

EXPLANATORY MEMORANDUM TO
THE CHILD SUPPORT AND CLAIMS AND PAYMENTS
(MISCELLANEOUS AMENDMENTS AND CHANGE TO THE MINIMUM
AMOUNT OF LIABILITY) REGULATIONS (NORTHERN IRELAND) 2013

S.R. 2013 No. 190

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 16(1), 38E, 40 and 48(4) of, and paragraphs 3(2) and 10A(1)(b) of Schedule 1, paragraphs 4(1) and 5 of Schedule 4B to, the Child Support (Northern Ireland) Order 1991, and section 5(1)(q) of the Social Security Administration (Northern Ireland) Act 1992 and is subject to the confirmatory resolution procedure.

2. Purpose

- 2.1. The flat rate of child support maintenance is the amount of child support maintenance a non-resident parent is liable to pay if they have weekly income of £100 or less or they are in receipt of certain prescribed benefits. It is intended that the flat rate will increase from £5 to £7 at a date to be confirmed later in 2013. This statutory rule makes a number of amendments to both child maintenance and social security subordinate legislation as a consequence of this change. This statutory rule also makes a number of amendments to subordinate legislation concerning the rules for the calculation of child support maintenance and variations (which allow for deviations from the usual rules of calculating child support maintenance in certain limited circumstances).

3. Background

- 3.1. A statutory child maintenance scheme has been in operation since 1993 and was established through the Child Support (Northern Ireland) Order 1991. A second statutory scheme was introduced by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 for all applications received after March 2003 and currently operates alongside the 1991 scheme.
- 3.2. As part of the child maintenance reform programme, the 2012 child maintenance scheme ('the 2012 scheme'), was introduced on 10th December 2012. The scheme will open to all new applications on a gradual basis.
- 3.3. The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 introduced "Flat rate" into the Child Support (Northern Ireland) Order 1991. Flat rate is the amount of child support maintenance a non-resident parent is liable to pay if they have weekly income of £100 or less or they are in receipt of certain prescribed benefits. The Child Maintenance Act (Northern Ireland) 2008 increases the flat rate of child

support maintenance from £5 to £7. This change has not as yet been made, however it is intended that this increase will be introduced sometime later in 2013.

- 3.4. Consequential amendments are required to related Regulations to ensure the increase takes effect. The Regulations will also make amendments to the calculation of the reduced rate of child support maintenance which is payable if neither the flat rate, or nil rate applies, and the non-resident parent has income of less than £200 but more than £100.
- 3.5. The Regulations in addition will make miscellaneous amendments to 'variations'. Variations allow for deviations from the usual rules for calculating maintenance in certain limited circumstances. These miscellaneous amendments include where the Department is unable to request or obtain information from HMRC, the non-resident parent's unearned income can be determined by reference to the most recent tax year, based as far as possible on information that would be required to be provided in a self-assessment return and relievable pension contributions can be taken account of for purposes of calculating unearned income.
- 3.6. Where a variation is applied which decreases the amount of child maintenance payable resulting in a maintenance figure under the flat rate, then the maintenance payable would be equivalent to the flat rate

4. Consultation

- 4.1. There is no requirement to consult on these Regulations however a consultation exercise was conducted in Great Britain. The consultation document was published on the Department for Work and Pensions website.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals. As no adverse equality impacts were found, the Department has concluded that the proposal would not have significant implications for equality of opportunity, and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. The Regulations are not expected to give rise to any significant cost.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule is not incompatible with any of the Convention rights; is not incompatible with Community law; does not discriminate against a person or class of person on the ground of religious belief or political opinion; and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The corresponding Great Britain Regulations are the The Child Support and Claims and Payments (Miscellaneous Amendments and Change to the Minimum Amount of Liability) Regulations 2013 and come into operation in accordance with Regulation 1. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.

11. Additional Information

11.1. Not applicable.