
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 469

FAMILY LAW
CHILD SUPPORT

**The Child Support (Miscellaneous Amendments)
Regulations (Northern Ireland) 2003**

Made - - - - 4th November 2003

Coming into operation in accordance with regulation 1

The Department for Social Development, in exercise of the powers conferred by Articles 14(2), 18(1), 19(3), 28E(5), 39, 43, 47 and 48(4) of, and paragraphs 4, 5, 6, 10(1) and 11 of Schedule 1 and paragraphs 2, 3(1)(b), 4(1)(b) 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 Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 and, subject to paragraph (2), shall come into operation on 5th November 2003.

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- (1) [S.I. 1991/2628 \(N.I. 23\)](#); Article 14 was amended by paragraph 12 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 ([S.I. 1998/1506 \(N.I. 10\)](#)); Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 and is amended by section 8 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 ([c. 4 \(N.I.\)](#)); Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998 and is amended by section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 28E was inserted by Article 3(1) of the Child Support (Northern Ireland) Order 1995 ([S.I. 1995/2702 \(N.I. 13\)](#)); Article 39 is amended by paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 43 was amended by paragraph 10 of Schedule 3 to the Child Support (Northern Ireland) Order 1995, paragraph 4(5) of Schedule 2 to the Jobseekers Allowance (Northern Ireland) Order 1995 ([S.I. 1995/2705 \(N.I. 15\)](#)), paragraph 28 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and Schedule 6 to the Tax Credits Act 1999 ([c. 10](#)) and is substituted by section 18 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 47 was amended by paragraph 31 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and is amended by paragraph 27 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; paragraph 5 of Schedule 1 was amended by paragraph 4(7) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 and Part I of Schedule 1 is substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Schedule 4B was inserted by Schedule 2 to the Child Support (Northern Ireland) Order 1995 and is substituted by 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(2), (4)(b) and (f) and (5)(b) and (f), 3(2)(a) to (d), (3) and (5), 5(2), (3)(b) and (f) and (4)(b) and (f), 6(2)(a) to (c) and (e) and (4), 9 (in so far as it relates to those provisions of regulations 2 and 5) and 10(e) to (f) shall come into operation on the day on which Articles 10 and 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(4) come into operation (or, if those Articles come into operation on different days, whichever day is the later).

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(5) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(3)(6) (citation, commencement and interpretation) –

(a) in sub-paragraph (a) for the words after “payable, or” there shall be substituted “the circumstances in regulation 39(3)(7) or regulation 39ZA(4)(8), as the case may be, apply;”;

and

(b) in sub-paragraph (b) for the words after “given,” there shall be substituted “the circumstances in regulation 39(3) or regulation 39ZA(4), as the case may be, apply; or”.

(3) In regulations 8D(8)(9) (miscellaneous provisions in relation to interim maintenance assessments) and 29A(5)(10) (effective dates of new maintenance assessments in particular cases) after “income support”, wherever it occurs, there shall be inserted “, state pension credit”.

(4) In regulation 39 (suspension of a reduced benefit direction when a modified applicable amount is payable) –

(a) in the heading for the words after “direction” there shall be substituted “(income support)”;

(b) in paragraph (1) –

(i) for the words from “concerned” to “paragraph (3)” there shall be substituted “concerned but the circumstances in paragraph (3) apply to that parent”, and

(ii) for the words from “so long as” to “that paragraph” there shall be substituted “so long as those circumstances apply”;

(c) paragraph (1A) shall be omitted;

(d) in paragraph (2) the words “or (1A)” shall be omitted;

(e) paragraph (3)(c) shall be omitted; and

(f) for paragraph (3) there shall be substituted the following paragraphs –

“(3) The circumstances referred to in paragraph (1) are that –

(a) that parent is resident in a residential care home, nursing home or an independent hospital; or

(4) S.I. 2003/431 (N.I. 9)

(5) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 Nos. 289 and 590, S.R. 1998 No. 8 and S.R. 1999 No. 167; S.R. 1992 No. 340 is revoked, with savings, by regulation 29 of S.R. 2001 No. 17

(6) Regulation 1(3) was amended by regulation 3(2) of S.R. 1995 No. 475 and regulation 20(2)(b) of S.R. 1996 No. 289

(7) Regulation 39 was amended by regulation 4(11) of S.R. 1993 No. 164 and regulation 8(13) of S.R. 1995 No. 162

(8) Regulation 39ZA was inserted by regulation 20(9) of S.R. 1996 No. 289

(9) Regulations 8 to 8D were substituted for regulation 8 by regulation 3(3) of S.R. 1995 No. 475 and regulation 8D was amended by regulation 2(3) of S.R. 1996 No. 590, regulation 3(3) of S.R. 1998 No. 8 and regulation 2(7) of S.R. 1999 No. 167

(10) Regulation 29A was inserted by regulation 3(19) of S.R. 1995 No. 475 and amended by regulation 2(5) of S.R. 1996 No. 590, regulation 3(7) of S.R. 1998 No. 8 and regulation 2(14) of S.R. 1999 No. 167

(b) that parent's applicable amount falls to be calculated under regulation 21 of, and any of paragraphs 1 to 3 of Schedule 7 to, the Income Support Regulations⁽¹¹⁾ (patients).

(4) In paragraph (3) –

“independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

“nursing home” has the meaning assigned to it by Article 11 of that Order; and

“residential care home” has the meaning assigned to it by Article 10 of that Order.”.

(5) In regulation 39ZA (suspension of a reduced benefit direction in the case of modified applicable amounts in jobseeker's allowance) –

(a) in the heading for the words after “direction” there shall be substituted “(income-based jobseeker's allowance)”;

(b) in paragraph (1) –

(i) for the words from “concerned” to “paragraph (4)” there shall be substituted “concerned but the circumstances in paragraph (4) apply to that parent”, and

(ii) for the words from “so long as” to “those provisions” there shall be substituted “so long as those circumstances apply”;

(c) paragraph (2) shall be omitted;

(d) in paragraph (3) the words “or (2)” shall be omitted;

(e) paragraph (4)(b) shall be omitted; and

(f) for paragraph (4) there shall be substituted the following paragraphs –

“(4) The circumstances referred to in paragraph (1) are that –

(a) that parent is resident in a residential care home, nursing home or an independent hospital; or

(b) that parent's applicable amount falls to be calculated under regulation 85 of, and paragraph 1 or 2 of Schedule 4 to, the Jobseeker's Allowance Regulations⁽¹²⁾ (patients).

(5) In paragraph (4) –

“independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

“nursing home” has the meaning assigned to it by Article 11 of that Order; and

“residential care home” has the meaning assigned to it by Article 10 of that Order.”.

⁽¹¹⁾ S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 318 and 431, S.R. 1990 No. 131, S.R. 1998 No. 81, S.R. 2002 No. 132 and S.R. 2003 Nos. 155, 195 and 261

⁽¹²⁾ S.R. 1996 No. 198; relevant amending rules are S.R. 2003 Nos. 155, 195, 261 and 267

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

3.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(**13**) shall be amended in accordance with paragraphs (2) to (7).

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

(a) in the definition of “home”(**14**) for “a home for persons in need or a nursing home” there shall be substituted “a residential care home, nursing home or an independent hospital”;

(b) after the definition of “Income Support Regulations” there shall be inserted the following definition –

““independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;

(c) for the definition of “nursing home” there shall be substituted the following definition –

““nursing home” has the meaning assigned to it by Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;

(d) for the definition of “residential care home”(**15**) there shall be substituted the following definition –

““residential care home” has the meaning assigned to it by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;

(e) after the definition of “self-employed earner” there shall be inserted the following definition –

““state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002(**16**);”.

(3) In regulation 9(1)(**17**) (exempt income: calculation or estimation of E) for sub-paragraph (h) there shall be substituted the following sub-paragraph –

“(h) where the absent parent or his partner is resident in a residential care home, nursing home or an independent hospital, the amount of fees paid in respect of that home or hospital, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home or hospital, as the case may be, the net amount of such fees after deduction of housing benefit;”.

(4) After regulation 10A(**18**) (assessable income: working tax credit paid to or in respect of a parent with care or an absent parent) there shall be inserted the following regulation –

(13) S.R. 1992 No. 341; relevant amending rules are S.R. 1993 No. 164, S.R. 1994 No. 37, S.R. 1995 Nos. 162 and 475, S.R. 1996 Nos. 288, 289, 317 and 590, S.R. 1998 No. 8, S.R. 1999 Nos. 152, 246 (C. 20) and 385, S.R. 2002 Nos. 164 and 323 and S.R. 2003 No. 84; S.R. 1992 No. 341 is revoked, with savings, by regulation 15 of S.R. 2001 No. 18

(14) The definition of “home” was amended by Article 9(2)(b) of S.R. 1999 No. 246 (C. 20)

(15) The definition of “residential care home” was inserted by regulation 5(2)(g) of S.R. 1993 No. 164

(16) 2002 c. 14 (N.I.)

(17) Regulation 9(1) was amended by regulation 5(3)(a) of S.R. 1993 No. 164, regulation 9(5)(a) of S.R. 1995 No. 162, regulation 4(4) of S.R. 1995 No. 475, regulation 7(6) of S.R. 1996 No. 288, regulation 4(3) of S.R. 1996 No. 317, regulation 5(2)(a) of S.R. 1998 No. 8, regulation 4 of S.R. 2002 No. 164 and paragraph 1(l) of the Schedule to S.R. 2002 No. 323

(18) Regulation 10A was inserted by regulation 3(3) of S.R. 1996 No. 590 and amended by Article 9(5) of S.R. 1999 No. 246 (C. 20) and regulation 3(3) of S.R. 2003 No. 84

“Assessable income: state pension credit paid to or in respect of a parent with care or an absent parent

10B. Where state pension credit is paid to or in respect of a parent with care or an absent parent, that parent shall, for the purposes of Schedule 1 to the Order, be taken to have no assessable income.”.

(5) In regulation 11(1)(**19**) (protected income) for sub-paragraph (i) there shall be substituted the following sub-paragraph –

“(i) where the absent parent or his partner is resident in a residential care home, nursing home or an independent hospital, the amount of fees paid in respect of that home or hospital, as the case may be, but where it has been determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that home or hospital, as the case may be, the net amount of such fees after deduction of housing benefit;”.

(6) In Schedule 1 (calculation of N and M) –

(a) in paragraph 9A(2)(**20**) after “war widow’s pension” there shall be inserted “and a war widower’s pension”; and

(b) in paragraph 22A(2)(**21**) after “war widow’s pension” there shall be inserted “and a war widower’s pension”.

(7) In Schedule 2 (amounts to be disregarded when calculating or estimating N and M) –

(a) in paragraph 15(**22**) after “income support” there shall be inserted “, state pension credit”;

(b) in paragraph 18(a) and (b)(ii) after “war widow’s pension” there shall be inserted “or war widower’s pension”;

(c) paragraph 47E(**23**) shall be omitted; and

(d) after paragraph 47D(**24**) there shall be inserted the following paragraph –

“47F. Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(**25**) (pensions to widows and widowers) or under article 27(3) of the Personal Injuries (Civilians) Scheme 1983(**26**) (pensions to widows and widowers).”.

Amendment of the Child Support Departure Direction and Consequential Amendments Regulations

4.—(1) The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996(**27**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 9(**28**) (departure directions and persons in receipt of income support, income-based jobseeker’s allowance or working tax credit) in the heading and in paragraphs (1)(a), (b) and

(19) Regulation 11(1) was amended by regulation 5(5) of S.R. 1993 No. 164, regulation 5(4) of S.R. 1994 No. 37, regulation 9(7) of S.R. 1995 No. 162, regulation 4(5)(a) of S.R. 1995 No. 475, regulation 7(9) of S.R. 1996 No. 288, regulation 4(4)(a) of S.R. 1996 No. 317 and regulation 5(3)(a) of S.R. 1998 No. 8

(20) Paragraph 9A was inserted by regulation 4(5)(f) of S.R. 1999 No. 152

(21) Paragraph 22A was inserted by regulation 4(5)(h) of S.R. 1999 No. 152

(22) Paragraph 15 was amended by regulation 21(5) of S.R. 1996 No. 289

(23) Paragraph 47E was inserted by regulation 3(6)(c) of S.R. 2003 No. 84

(24) Paragraph 47D was inserted by regulation 3(6)(b) of S.R. 2003 No. 84

(25) S.I. 1983/883; article 29(1A) was inserted by S.I. 1994/1906 and amended by S.I. 2002/792 and S.I. 2003/434

(26) S.I. 1983/686; article 27(3) was added by S.I. 1994/2021. See also S.I. 2002/672

(27) S.R. 1996 No. 541; relevant amending regulations are S.R. 1998 No. 8 and S.R. 2003 No. 84; S.R. 1996 No. 541 is revoked, with savings, by regulation 33 of S.R. 2001 No. 20

(28) Regulation 9 was substituted by regulation 9(3) of S.R. 1998 No. 8 and amended by regulation 6(2) of S.R. 2003 No. 84

(c), (2)(a) and (b) and (3)(a), (b) and (c) after “income support” there shall be inserted “, state pension credit”.

(3) In regulation 12(29) (meaning of “benefit” for the purposes of Article 28E of the Order) after “income support” there shall be inserted “, state pension credit”.

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

5.—(1) The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(30) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 8(2)(b) (interpretation of Part IV) –

- (a) in head (i) for the words after “payable, or” there shall be substituted “the circumstances in regulation 14(4) or 15(4), as the case may be, apply;”; and
- (b) in head (ii) for the words after “given,” there shall be substituted “the circumstances in regulation 14(4) or 15(4), as the case may be, apply;”.

(3) In regulation 14 (suspension of a reduced benefit decision when a modified applicable amount is payable (income support)) –

- (a) in the heading the words “when a modified applicable amount is payable” shall be omitted;
- (b) in paragraph (1) –
 - (i) for the words from “concerned” to “paragraph (4)” there shall be substituted “concerned but the circumstances in paragraph (4) apply to that parent”, and
 - (ii) for the words from “so long as” to “that paragraph” there shall be substituted “so long as those circumstances apply”;
- (c) paragraph (2) shall be omitted;
- (d) in paragraph (3) the words “or (2)” shall be omitted;
- (e) paragraph (4)(c) shall be omitted; and
- (f) for paragraph (4) there shall be substituted the following paragraphs –

“(4) The circumstances referred to in paragraph (1) are that –

- (a) that parent is resident in a residential care home, nursing home or an independent hospital; or
- (b) that parent’s applicable amount falls to be calculated under regulation 21 of, and any of paragraphs 1 to 3 of Schedule 7 to, the Income Support Regulations (patients).

(5) In paragraph (4) –

“independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

“nursing home” has the meaning assigned to it by Article 11 of that Order; and

“residential care home” has the meaning assigned to it by Article 10 of that Order.”.

(4) In regulation 15 (suspension of a reduced benefit decision when a modified applicable amount is payable (income-based jobseeker’s allowance)) –

- (a) in the heading the words “when a modified applicable amount is payable” shall be omitted;
- (b) in paragraph (1) –

(29) Regulation 12 was amended by regulation 6(3) of S.R. 2003 No. 84

(30) S.R. 2001 No. 17

- (i) for the words from “concerned” to “paragraph (4)” there shall be substituted “concerned but the circumstances in paragraph (4) apply to that parent”, and
- (ii) for the words from “so long as” to “those provisions” there shall be substituted “so long as those circumstances apply”;
- (c) paragraph (2) shall be omitted;
- (d) in paragraph (3) the words “or (2)” shall be omitted;
- (e) paragraph (4)(b) shall be omitted; and
- (f) for paragraph (4) there shall be substituted the following paragraphs –
 - “(4) The circumstances referred to in paragraph (1) are that –
 - (a) that parent is resident in a residential care home, nursing home or an independent hospital; or
 - (b) that parent’s applicable amount falls to be calculated under regulation 85 of, and paragraph 1 or 2 of Schedule 4 to, the Jobseeker’s Allowance Regulations (patients).
 - (5) In paragraph (4) –
 - “independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;
 - “nursing home” has the meaning assigned to it by Article 11 of that Order; and
 - “residential care home” has the meaning assigned to it by Article 10 of that Order.”.

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

6.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001⁽³¹⁾ shall be amended in accordance with paragraphs (2) to (5).

- (2) In regulation 1(2) (citation, commencement and interpretation) –
 - (a) in the definition of “home” for “or a nursing home” there shall be substituted “, nursing home or an independent hospital”;
 - (b) after the definition of “Income Support Regulations” there shall be inserted the following definition –
 - ““independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;
 - (c) for the definition of “nursing home” there shall be substituted the following definition –
 - ““nursing home” has the meaning assigned to it by Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;
 - (d) in the definition of “occupational pension scheme” after “1988” there shall be added “or is a statutory scheme to which section 594 of that Act applies”;
 - (e) for the definition of “residential care home” there shall be substituted the following definition –

⁽³¹⁾ S.R. 2001 No. 18; relevant amending regulations are S.R. 2002 No. 323

“residential care home” has the meaning assigned to it by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;

- (f) for the definition of “training allowance” there shall be substituted the following definition

–
 “training allowance” means a payment under section 1 of the Employment and Training Act (Northern Ireland) 1950(32) which is paid –

- (a) to a person for his maintenance; and
- (b) in respect of a period during which that person –
 - (i) is undergoing training pursuant to arrangements made under section 1 of that Act, and
 - (ii) has no net weekly income of a type referred to in Part II or III of the Schedule;”;

- (g) after the definition of “training allowance” there shall be inserted the following definition –

“war widow’s pension” means any pension or allowance payable for a widow which is –

- (a) granted in respect of a death due to service or war injury and payable by virtue of the Air Force (Constitution) Act 1917(33), the Personal Injuries (Emergency Provisions) Act 1939(34), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(35), the Polish Resettlement Act 1947(36) or Part VII or section 151 of the Reserve Forces Act 1980(37);
- (b) payable under so much of any Order in Council, Royal Warrant, order or scheme as relates to death due to service in the armed forces of the Crown, wartime service in the merchant navy or war injuries;
- (c) payable in respect of death due to peacetime service in the armed forces of the Crown before 3rd September 1939, and payable at rates, and subject to conditions, similar to those of a pension within sub-paragraph (b); or
- (d) payable under the law of a country other than the United Kingdom and of a character substantially similar to a pension within sub-paragraph (a), (b) or (c),

and “war widower’s pension” shall be construed accordingly;”.

- (3) In regulation 4(1)(38) (flat rate) –

- (a) in sub-paragraph (e) the words “or war widow’s pension” shall be omitted; and
- (b) after sub-paragraph (e) there shall be added – “and
 - (f) a war widow’s pension or a war widower’s pension.”.

(4) In regulation 5(1)(f) (nil rate) for “in a residential care home or nursing home” there shall be substituted “who is resident in a residential care home, nursing home or an independent hospital”.

(32) 1950 c. 29 (N.I.); section 1(1) and (1A) were substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and section 1(2) and (3) were substituted by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

(33) 1917 c. 51

(34) 1939 c. 82

(35) 1939 c. 83

(36) 1947 c. 19

(37) 1980 c. 9; Part VII was amended by the Armed Forces Act 1981 (c. 55), the Army Act 1992 (c. 39), the Statute Law (Repeals) Act 1993 (c. 50) and the Reserve Forces Act 1996 (c. 14)

(38) Regulation 4(1) was amended by paragraph 1(t) of the Schedule to S.R. 2002 No. 323

- (5) In regulation 11 (non-resident parent liable to pay maintenance under a maintenance order) –
- (a) in paragraph (3) after “applies,” there shall be inserted “subject to paragraph (5),”; and
 - (b) after paragraph (4) there shall be added the following paragraph –
“**(5)** If the application of paragraph (3) would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to the person with care (or all of them) to an amount which is less than a figure equivalent to the flat rate of child support maintenance payable under paragraph 4(1) of Schedule 1 to the Order, the non-resident parent shall instead be liable to pay child support maintenance at a rate equivalent to that flat rate apportioned (if appropriate) as provided in paragraph 6 of that Schedule.”.

Amendment of the Child Support (Transitional Provisions) Regulations

7.—(1) The Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001⁽³⁹⁾ shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation) in the definition of “maximum transitional amount” for the words after “amount” there shall be substituted “has the meaning given in regulation 25(5), (6) or (7), whichever is applicable;”.

(3) In regulation 7(g)(ii) (grounds on which a conversion decision may not be revised, superseded or altered on appeal) the words “where” and “the relevant property transfer to be replaced with” shall be omitted.

(4) In regulation 17⁽⁴⁰⁾ (relevant departure direction and relevant property transfer) after paragraph (9) there shall be added the following paragraph –

“(10) Where –

- (a) a relevant property transfer is taken into account for the purposes of a conversion decision;
- (b) an application is made for a variation of a type referred to in paragraph 3 of Schedule 4B to the Order and Part IV of the Variations Regulations⁽⁴¹⁾ (property or capital transfers) which relates to the same property or capital transfer as the relevant property transfer referred to in sub-paragraph (a); and
- (c) the variation is agreed to,

the relevant property transfer shall cease to have effect from the effective date of the subsequent decision which resulted from the application for a variation.”.

(5) In regulation 24⁽⁴²⁾ (phasing amount) –

- (a) in paragraph (3) for “and (5)” there shall be substituted “, (5) and (6)”; and
- (b) after paragraph (5) there shall be added the following paragraph –

“(6) Where a subsequent decision is made the effective date of which is the case conversion date –

- (a) the reference in paragraph (3) to the conversion decision shall apply as if it were a reference to the subsequent decision; and
- (b) the reference in paragraph (5) to the new amount shall apply as if it were a reference to the subsequent decision amount.”.

⁽³⁹⁾ S.R. 2001 No. 19; relevant amending regulations are S.R. 2002 No. 164 and S.R. 2003 No. 84

⁽⁴⁰⁾ Regulation 17 was amended by regulation 9(8) of S.R. 2002 No. 164

⁽⁴¹⁾ In Part IV, regulation 16(4) was amended by regulation 10(3) of S.R. 2002 No. 164

⁽⁴²⁾ Regulation 24 was amended by regulation 9(13) of S.R. 2002 No. 164 and regulation 10(9) of S.R. 2003 No. 84

(6) In regulation 25(43) (maximum transitional amount) after paragraph (4) there shall be added the following paragraphs –

“(5) Subject to paragraphs (6) and (7), “maximum transitional amount” means 30% of the non-resident parent’s net weekly income taken into account in the conversion decision, or the subsequent decision, as the case may be.

(6) Where the new amount is calculated under regulation 22(1)(44), “maximum transitional amount” means 30% of the aggregate of the income calculated under regulation 22(1)(b).

(7) Where the new amount or the subsequent decision amount, as the case may be, is calculated under regulation 26(1) of the Variations Regulations “maximum transitional amount” means 30% of the additional income arising under the variation.”.

(7) In regulation 27(45) (subsequent decision with effect in transitional period – amount payable)

–

(a) in paragraph (9) for “Where” there shall be substituted “Subject to paragraph (10), where”; and

(b) after paragraph (9) there shall be added the following paragraph –

“(10) Where a subsequent decision (“decision B”) is made in respect of a decision which is itself a subsequent decision (“decision A”) and –

(a) decision B has the same effective date as decision A; or

(b) decision B –

(i) is a revision or alteration on appeal of decision A, and

(ii) includes within it a determination that the effective date of decision A was incorrect,

paragraphs (2) to (5) shall apply so that the subsequent decision amount of decision B is compared with the new amount or the subsequent decision amount, as the case may be, which was in place immediately before decision A was made.”.

Amendment of the Child Support (Variations) Regulations

8. In regulation 28 (transitional provisions – conversion decisions) of the Child Support (Variations) Regulations (Northern Ireland) 2001(46) for “Where” there shall be substituted “Subject to regulation 17(10) of the Transitional Regulations, where”.

Savings

9. Regulations 1(3), 39 and 39ZA of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 and regulations 8(2)(b), 14 and 15 of the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001 shall continue to have effect in relation to a person to whom any of those provisions applied before the date these Regulations come into operation as if regulations 2(2), (4) and (5), 5 and 10 of these Regulations had not come into operation.

(43) Regulation 25 was amended by regulation 10(10) of S.R. 2003 No. 84

(44) Regulation 22 (1) was amended by regulation 9(10) of S.R. 2002 No. 164 and regulation 10(8)(a) of S.R. 2003 No. 84

(45) Regulation 27 was amended by regulation 9(14) of S.R. 2002 No. 164 and regulation 10(11) of S.R. 2003 No. 84

(46) S.R. 2001 No. 20

Revocations

10. The following regulations are hereby revoked –

- (a) regulation 4(11)(b) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993**(47)**;
- (b) regulation 8(13) of the Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995**(48)**;
- (c) regulation 20(3) of the Social Security and Child Support (Jobseeker’s Allowance) (Consequential Amendments) Regulations (Northern Ireland) 1996**(49)**;
- (d) regulation 3(6)(c) of the Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2003**(50)**;
- (e) regulations 4(11)(a) and 5(2)(g), (3)(a) and (5) of the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993;
- (f) regulation 4(4) and (5)(a)(ii) of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1995**(51)**; and
- (g) regulation 20(2)(b)(i) of the Social Security and Child Support (Jobseeker’s Allowance) (Consequential Amendments) Regulations (Northern Ireland) 1996.

Sealed with the Official Seal of the Department for Social Development on 4th November 2003.

L.S.

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

(47) S.R. 1993 No. 164
(48) S.R. 1995 No. 162
(49) S.R. 1996 No. 289
(50) S.R. 2003 No. 84
(51) S.R. 1995 No. 475

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

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:

- the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 (“the Maintenance Assessment Procedure Regulations”);
- the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 (“the Maintenance Assessments and Special Cases Regulations”);
- the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996 (“the Departure Direction Regulations”);
- 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”); and
- the Child Support (Variations) Regulations (Northern Ireland) 2001 (“the Variations Regulations”).

Regulation 1 makes provision for citation and commencement.

Regulations 2(2), 4(b) and (f) and 5(b) and (f), 3(2)(a) to (d), (3) and (5), 5(2), (3)(b) and (f) and 4(b) and (f) and 6(2)(a) to (c) and (e) and (4) amend, respectively, the Maintenance Assessment Procedure Regulations, the Maintenance Assessments and Special Cases Regulations, the Maintenance Calculation Procedure Regulations and the Maintenance Calculations and Special Cases Regulations in consequence of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003. The amendments will take effect from the date Articles 10 and 11 of that Order come into operation.

Regulations 2(3), 3(2)(e), (4) and (7)(a) and 4 amend, respectively, the Maintenance Assessment Procedure Regulations, the Maintenance Assessments and Special Cases Regulations and the Departure Direction Regulations in consequence of the introduction of state pension credit.

Regulations 2(4)(a) and (5)(a) and 5(3)(a) and (4)(a) make minor drafting amendments to the Maintenance Assessment Procedure Regulations and the Maintenance Calculation Procedure Regulations.

Regulations 2(4)(c) to (e) and (5)(c) to (e) and 5(3)(c) to (e) and (4)(c) to (e) amend, respectively, the Maintenance Assessment Procedure Regulations and the Maintenance Calculation Procedure Regulations in consequence of the abolition of the residential allowance in income support and income-based jobseeker’s allowance.

Regulations 3(6) and (7)(b) and (d) and 6(2)(g) and (3) amend, respectively, the Maintenance Assessments and Special Cases Regulations and the Maintenance Calculations and Special Cases Regulations to provide for a war widower’s pension to be treated for child support purposes in the same way as a war widow’s pension and for the treatment for child support purposes of specific payments for war widows and widowers.

Regulation 3(7)(c) amends the Maintenance Assessments and Special Cases Regulations in consequence of the Housing Support Services Regulations (Northern Ireland) 2003 (S.R. 2003 No. 172) (which prescribe the persons eligible for payment of grants for housing support services).

Regulation 6 amends the Maintenance Calculations and Special Cases Regulations. Regulation 6(2)(d) amends the definition of “occupational pension scheme” and regulation 6(2)(f) substitutes the definition of “training allowance”. Regulation 6(5) amends the provision for cases where a non-resident parent is liable to pay child support maintenance as well as child maintenance under a court order in respect of a different child.

Regulation 7 amends the Transitional Regulations. Regulation 7(2) and (6) amends provisions in respect of the “maximum transitional amount”, which is the most a non-resident parent can be required to pay in child support maintenance, to make provision for cases where regulation 22 of the Transitional Regulations or regulation 26 of the Variations Regulations applies. Regulation 7(3) amends regulation 7(g)(ii) of the Transitional Regulations to link the ground set out in that provision to the making of an application for a variation in relation to the same transfer of capital or property as has been taken into account as a “relevant property transfer” in the conversion decision. Regulation 7(4) amends the Transitional Regulations to ensure that a relevant property transfer and a variation cannot be in force at the same time in relation to the same property or capital transfer. Regulation 7(5) and (7) amends, respectively, regulations 24 and 27 of the Transitional Regulations to make provision for cases where a subsequent decision is made.

Regulation 8 makes an amendment to the Variations Regulations in consequence of the amendment made by regulation 7(4).

Regulation 9 makes savings provisions in respect of the amendments made by regulations 2(2), (4) and (5) and 5.

Regulation 10 makes consequential revocations.

These Regulations do not impose any costs on business.