

2016 No. 193

FAMILY LAW

CHILD SUPPORT

The Child Support (Deduction Orders and Fees) (Amendment and Modification) Regulations (Northern Ireland) 2016

Made - - - - - *11th March 2016*

Coming into operation - - - - - *23rd May 2016*

Approved by resolution of the Assembly on 8th November 2016

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 32C(1) and (2)(l), (n) and (p), 32J(1) and (2)(g) and (i) and 47(1) and 48(4) of the Child Support (Northern Ireland) Order 1991(a) and now vested in it(b) and sections 3(1) to (3) and 36(1) and (2) of the Child Maintenance Act (Northern Ireland) 2008(c).

Citation, commencement and cessation

1.—(1) These Regulations may be cited as the Child Support (Deduction Orders and Fees) (Amendment and Modification Regulations (Northern Ireland) 2016 and shall come into operation on 23rd May 2016.

(2) Regulations 2(2)(b) and 3 cease to have effect on 22nd May 2021 and the Child Support Fees Regulations 2014(d) apply thereafter as if the amendments made to them by regulation 3 had not been made.

Modification of the Child Support (Collection and Enforcement) Regulations

2.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(e) are modified as follows in relation to a case in which liability to pay child support maintenance is calculated in accordance with Part 1 of Schedule 1 (calculation of weekly amount of child support maintenance) to the Child Support (Northern Ireland) Order 1991(f) as amended by paragraph 2 of Schedule 1 (changes to the calculation of maintenance) to the Child Maintenance Act (Northern Ireland) 2008.

(a) S.I. 1991/2628 (N.I. 23); Articles 32C and 32J where inserted respectively by sections 14 and 15 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.))
(b) See Article 8(b) of S.R. 1999 No. 481
(c) 2008 (c. 10 (N.I.)); section 3 was amended by Article 130 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1))
(d) S.R. 2014 No. 182
(e) S.R. 1992 No. 390; Regulations 25A to 25AD were inserted by Regulation 2 of S.R. 2009 No. 286
(f) Part 1 of Schedule 1 was substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

- (2) Regulation 25I(2) (variation of a regular deduction order) has effect as if—
- (a) in sub-paragraph (a)—
 - (i) in head (i), after “arrears” there were inserted “or a payment towards an enforcement fee”;
 - (ii) in head (ii), after “maintenance” there were inserted “and, where payable, fees”;
 - (b) in sub-paragraph (c) the word “or” is omitted; and
 - (c) there were inserted at the end of sub-paragraph (d)—
 - “;or
 - (e) there are arrears that are not included in the order.”.
- (3) Regulation 25J(2)(a) (lapse of a regular deduction order) has effect as if after “maintenance calculation” there were inserted “and an alternative method of payment of fees (where payable)”.
- (4) Regulation 25L(1)(b) (discharge of a regular deduction order) has effect as if after “regulation 2” there were inserted “and any fees have been paid in full”.
- (5) Regulation 25S(2)(c) (lapse of a lump sum deduction order) has effect as if after “maintenance calculation” there were inserted “and an alternative method of payment of fees (where payable)”.
- (6) Regulation 25U(1) (discharge of a lump sum deduction order) has effect as if—
- (a) in sub-paragraph (b), after “regulation 2” there were inserted “and fees specified in the order have been paid in full”; and
 - (b) in sub-paragraph (c), after “and the liable person” there were inserted “and the total amount of any fees specified in the order have been paid”.

Amendment of the Child Support Fees Regulations

- 3.—**(1) The Child Support Fees Regulations (Northern Ireland) 2014(a) are amended as follows.
- (2) In regulation 6 (enforcement fee)—
- (a) the existing provision becomes paragraph (1);
 - (b) after paragraph (1) insert—
 - “(2) An enforcement fee of £50 is payable to the Department by a non-resident parent in a case where—
 - (a) regulation 8B(2) (waiver of a collection fee and an enforcement fee in certain segment 5 cases) is satisfied;
 - (b) the Department makes a determination that the payment arrangement referred to in regulation 8B(2)(c) is to end;
 - (c) the deduction from earnings order referred to in regulation 8B(2)(c)(ii) is varied on or after the date on which that determination is made; and
 - (d) that deduction from earnings order has not been varied previously on or after the date on which that determination is made.”.
- (3) In regulation 8 (waiver of an enforcement fee)—
- (a) in paragraph (1) after “6” insert “(1)”;
 - (b) after paragraph (1) insert—
 - “(1A) An enforcement fee payable under regulation 6(2) may be waived in the circumstances specified in paragraphs (4)(c) and (6).”;
 - (c) in paragraph (6) after “made” insert “, or a deduction from earnings request made against the non-resident parent is varied.”.

(a) S.R. 2014 No. 182

(4) After Part 3 (enforcement fee) insert—

“PART 3A
Segment 5 cases

Interpretation of this Part

8A. For the purposes of this Part—

“the Ending Liability Regulations” means the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations (Northern Ireland) 2014(a);

“absent parent” has the meaning given in Article 4(2) (meaning of certain terms) of the Child Support Order(b);

“child support maintenance” means child support maintenance calculated under Part 1 of Schedule 1 to the Child Support Order as amended by Schedule 1 to the 2008 Act;

“existing case” has the meaning given in paragraph 1(2) of Schedule 2 (maintenance calculations: transfer of cases to new rules) to the 2008 Act;

“liability end date” has the meaning given in regulation 6 (liability end date) of the Ending Liability Regulations;

“relevant period” in relation to a case means a period—

- (a) beginning on the date on which paragraph 2 of Schedule 1 to the 2008 Act comes into force in relation to that case; and
- (b) ending on the day which the Department makes a determination that the payment arrangement is to end.

Waiver of a collection fee and an enforcement fee in certain segment 5 cases

8B.—(1) A collection or an enforcement fee that becomes payable during the relevant period may be waived in a case that satisfies paragraph (2).

(2) A case satisfies this paragraph where—

- (a) the person with care, non-resident parent and qualifying child were the person with care, non-resident parent (or absent parent) and qualifying child in relation to an existing case (“the previous case”) where—
 - (i) notice was given under regulation 5(2) (exercise of the choice as to whether or not to stay in the statutory scheme) of the Ending Liability Regulations specifying a liability end date determined in accordance with regulation 6(1)(b) of those Regulations;
 - (ii) on the date on which the notice was printed by the Department, the case was a segment 5 case (which has the meaning given in the scheme prepared by the Department under regulation 3(1) (scheme in relation to ending liability in existing cases) of the Ending Liability Regulations (as revised from time to time)(c));
 - (iii) the notice was sent on or after 23rd May 2016;
- (b) an application for a maintenance calculation was made before the liability end date in relation to the previous case;

(a) S.R. 2014 No. 191

(b) Article 4(2) is amended by Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(c) The scheme is available to download from the Departments website at www.dsdni.gov.uk/publications/child-support-scheme-timing-and-related-matters-relation-ending-liability-existing

- (c) the Department has specified that payments of child support maintenance are to be made by—
- (i) a method of payment listed in regulation 3(1)(a) to (g) (method of payment) of the Child Support (Collection and Enforcement) Regulations 1992(a); or
 - (ii) a method of payment listed in regulation 3(1)(a) to (g) in respect of a portion of the child support maintenance payable and by deduction from earnings order (which has the meaning given in regulation 5 (interpretation of this Part)) in respect of a portion of the child support maintenance payable, for the purpose of enabling the non-resident parent to demonstrate that without arrangements for collection or arrangements for enforcement of child support maintenance under the Child Support Order payments will be made in accordance with the calculation (“the payment arrangement”); and
- (d) the first payment to be made in accordance with the payment arrangement is the first payment of child support maintenance due in the case.”.

Sealed with the Official Seal of the Department for Social Development on 23rd March 2016

(L.S.)

Anne McCleary

A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 390) (“the 1992 Regulations”) and amend the Child Support Fees Regulations (Northern Ireland) 2014 (S.R. 2014 No. 182) (“the Fees Regulations”).

Regulation 2 modifies the 1992 Regulations for the purposes of cases administered under the 2012 scheme of child support. Paragraph (2)(b) modifies regulation 25I(2) so that a regular deduction order may be varied where there are arrears that are not already included in the order. This modification will cease to have effect on 22nd May 2021. Paragraphs (2)(a) and (3) to (6) make modifications to provisions relating to regular deduction orders and lump sum deduction orders so that, where relevant, reference is made to fees.

Regulation 3 amends the Fees Regulations and ceases to have effect on 22nd May 2021. Paragraph (2) makes amendments so that an enforcement fee of £50 is payable by a non-resident parent in certain circumstances. The circumstances are where a case satisfies new regulation 8B(2), the Department determines that the payment arrangement in place in the case is to end and the deduction from earnings order referred to in regulation 8B(2)(c) is then varied. The fee is only payable on the first occasion the order is varied. Paragraph (3) makes amendments so that the fee may be waived in certain circumstances.

Paragraph (4) inserts new regulation 8A and 8B into the Fees Regulations so that collection fees (a fee payable in a case where the Department arranges for collection of child maintenance) and enforcement fees (a fee payable where the Department takes enforcement action) may be waived in certain segment 5 cases. A segment 5 case is one with the meaning given in the scheme prepared by the Department under the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations (Northern Ireland) 2014 (S.R. 2014 No. 191) (“the Ending Liability Regulations”).

(a) Regulation 3(1) was amended by regulation 3(4)(a) of S.R. 2001 No. 15, regulation 3(2) of S.R. 2006 No. 273 and regulation 3(2)(a) of S.R. 2008 No. 409

Collection fees and enforcement fees may be waived in a case that satisfies the following conditions (set out in regulation 8B(2)). The person with care, non-resident parent and qualifying child must be the same person with care, non-resident parent (or absent parent) and qualifying child as in an existing case (that is, a case on the 1993 or 2003 child support scheme). In the existing case, a notice must have been given under the Ending Liability Regulations that specified a date for liability ending determined in accordance with regulation 6(1)(b) of those Regulations. The existing case must have been a segment 5 case on the date that notice was printed and the notice must have been sent on or after 23rd May 2016. An application for a maintenance calculation must have been made before liability in the existing case ended. The Department must have specified that child support maintenance (payable under the 2012 scheme) is to be paid by certain methods of payment with the purpose of enabling the non-resident parent to demonstrate that payments will still be made if there are no arrangements for collection or enforcement (“the payment arrangement”). The first payment to be made in accordance with the payment arrangement must be the first payment of 2012 scheme child support maintenance due in the case.

Collection fees and enforcement fees may only be waived during the relevant period, which begins on the date the 2012 scheme rules come into force in the case and ends on the date the Department makes a determination that the payment arrangement is to end.

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