision of the Department under Article 13, 14 or 43 of the Child Support Order(17), or a determination of an appeal tribunal on a referral under Article 28D(1)(b) of that

(12) Sub-paragraph (8) was added by regulation 2(c)(iii) of S.R. 2000 No. 367

(13) S.R. 1996 No. 541; to which there are amendments not relevant to these Regulations

(14) S.R. 1987 No. 459; paragraph 59 was inserted by regulation 2(1) of S.R. 2001 No. 150

(15) S.R. 1999 No. 162; relevant amending regulations are S.R. 2001 No. 23

(16) Regulation 3A is inserted by regulation 2(4) of S.R. 2001 No. 23

(17) Articles 13 and 14 are substituted respectively, by sections 1 and 4 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Order(18), or any supersession of a decision under Article 19 of that Order, whether as originally made or as revised under Article 18 of that Order.”; and

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

“(5A) Where—

- (a) the Department makes a decision (“decision A”) and there is an appeal;
- (b) there is a further decision in relation to the appellant (“decision B”) after the appeal but before the appeal results in a decision by an appeal tribunal (“decision C”); and
- (c) the Department would have made decision B differently if it had been aware of decision C at the time it made decision B,

decision B may be revised at any time.”.

(3) In regulation 6B(4)(e)(19) (circumstances in which a child support decision may not be superseded) “, (19)” shall be omitted.

(4) In regulation 7B(20) (date from which a decision superseded under Article 19 of the Child Support Order takes effect)—

(a) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where a decision is superseded by a decision made by the Department in a case to which regulation 6A(2)(a) or (3)(21) applies and the relevant circumstance is that—

- (a) paragraph 4(2) of Schedule 1 to the Child Support Order(22) applies, the decision shall take effect from the first day of the maintenance period on or after—
 - (i) the date on which the non-resident parent becomes the partner of a non-resident parent, or
 - (ii) where a maintenance calculation is first made in respect of the non-resident parent’s partner, the date on which that calculation takes effect for the purposes of the Child Support Order; or
- (b) paragraph 4(2) of Schedule 1 to the Child Support Order ceases to apply, the decision shall take effect from the first day of the maintenance period on or after the date on which—
 - (i) the non-resident parent or his partner ceases to be a non-resident parent, or
 - (ii) the non-resident parent ceases to be the partner of a non-resident parent.”; and

(b) paragraph (19) shall be omitted.

(5) In regulation 31(2) (time within which appeals are to be brought) after “regulation 3(1) or (3)” in both places where it occurs, there shall be inserted “or 3A(1)”.

(18) Article 28D was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 and paragraph (1) is substituted by section 5(3)(a) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(19) Regulation 6B was inserted by regulation 2(7) of S.R. 2001 No. 23

(20) Regulation 7B was inserted by regulation 2(8) of S.R. 2001 No. 23

(21) Regulation 6A was inserted by regulation 2(7) of S.R. 2001 No. 23

(22) Paragraph 4 is substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

7.—(1) The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001⁽²³⁾ shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(1) (citation, commencement and interpretation) for “paragraph 27” there shall be substituted “paragraphs 12 and 27”.

(3) After regulation 9 (period within which reasons are to be given) there shall be inserted the following regulation—

“Period for parent to state if request still stands

9A. The period to be specified for the purposes of Article 43(6) of the Order⁽²⁴⁾ (period for the parent to state if the request still stands) is 4 weeks from the date on which the Department serves notice under that paragraph.”.

(4) In regulation 25(1) (effective dates of maintenance calculations — maintenance order and application under Article 7) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

- “(c) there is a maintenance order which—
- (i) is in force and was made on or after the date prescribed for the purposes of Article 7(10)(a) of the Order⁽²⁵⁾;
 - (ii) relates to the person with care, the non-resident parent and all the children to whom the application referred to in sub-paragraph (b) relates, and
 - (iii) has been in force for at least one year prior to the date of the application referred to in sub-paragraph (b).”.

(5) In regulation 26(1) (effective dates of maintenance calculations — maintenance order and application under Article 9) in sub-paragraph (c) for “and the non-resident parent” there shall be substituted “, the non-resident parent and all the children to whom the application referred to in sub-paragraph (b) relates”.

(6) In regulation 27(b) (effective dates of maintenance calculations — maintenance order ceases) for “24 or 25” there shall be substituted “25 or 26”.

(7) In regulation 28 (effective dates of maintenance calculations in specified cases) after paragraph (b) there shall be added the following paragraph—

- “(c) except where the parent with care has made a request under Article 9(5) of the Order⁽²⁶⁾, where—
- (i) in the period of 8 weeks immediately preceding the date the application is made, or treated as made under regulation 3, a maintenance calculation (“the previous maintenance calculation”) has been in force and has ceased to have effect;
 - (ii) the parent with care in respect of the previous maintenance calculation is the non-resident parent in respect of the application;
 - (iii) the non-resident parent in respect of the previous maintenance calculation is the parent with care in respect of the application, and
 - (iv) the application relates to the same qualifying child, or all of the same qualifying children, and no others, as the previous maintenance calculation,

⁽²³⁾ S.R. 2001 No. 17

⁽²⁴⁾ Article 43 is substituted by section 18 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

⁽²⁵⁾ Paragraph (10) was inserted by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and sub-paragraph (a) is amended by section 2(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

⁽²⁶⁾ Article 9 is substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

the effective date of the maintenance calculation to which the application relates shall be the date on which the previous maintenance calculation ceased to have effect.”.

(8) In regulation 30(3) (transitional provision — effective dates and reduced benefit decisions) for “on or before” there shall be substituted “immediately before”.

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

8. In the Schedule to the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(**27**) (net weekly income)—

- (a) in paragraph 8(1) for “of the employment” there shall be substituted “in respect of employment which are of a type which would be taken into account under paragraph 7(1)”;
- (b) for paragraph 13 there shall be substituted the following paragraph—

“**13.**—(1) Subject to sub-paragraphs (2) and (3), payments made by way of disabled person’s tax credit under section 128 of the Contributions and Benefits Act(**28**) to a non-resident parent shall be treated as the income of the non-resident parent, at the rate payable at the effective date.

(2) Where disabled person’s tax credit is payable where a non-resident parent and another person both meet the entitlement criteria for the payment and the amount which is payable has been calculated by reference to the weekly earnings of the non-resident parent and the other person—

- (a) where during the period which is used by the Inland Revenue to calculate the non-resident parent’s income the normal weekly earnings (as determined in accordance with Chapter II of Part V of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(**29**)) of that parent exceed those of the other person, the amount payable by way of disabled person’s tax credit shall be treated as the income of that parent;
- (b) where during that period the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of disabled person’s tax credit shall be treated as the income of that parent; and
- (c) where during that period the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of disabled person’s tax credit shall not be treated as the income of that parent.

(3) Where—

- (a) disabled person’s tax credit is in payment; and
- (b) not later than the effective date the person, or, if more than one, each of the persons by reference to whose entitlement that payment has been calculated is no longer the partner of the person to whom that payment is made,

the payment shall only be treated as the income of the non-resident parent in question where he is in receipt of it.”.

(27) S.R. 2001 No. 18

(28) Section 128 was amended by Article 12 of, and paragraph 32 of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), paragraph 17 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), section 14 of, and Schedule 1 to, the Tax Credits Act 1999 (c. 10) and Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(29) S.R. 1992 No. 78; relevant amending regulations are S.R. 1993 Nos. 120 and 373, S.R. 1994 Nos. 274 and 327, S.R. 1995 No. 86, S.R. 1996 Nos. 405, 476 and 583, S.R. 1997 No. 515, S.R. 1998 No. 2 and S.R. 1999 No. 107

Amendment of the Child Support (Transitional Provisions) Regulations

9.—(1) The Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001⁽³⁰⁾ shall be amended in accordance with paragraphs (2) to (15).

(2) In regulation 4 (revision, supersession and appeal of conversion decisions) for paragraph (4) there shall be substituted the following paragraph—

“(4) In their application to a decision referred to in these Regulations, the Decisions and Appeals Regulations shall be modified so as to provide—

(a) on any revision or supersession of a conversion decision under Article 18 or 19 respectively of the Order, that—

(i) the conversion decision may include a relevant departure direction or relevant property transfer, and

(ii) the effective date of the revision or supersession shall be as determined under the Decisions and Appeals Regulations or the case conversion date, whichever is the later;

(b) on any appeal in respect of a conversion decision under Article 18 or 19 respectively of the Order, that the time within which the appeal must be brought shall be—

(i) within the time from the date of notification of the conversion decision against which the appeal is brought, to one month after the case conversion date of that decision, or

(ii) as determined under the Decisions and Appeals Regulations, whichever is the later.”.

(3) In regulation 9 (amount of child support maintenance payable)—

(a) in paragraph (1) for the words from “unless” to the end there shall be substituted—

“unless—

(a) regulation 10 applies, in which case it shall be a transitional amount as provided for in regulations 11 and 17 to 28; or

(b) regulation 12 or 13 applies, in which case it shall be a transitional amount as provided for in those regulations.”; and

(b) in paragraph (2) for “regulations 10 to 28” there shall be substituted “regulations 10 to 14 and 16 to 28”.

(4) In regulation 10 (circumstances in which a transitional amount is payable) after “reduced rate” there shall be inserted “, an amount calculated under regulation 22”.

(5) In regulation 12 (transitional amount in flat rate cases)—

(a) in paragraphs (1) and (2) at the end “, nil” shall be omitted;

(b) in paragraph (3) for the words from “apportioned” to the end there shall be substituted “apportioned among the persons with care, other than any in respect of whom paragraph 8 of Part I of Schedule 1 to the Order⁽³¹⁾ applies, in accordance with paragraph 6(2) of that Schedule, unless paragraph (4) or (5) applies.”;

(c) in paragraphs (4) and (5) after “paragraph 4(1)(b)” there shall be inserted “or (c)”;

(d) for paragraph (6) there shall be substituted the following paragraph—

⁽³⁰⁾ S.R. 2001 No. 19

⁽³¹⁾ Part I is substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

“(6) Where paragraph (4) or (5) applies, the transitional amount shall be apportioned among the persons with care, other than any in respect of whom the former assessment amount is nil and paragraph 8 of Part I of Schedule 1 to the Order applies, in accordance with paragraph 6(2) of that Schedule.”; and

(e) in paragraph (7) “in paragraph (5)” shall be omitted.

(6) In regulation 13 (transitional amount — certain flat rate cases) the existing provision shall be numbered as paragraph (1) and after paragraph (1) there shall be added the following paragraph—

“(2) Where paragraph 4(1)(b) or (c) of Part I of Schedule 1 to the Order applies and the former assessment amount is nil, the amount of child support maintenance payable for the year beginning on the case conversion date shall be a transitional amount equivalent to half the first prescribed amount and thereafter shall not be a transitional amount but shall be the new amount.”.

(7) In regulation 15(4) (case conversion date)—

(a) for “paragraph (3)” there shall be substituted “this regulation”; and

(b) before the definition of “relevant person” there shall be inserted the following definition—

““maintenance assessment” has the meaning given in Article 2(2) of the former Order;”.

(8) In regulation 17 (relevant departure direction and relevant property transfer) for paragraph (6) there shall be substituted the following paragraph—

“(6) Where, but for the application of a relevant departure direction referred to in paragraph (5), the new amount would be—

(a) the first prescribed amount owing to the application of paragraph 4(1)(b) of Part I of Schedule 1 to the Order;

(b) the amount referred to in sub-paragraph (a), but is less than that amount or is nil, owing to the application of paragraph 8 of Part I of that Schedule; or

(c) the nil rate under paragraph 5(a) of Part I of that Schedule,

paragraph (5) applies where the amount of the additional income exceeds £100.”.

(9) In regulation 21(1) (effect on conversion calculation — relevant property transfer) for “regulation 23” there shall be substituted “regulations 23 and 23A”.

(10) In regulation 22(1) (effect on conversion calculation — maximum amount payable where relevant departure direction is on additional cases ground) for “the amount of child support maintenance which the non-resident parent shall be liable to pay” there shall be substituted “the new amount”.

(11) In regulation 23(2) (effect of relevant departure direction on conversion calculation — general) the words from “, other than” to “costs)” shall be omitted.

(12) After regulation 23 there shall be inserted the following regulation—

“Effect of a relevant property transfer and a relevant departure direction — general

23A. Where—

(a) more than one relevant property transfer applies; or

(b) one or more relevant property transfers and one or more relevant departure directions apply,

regulation 23 shall apply as if references to a relevant departure direction were to a relevant property transfer or to the relevant property transfers and relevant departure directions, as the case may be.”.

- (13) In regulation 24 (phasing amount)—
- (a) in paragraph (3) for “For” there shall be substituted “Subject to paragraph (4), for”; and
 - (b) after paragraph (3) there shall be added the following paragraph—
 - “(4) Where the new amount is calculated under regulation 22(1), “relevant income” for the purposes of paragraph (2) is the aggregate of the income calculated under regulation 22(1)(b).”.
- (14) In regulation 27 (subsequent decision with effect in transitional period — amount payable)—
- (a) in paragraph (3)(b) after “new amount” there shall be inserted “and greater than the previous transitional amount”;
 - (b) in paragraph (5)(b) after “new amount” there shall be inserted “and less than the previous transitional amount”; and
 - (c) in paragraph (6) for “or the nil rate” there shall be substituted “, would be the first prescribed amount or the second prescribed amount but is less than that amount, or is nil, owing to the application of paragraph 8 of Part I of Schedule 1 to the Order, or is the nil rate.”.
- (15) In regulation 28 (linking provisions)—
- (a) in paragraphs (1) and (2) for “Where” there shall be substituted “Subject to paragraph (2A), where”;
 - (b) after paragraph (2) there shall be inserted the following paragraph—
 - “(2A) Paragraph (1) or (2) shall not apply where, before any application for a maintenance calculation of a type referred to in paragraph (1) or (2) is made or treated as made, an application for a maintenance calculation is made or treated as made in relation to either the person with care or the non-resident parent (but not both of them) to whom the maintenance assessment referred to in paragraph (1) or (2) related.”;
 - (c) in paragraph (4)—
 - (i) in sub-paragraph (a) for the words from “at the first” to the end there shall be substituted—
 - “at—
 - (i) the first or second prescribed amount;
 - (ii) what would be an amount referred to in head (i) but is less than that amount, or is nil, owing to the application of paragraph 8 of Part I of Schedule 1 to the Order, or
 - (iii) the nil rate; and”;
 - (ii) in sub-paragraph (b) for the words from “the first or second” to the end there shall be substituted “a rate referred to in sub-paragraph (a)”;
 - (d) in paragraph (5) for “Where” there shall be substituted “Subject to paragraph (5A), where”;
 - (e) after paragraph (5) there shall be inserted the following paragraph—
 - “(5A) Paragraph (5) shall not apply where, before any second subsequent decision is made, an application for a maintenance calculation is made or treated as made in relation to either the person with care or the non-resident parent (but not both of them) to whom the first subsequent decision referred to in paragraph (4) related.”;
 - (f) in paragraph (7) for “Where” there shall be substituted “Subject to paragraph (7A), where” and for “an application for child support maintenance” there shall be substituted “an application for a maintenance calculation”;
 - (g) after paragraph 7 there shall be inserted the following paragraph—

“(7A) Paragraph (7) shall not apply where, before an application for a maintenance calculation of a type referred to in that paragraph is made or treated as made, an application for a maintenance calculation is made or treated as made in relation to either the person with care or the non-resident parent (but not both of them) to whom the conversion calculation referred to in that paragraph related.”;

(h) in paragraph (8)—

(i) for “Where” there shall be substituted “Subject to paragraph (9), where”, and

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

“(a) a conversion calculation is in force, or pursuant to regulation 16(3) a maintenance calculation is in force, (“the calculation”) and the new amount—

(i) is the first or second prescribed amount;

(ii) would be an amount referred to in head (i), but is less than that amount, or is nil, owing to the application of paragraph 8 of Part I of Schedule 1 to the Order, or

(iii) is the nil rate;”;

(i) after paragraph (8) there shall be added the following paragraph—

“(9) Paragraph (8) shall not apply where, before a subsequent decision of a type referred to in paragraph (8)(b) is made, an application for a maintenance calculation is made or treated as made in relation to the person with care or the non-resident parent (but not both of them) to whom the calculation relates.”.

Amendment of the Child Support (Variations) Regulations

10.—(1) The Child Support (Variations) Regulations (Northern Ireland) 2001(32) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 7 (prescribed circumstances)—

(a) in paragraph (1) for “Article 28G” there shall be substituted “Article 28A or 28G”; and

(b) in paragraph (7)—

(i) after “agreed” there shall be inserted “and the application had been made under Article 28G of the Order”, and

(ii) after “effect” there shall be inserted “and if the variation were agreed, and the application had been made under Article 28A of the Order, the decision under Article 13 of the Order would take effect”.

(3) In regulation 16(4) (prescription of terms) for “£5,000” there shall be substituted “£4,999.99”.

(4) In regulation 18 (assets)—

(a) in paragraph (1)(a) for “has the beneficial interest” there shall be substituted “has a beneficial interest”;

(b) in paragraph (3)—

(i) in sub-paragraph (d) at the beginning there shall be inserted “except where the asset is of a type specified in paragraph (2)(b) and produces income which does not form part of the net weekly income of the non-resident parent as calculated or estimated under Part III of the Schedule to the Maintenance Calculations and Special Cases Regulations,”; and

(ii) after sub-paragraph (e) there shall be added—

“; or

(f) where, were the non-resident parent a claimant, paragraph 22 (treatment of payments from certain trusts) or 59 (treatment of relevant trust payments) of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987⁽³³⁾ would apply to the asset referred to in that paragraph.”;

(c) in paragraph (5) after “allowance” there shall be inserted “prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Order”.

(5) In regulations 19(5)(a) (income not taken into account and diversion of income) and 20(5) (life-style inconsistent with declared income) after “allowance” there shall be inserted “prescribed for the purposes of paragraph 4(1)(b) of Schedule 1 to the Order”.

Sealed with the Official Seal of the Department for Social Development on 29th April 2002.

John O'Neill
Senior Officer of the
Department for Social Development

(33) S.R. 1987 No. 459; paragraph 22 was added by regulation 37(e) of S.R. 1988 No. 146, substituted by regulation 4(8)(a) of S.R. 1991 No. 204 and amended by regulation 5(6) of S.R. 1992 No. 201, regulation 5(3) of S.R. 1993 No. 195, regulation 5(5) of S.R. 1993 No. 233 and the Schedule to S.R. 2000 No. 241 and paragraph 59 was inserted by regulation 2(1) of S.R. 2001 No. 150

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the amendment of various sets of Regulations relating to child support. Regulation 1 makes provision for citation and commencement.

Regulations 7, 8, 9 and 10 amend the following Regulations and their provisions will take effect when those Regulations come into operation, which is at different times for different cases as determined by commencement order made under section 68(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (“the Act”):

the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001 (“the Maintenance Calculation Procedure Regulations”);

the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001 (“the Maintenance Calculations and Special Cases Regulations”);

the Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001 (“the Transitional Regulations”);

the Child Support (Variations) Regulations (Northern Ireland) 2001 (“the Variations Regulations”).

Regulations 2(3)(a) and 6 amend the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 (“the Information Regulations”) and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”), respectively, and will come into operation at different times for different cases as determined by commencement order made under section 68(2) of the Act.

Regulations 2(2) and (3)(b), 3, 4 and 5 amend Regulations which are in operation and come into effect on 30th April 2002.

Regulation 2 amends the Information Regulations to add to the categories of persons under a duty to furnish information, regulation 3 makes a minor amendment to the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 and regulation 4 amends the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 so that an Income Support enhanced disability premium can be included in the calculation of exempt income.

Regulation 5 amends the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996 to provide that certain payments in respect of variant Creutzfeldt-Jakob disease may not be taken into account for the purposes of a departure direction.

Regulation 6 amends the Decisions and Appeals Regulations. Paragraph (2)(a)(i) inserts a new ground for revision under regulation 3A of the Decisions and Appeals Regulations. Paragraph (2)(a)(ii) provides for revision of certain (maintenance calculation) decisions where a person was not the parent of a relevant child. Paragraph (2)(c) inserts a new paragraph (5A) into regulation 3A of the Decisions and Appeals Regulations to provide for certain decisions to be revised at any time. Paragraph (4) provides dates when a supersession takes effect in a case where a flat rate liability is being paid, will become payable or will cease to be payable, at a different rate in accordance with paragraph 4(2) of Schedule 1 to the Child Support (Northern Ireland) Order 1991 (“the Order”), when non-resident parents become or cease to become partners and certain other consequential and incidental provisions as to supersession and time limits for appeals.

Regulation 7 makes minor amendments to the Maintenance Calculation Procedure Regulations. It also specifies the period of notice for the purposes of Article 43(6) of the Order and makes provisions for the effective date of a maintenance calculation in specific cases and clarifies that the transitional provisions in regulation 30(4) to (7) are to apply where Article 9 of the Order prior to its amendment by the Act applied immediately before the commencement date.

Regulation 8 amends the Maintenance Calculations and Special Cases Regulations as to how disabled person's tax credit is to be taken into account in calculating the income of a non-resident parent and clarifies the type of income from self-employment which will be relevant for a maintenance calculation.

Regulation 9 amends the Transitional Regulations to provide for the time within which an appeal must be brought against a conversion decision to be either within the time from the date of notification of the conversion decision to one month after the date on which that decision takes effect, or as determined under the Decisions and Appeals Regulations, whichever is the later. It also amends those Regulations to clarify which cases are within the conversion provisions in regulation 15(2) of those Regulations, to provide for the transitional amount to be payable in certain flat rate cases and its apportionment between persons with care, to make provision for the effect on a conversion calculation where there is more than one relevant property transfer, or a combination of relevant property transfers and relevant departure directions, to provide for case conversion date provisions to apply to all maintenance assessments, to provide additional cases where the subsequent decision amount is payable and to provide that the linking provisions in regulation 28 of those Regulations do not apply in certain circumstances.

Regulation 10 makes a similar amendment to the Variations Regulations to that made by regulation 5 and makes other minor changes to those Regulations. It also amends regulation 7 of those Regulations so the preliminary consideration provisions apply to an application made under Article 28A of the Order and amends regulation 18 of those Regulations to provide that in certain circumstances land or property held as a business or trade asset is not excluded from the definition of "asset".

Articles 22(4), 28B(2)(c), 28E(1), 28G and 43(10) of, and paragraph 10 of Schedule 1 and paragraphs 3, 4 and 5 of Schedule 4B to, the Order and section 28 of the Act are some of the enabling provisions under which these Regulations are made. Articles 22, 28B, 28G and 43 of, and paragraph 10 of Schedule 1 and Schedule 4B to, the Order were substituted by sections 5(2), 7, 10 and 18 of, and paragraph 10 of Schedule 1 and Part II of Schedule 2 to, the Act and Article 28E(1) of the Order was amended by section 5(4)(a) of the Act. Sections 5, 7, 10, 18 and 28 of, and Schedule 1 and Part II of Schedule 2 to, the Act were brought into operation, for the purposes only of authorising the making of regulations on 22nd November 2000, and section 7 of the Act, in so far as it relates to Article 28G(2) of the Order, was brought fully into operation on 1st January 2001, by virtue of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 1) Order (Northern Ireland) 2000 (S.R. 2000 No. 358 (C. 16)).

These Regulations do not impose a charge on business.