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STATUTORY RULES OF NORTHERN IRELAND

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**2003 No. 84**

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

**Amendment of the Child Support (Maintenance Calculation Procedure) Regulations**

**8.—(1)** The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001<sup>(1)</sup> shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 5(1) (notice of an application for a maintenance calculation) after “Order, or” there shall be inserted “an application”.

(3) In regulation 10 (circumstances in which a reduced benefit decision shall not be given) after paragraph (b) there shall be added – “or

(c) an amount prescribed under section 9(5)(c) of the Tax Credits Act 2002 (increased elements of child tax credit for children or young persons with a disability) is included in an award of child tax credit payable to the parent in question or a member of that parent’s family living with him.”.

(4) In regulation 24(1) (effective dates of maintenance calculations) after “to 28” there shall be inserted “and 30”.

(5) Regulation 28<sup>(2)</sup> (effective dates of maintenance calculations in specified cases) shall be renumbered paragraph (1) of regulation 28 and –

(a) in sub-paragraph (a) for “the day following the day” there shall be substituted “the date”; and

(b) at the end there shall be added the following paragraphs –

“(2) Where an application is treated as made under Article 9(3) of the Order, references in sub-paragraphs (a) and (c) of paragraph (1) to “the date the application is made” shall mean whichever is the later of –

(a) the date of the claim for a prescribed benefit made by or in respect of the parent with care, as determined by regulation 6 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>(3)</sup>; and

(b) the date on which the parent with care or her partner in the claim reports to the Department (in respect of a claim for a prescribed benefit) or to the Commissioners of Inland Revenue (in respect of a claim for a tax credit) a change of circumstances, which change –

(i) relates to an existing claim, in respect of the parent with care, for a prescribed benefit, and

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(1) S.R. 2001 No. 17; relevant amending regulations are S.R. 2002 No. 164

(2) Regulation 28 was amended by regulation 7(7) of S.R. 2002 No. 164

(3) S.R. 1987 No. 465; regulation 6 was amended by S.R. 1988 No. 141, S.R. 1989 No. 398, S.R. 1990 Nos. 137 and 398, S.R. 1991 No. 488, S.R. 1992 No. 7, S.R. 1993 No. 375, S.R. 1994 No. 345, S.R. 1996 Nos. 354 and 449, S.R. 1997 Nos. 156 and 417, S.R. 2000 Nos. 71, 215 and 365, S.R. 2001 Nos. 175 and 176 and S.R. 2002 Nos. 67 and 323

- (ii) has the effect that the parent with care is treated as applying for a maintenance calculation under Article 9(1) of the Order (whether or not that Article already applied to that parent with care).
- (3) For the purposes of –
- (a) paragraph (1), “ceased to have effect” means ceased to have effect under paragraph 16 of Schedule 1 to the Order<sup>(4)</sup>; and
  - (b) paragraph (2), “prescribed benefit” means a benefit referred to in Article 9(1) of the Order or prescribed in regulations made under that Article.”.
- (6) In regulation 29(2) (revocation and savings) for “regulation 30(2)” there shall be substituted “regulation 30(1C)(b) and (2)”.
- (7) In regulation 30<sup>(5)</sup> (transitional provision—effective dates and reduced benefit decisions) –
- (a) for paragraphs (1) and (2) there shall be substituted the following paragraphs –
 

“(1) Where a maintenance assessment is, or has been, in force and an application to which regulation 28 applies is made, or is treated as made under Article 9(3) of the Order, that regulation shall apply as if in paragraph (1) references to –

    - (a) a maintenance calculation in force were to a maintenance assessment in force;
    - (b) a maintenance calculation having been in force were to a maintenance assessment having been in force; and
    - (c) a non-resident parent in sub-paragraph (a), the first time it occurs in sub-paragraph (b) and in sub-paragraph (c)(iii), were to an absent parent.

(1A) Where regulation 28(7) of the Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001<sup>(6)</sup> (linking provisions) applies, the effective date of the maintenance calculation shall be the date which would have been the beginning of the first maintenance period in respect of the conversion decision on or after what, but for this paragraph, would have been the relevant effective date provided for in regulation 24(2) to (4).

(1B) The provisions of Schedule 3 shall apply where –

    - (a) an effective application for a maintenance assessment has been made under the former Order (“an assessment application”); and
    - (b) an effective application for a maintenance calculation is made or an application for a maintenance calculation is treated as made under the Order (“a calculation application”).

(1C) Where the provisions of Schedule 3 apply and, by virtue of regulation 4(3) of the Maintenance Assessment Procedure Regulations, the relevant date would be –

    - (a) before the prescribed date, the application to be proceeded with shall be treated as an application for a maintenance assessment;
    - (b) on or after the prescribed date, that application shall be treated as an application for a maintenance calculation and the effective date of that maintenance calculation shall be the date which would be the assessment effective date if a maintenance assessment were to be made.
- (2) Where –
- (a) the application for a maintenance assessment was made before the prescribed date; and

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<sup>(4)</sup> Paragraph 16 was amended by paragraph 32(5) of Schedule 6 to the Social Security (Northern Ireland) Order 1998

<sup>(5)</sup> Regulation 30 was amended by regulation 7(8) of S.R. 2002 No. 164

<sup>(6)</sup> S.R. 2001 No. 19; regulation 28(7) was amended by regulation 9(15)(f) of S.R. 2002 No. 164

- (b) the assessment effective date of that application would be on or after the prescribed date,
- the application shall be treated as an application for a maintenance calculation and the effective date of that maintenance calculation shall be the date which would be the assessment effective date if a maintenance assessment were to be made.”;
- (b) in paragraph (4) for the words before “is before” there shall be substituted “Where the assessment effective date”; and
- (c) in paragraph (8) –
- (i) before the definition of “commencement date” there shall be inserted the following definitions –
- ““absent parent” has the same meaning given in Article 4(2) of the former Order;
- “assessment effective date” means the effective date of the maintenance assessment under regulation 29 or 32(7) of the Maintenance Assessment Procedure Regulations(7) or regulation 3(4), (6) or (7) of the Maintenance Arrangements and Jurisdiction Regulations(8), whichever applied to the maintenance assessment in question or would have applied had the effective date not been determined under regulation 8C or 29A of the Maintenance Assessment Procedure Regulations(9);”, and
- (ii) after the definition of “prescribed date” there shall be added – “and
- “relevant date” means the date which would be the assessment effective date of the application which is to be proceeded with in accordance with Schedule 3, if a maintenance assessment were to be made.”.
- (8) After Schedule 2 (multiple applications) there shall be added, as Schedule 3, the Schedule set out in the Schedule to these Regulations.

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(7) Regulation 29 was amended by regulation 4(5) of S.R. 1995 No. 19, regulation 8(10) of S.R. 1995 No. 162, regulation 3(18) of S.R. 1995 No. 475 and regulation 2(13) of S.R. 1999 No. 167; regulation 32(7) was added by regulation 3(22)(b) of S.R. 1995 No. 475

(8) Regulation 3(4) was amended by regulation 7(2) of S.R. 1995 No. 475 and regulation 3(3) of S.R. 2001 No. 16, regulation 3(6) was added by regulation 3 of S.R. 1995 No. 19 and amended by regulation 3(3) of S.R. 2001 No. 16 and regulation 3(7) was added by regulation 7(4)(b) of S.R. 1995 No. 162 and amended by regulation 7(2) of S.R. 1995 No. 475 and regulation 3(2) and (3) of S.R. 2001 No. 16; paragraphs (4) to (7) of regulation 3 are omitted, with savings, by regulations 3(5)(b) and 4 of S.R. 2001 No. 16

(9) Regulations 8 to 8D were substituted for regulation 8 by regulation 3(3) of S.R. 1995 No. 475 and regulation 8C was amended by regulation 2(6) of S.R. 1999 No. 167; 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