

2006 No. 273

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendments) Regulations
(Northern Ireland) 2006**

Made - - - -

21st June 2006

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of powers conferred by Articles 16(1), 18(4), 29(2) and (3), 32, 34, 37A(3) and 48(4) of, and paragraph 11 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a) and now vested in it(b).

Citation and Commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2006 and, subject to paragraph (2), come into operation on 12th July 2006.

(2) Where, in relation to a particular case, paragraph 24 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(c) has not come into operation before 12th July 2006, regulation 3(3) shall come into operation for the purposes of that case on the day on which that paragraph comes into operation.

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

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(d) are amended as follows.

(2) In regulation 2(2) (persons under a duty to furnish information or evidence) after subparagraph (h) add:—

“(i) a credit reference agency within the meaning given by section 145(8) of the Consumer Credit Act 1974(e) with respect to the matters listed in regulation 3(1)(d), (e), (m) and (n).”.

(a) S.I. 1991/2628 (N.I. 23); Article 16(1) is amended by section 12 of, and paragraph 16 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I.10)) and is amended by section 8 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 29(2) and (3) is amended by section 1(2)(a) and (b) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 37A was inserted by section 16(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 11 of Schedule 1 is amended by section 1(2)(a) and (b) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 2000 c. 4 (N.I.); see Article 3 of S.R. 2003 No. 53 (C. 4) for the commencement of paragraph 24 of Schedule 3 to that Act

(d) S.R. 1992 No. 339; relevant amending regulations are S.R. 2001 No. 16 and S.R. 2002 No. 164

(e) 1974 c. 39

(3) In regulation 3(1) (purposes for which information or evidence may be required) after subparagraph (l) add:—

- “(m) an assessment of the financial standing of the non-resident parent;
- (n) an amount of, or an amount treated as, overpaid child support maintenance, to be recovered in accordance with Article 38B of the Order^(a) (repayment of overpaid child support maintenance) and regulations made under or by virtue of that Article, from a relevant person.”.

Amendment of the Child Support (Collection and Enforcement) Regulations

3.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992^(b) are amended as follows.

(2) In regulation 3(c) (method of payment):—

(a) after paragraph (1)(f) add:—

- “(g) by credit card;
- (h) by a voluntary deduction from earnings arrangement.”;

(b) for paragraph (1A)(d) substitute:—

“(1A) In paragraph (1):—

- (a) “debit card” means a card, operating as a substitute for a cheque that can be used to obtain cash or to make a payment at a point of sale whereby the card holder’s bank or building society account is debited without deferment of payment;
- (b) “credit card” means a card which is a credit-token within the meaning of section 14(1)(b) of the Consumer Credit Act 1974;
- (c) “voluntary deduction from earnings arrangement” means an arrangement under which the liable person and his employer agree that payments of child support maintenance are to be deducted from the liable person’s earnings and paid to the Department.”.

(3) In regulation 11(2)(e) (protected earnings proportion) for the words from “as calculated” to the end substitute:—

“as calculated:—

- (a) at the date of the current maintenance calculation; or
- (b) if the deduction from earnings order relates only to arrears of child support maintenance, at the date on which the order is made or varied.”.

(4) In regulation 27 (application for a liability order) for paragraph (2) substitute the following paragraphs:—

“(2) Subject to paragraph (3), there is no period of limitation in relation to an application under paragraph (1).

(3) An application under paragraph (1) may not be instituted in respect of an amount payment of which became due on or before 12th July 2000.”.

(a) Article 38B was inserted by Article 16 of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))
(b) S.R. 1992 No. 390
(c) Regulation 3 was amended by regulation 3(4) of S.R. 2001 No. 15
(d) Paragraph (1A) was inserted by regulation 3(4)(b) of S.R. 2001 No. 15
(e) Regulation 11(2) was amended by regulation 3(11) of S.R. 2001 No. 15

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

4. In regulation 5A of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (a) (date from which a decision revised under Article 18 of the Child Support Order takes effect) omit paragraphs (2) and (3).

Amendment of the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations

5.—(1) The Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001(b) are amended as follows.

(2) At the end of regulation 1(2)(c) (citation, commencement and interpretation) add “; and regulation 3(4)(a)(ii) shall, to the extent that that provision is not already in operation on 12th July 2006, come into operation on that date”.

(3) In regulation 5(1)(d) (savings):—

- (a) at the end of sub-paragraph (a) and head (i) insert “or”;
- (b) at the end of sub-paragraph (b) and head (ii) omit “or”; and
- (c) omit sub-paragraph (c) and head (iii).

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations

6. After regulation 28 of the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(e) (effective dates of maintenance calculations in specified cases) insert:—

“Interim effective date where regulation 24, 27 or 28 applies

28A.—(1) Where the Department has sufficient information to enable it to make a maintenance calculation, but only in respect of a period beginning after the date which would have been the effective date under regulation 24, 27 or 28 (“the original effective date”), the effective date of that calculation (“the interim effective date”) shall, instead, be the first day of the maintenance period after the Department receives that information.

(2) Where the information referred to in paragraph (1) is that the non-resident parent or his partner has been awarded any benefit, pension or allowance prescribed for the purposes of paragraph 4 of Schedule 1 to the Act(f) (flat rate), the Department shall be treated as having received the information on the first day in respect of which that benefit, pension or allowance was payable under that award.

(3) If the Department subsequently receives sufficient information to enable it to make a maintenance calculation for the period from the original effective date to the interim effective date, that calculation shall have effect for that period.”.

(a) Regulation 5A was inserted by regulation 2(6) of S.R. 2001 No. 23 and amended by regulation 2(a) and (b) of S.R. 2003 No. 45
(b) S.R. 2001 No. 15
(c) Regulation 1(2) was amended by regulation 2 of S.R. 2001 No. 197
(d) Regulation 5 was amended by regulation 2(5) of S.R. 2003 No. 91
(e) S.R. 2001 No. 17; regulation 28 was amended by regulation 7(7) of S.R. 2002 No. 164, regulation 8(5) of S.R. 2003 No.84 and regulation 6(2) of S.R. 2004 No. 428
(f) Paragraph 4 of Schedule 1 was substituted by section 1(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 c. 4

Revocation

7. Regulation 3(4)(b) of the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001 is revoked.

Sealed with the Official Seal of the Department for Social Development on 21st June 2006.



John O'Neill

A senior officer of the Department for Social Development.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the amendments of various sets of Regulations relating to child support.

The powers exercised to make these Regulations are those contained in the Child Support (Northern Ireland) Order 1991 (“the 1991 Order”), as amended by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (“the 2000 Act”). Some of the amendments made by the 2000 Act are only in operation for the purposes of specified categories of case (see the Child Support, Pensions and Social Security (2000 Act) (Commencement No 9) Order (Northern Ireland) 2003) (“the new scheme”). In all other cases the 1991 Order prior to those amendments continues to apply (“the old scheme”).

Regulation 1 makes provision for citation and commencement. The Regulations come into operation on 12th July 2006, save that regulation 3(3) (which relates to deduction from earnings orders) only comes into operation for cases under the new scheme.

Regulation 2 amends the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 by making provision for credit reference agencies to be required to furnish information to the Department.

Regulation 3 makes a number of amendments to the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992. Firstly, it extends the range of arrangements for collection of child support by adding payment by credit card and voluntary deduction from earnings arrangements (paragraph (2)). Secondly, it provides a basis for calculating the protected earnings proportion in relation to a deduction from earnings order which relates only to arrears of child support maintenance (paragraph (3)). Thirdly, it removes the six year limitation period for an application for a liability order, but only in relation to amounts that became due after 12th July 2000 (that is amounts which were not already time barred at the commencement of these Regulations) (paragraph 4).

Regulation 4 amends the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 by revoking the provision which specifies an effective date in a case where a default maintenance decision is revised as if it were a maintenance calculation under Article 13 of the Child Support (Northern Ireland) Order 1991.

Regulation 5 amends the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 1992 in two respects. Firstly, it amends the commencement provisions so as to bring fully into operation (that is for both old and new scheme cases) the amendments in those Regulations which make provision for collection of child support maintenance by debit card (paragraph (2)). Secondly, it amends the savings provision in regulation 5 so that, in cases which have been converted from the old scheme to the new scheme, all arrears of child support maintenance, whenever they accrued, are treated the same for collection and enforcement (paragraph (3)).

Regulation 6 amends the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001 by providing for an interim effective date for the initial calculation of child support maintenance in cases where the available information does not cover the whole of the relevant period.

Regulation 7 makes a consequential revocation.

A regulatory impact assessment has not been produced for this rule as it has no impact on the costs of business.