

2016 No. 390

FAMILY LAW

CHILD SUPPORT

**The Child Support (Deduction from Earnings Orders,
Amendment and Modification and Miscellaneous Amendments)
Regulations (Northern Ireland) 2016**

Made - - - - - *28th October 2016*

Coming into operation - *18th November 2016*

The Department for Communities makes the following Regulations in exercise of the powers conferred by Articles 29(2) and (3), 32(1), (2)(n) and (5), 47(1) and 48(4) of the Child Support (Northern Ireland) Order 1991(a), and now vested in it(b), and section 36(1) and (2) of, and paragraphs 5 and 6(1) and (2) of Schedule 2 to, the Child Maintenance Act (Northern Ireland) 2008(c).

Citation, commencement and cessation

1.—(1) These Regulations may be cited as the Child Support (Deduction from Earnings Orders, Amendment and Modification and Miscellaneous Amendments) Regulations (Northern Ireland) 2016 and come into operation on 18th November 2016.

(2) Regulations 2, 3, 4 and 6 cease to have effect on 22nd May 2021, and the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(d) apply thereafter as if the amendments made to them by regulation 2 had not been made.

Amendment of the Child Support (Collection and Enforcement) Regulations

2. In regulation 20(1)(e) of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 (discharge of deductions from earnings orders)—

(a) omit “or” after sub-paragraph (f); and

(b) after sub-paragraph (g) add—

“; or

(a) S.R. 1991/2628 (N.I. 23); Articles 29(2) and (3) were amended by Section 1(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (C. 4 (N.I.))

(b) See Article 8(b) of S.R. 1999 No.481 and Section 1(7) of the Departments Act (Northern Ireland) 2016 (C. 5(N.I.))

(c) 2008 (C. 10 (N.I.))

(d) S.R. 1992 No. 390; relevant amending Regulations are S.R. 1995 No. 162, S.R. 2001 No. 15, S.R. 2012 No. 438 and S.R. 2014 No. 193

(e) Regulation 20(1) was amended by Regulation 4(9) of S.R. 1995 No. 162, Regulation 3(14) of S.R. 2001 No. 15, Regulation 4(5) of S.R. 2012 No. 438 and Regulation 2(7)(a) of S.R. 2014 No. 193

- (h) it is appropriate to discharge the order in a case where liability has ceased to accrue under the maintenance assessment or maintenance calculation in respect of which the order is made because the power under paragraph 1(1) of Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008 (power to require a decision about whether to stay in the statutory scheme) has been exercised in relation to the case.”

Modification of the Child Support (Collection and Enforcement) Regulations

3.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 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 to the Child Support (Northern Ireland) Order 1991**(a)** (calculation of weekly amount of child support maintenance) as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 (calculation by reference to gross weekly income).

(2) Regulation 7(1) (notice to liable person as to requirements about payment) has effect as if—

- (a) in sub-paragraph (e)**(b)** after “child support maintenance” there were inserted “calculated in accordance with Part 1 of Schedule 1 to the Order as amended by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008 (“the new scheme rules”)”; and
- (b) after sub-paragraph (e) there were inserted—
 - “and
 - (f) the amount of any payment of child support maintenance calculated otherwise than in accordance with the new scheme rules which is overdue and which remains outstanding (“the old scheme arrears”), where the old scheme arrears have been transferred to the computer system on which cases where child support maintenance is calculated under the new scheme rules are administered by the Department.”.

(3) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 have effect as if after Part IV (liability orders) there were inserted—

“Part V

Segment 5 cases

Modifications in relation to certain segment 5 cases

36.—(1) These Regulations have effect with the following modifications in relation to a case 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 has been given under regulation 5(2) of the Ending Liability Regulations (exercise of choice as to whether or not to stay in the statutory scheme) specifying a liability end date determined in accordance with regulation 6(1)(b) of those Regulations**(c)**;

(a) Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991 is substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and amended by paragraph 12 of Schedule 24 to the Civil Partnership Act 2004 and Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008

(b) Sub-paragraph (e) was added by Regulation 3(6)(a) of S.R. 2001 No. 15 and amended by Regulation 2(5)(a) of S.R. 2014 No. 193

(c) Regulation 6(1)(b) is amended by Regulation 5 of these 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) of the Ending Liability Regulations (as revised from time to time))(a); and
 - (iii) the notice was sent on or after 23rd May 2016; and
 - (b) an application for a maintenance calculation is made before the liability end date in the previous case.
- (2) Regulation 3 (method of payment) has effect as if—
- (a) paragraphs (3) to (8) were omitted;
 - (b) in paragraph (9) the definitions of “family” and “relevant employer” were omitted.
- (3) Regulation 4(1)(b) (payments to be scheduled over reference period) has effect as if the word “equal” were omitted.
- (4) Regulation 20 (discharge of deduction from earnings orders) has effect as if—
- (a) in paragraph (1) after “(1A)” there were substituted “or (1B)”;
 - (b) in paragraph (1) after sub-paragraph (h) there were inserted—
 - “; or
 - (i) the liable person receives any benefit prescribed under paragraph 4(1)(b) of Schedule 1 to the Order for the purposes of paragraph 4 of that Schedule;”
 - (c) after paragraph (1A) there were inserted—
 - “(1B) This paragraph applies where—
 - (a) the Department has specified that a portion of the child support maintenance payable is to be paid by a method of payment listed in regulation 3(1)(a) to (g);
 - (b) the liable person has made payments by the method specified for such period as the Department considers appropriate in the circumstances of the case; and
 - (c) the Department considers it is reasonable to discharge the order in the circumstances of the case.”.
- (5) In regulation 22 (appeals against deduction from earnings orders)—
- (a) in paragraph (2), omit “subject to paragraph (2A),”;
 - (b) omit paragraphs (2A), (3A) and (5);
 - (c) in paragraph (3), omit “subject to paragraph (3A),”;
 - (d) in paragraph (4), omit “subject to paragraph (5),”.
- (6) In this regulation—
- “absent parent” has the meaning given in section 4(2) (meaning of certain terms) of the Order;
- “the Ending Liability Regulations” means the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations (Northern Ireland) 2014;
- “existing case” has the meaning given in paragraph 1(2) of Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008 (maintenance calculations: transfer of cases to the new rules);
- “liability end date” has the meaning given in regulation 6 (liability end date) of the Ending Liability Regulations.”.

(a) The scheme is available on <https://www.communities-ni.gov.uk/publications/child-support-scheme-timing-and-related-matters-relation-ending-liability-existing> . A paper copy may be obtained from the Department

Amendment of the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations

4.—(1) The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2012^(a) are amended as follows.

(2) In regulation 11(2) (transitional provision), for sub-paragraph (c), substitute—

“(c) the order is to be treated as discharged, if it has not otherwise lapsed or been discharged, either—

(i) in a case where there are old scheme arrears, on the date on which the old scheme arrears have been transferred to the computer system on which cases where child support maintenance calculated under the new scheme rules are administered by the Department, or

(ii) in a case where there are no old scheme arrears, on the date on which the first deduction from earnings order made under the Collection and Enforcement Regulations as amended by regulation 4(3) to (6) takes effect.”.

(3) After regulation 11(2), insert—

“(3) In this regulation—

“calculated under the new scheme rules” means calculated in accordance with Part 1 of Schedule 1 to the Child Support Order (Northern Ireland) 1991 as amended by paragraph 2 of Schedule 1 to the Act;

“old scheme arrears” means the amount of child support maintenance calculated other than in accordance with the new scheme rules which is overdue and which remains outstanding.”.

Amendment of the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations

5. In regulation 6(1)(b) (liability end date) of the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations (Northern Ireland) 2014, for “272” substitute “200”.

Application of Article 29(4) to (7) of the Child Support (Northern Ireland) Order 1991 in certain cases

6.—(1) Article 29(4) to (7) of the Child Support (Northern Ireland) Order 1991^(b) (collection of child support maintenance) does not apply to a case 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 has been given under regulation 5(2) 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) of the Ending Liability Regulations (as revised from time to time));

(iii) the notice was sent on or after 23rd May 2016; and

(a) S.R. 2012 No. 438

(b) Paragraphs (4) to (7) were inserted by section 12 of the Child Maintenance Act (Northern Ireland) 2008

(b) an application for a maintenance calculation is made before the liability end date in the previous case.

(2) In this regulation—

“absent parent” has the meaning given in section 4(2) (meaning of certain terms) of the 1991 Order;

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

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

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

Sealed with the Official Seal of the Department for Communities on 28th October 2016

(L.S.)

David Malcolm

A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend and modify the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 390) (“the 1992 Regulations”). They amend the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012 No. 438) (“the 2012 Regulations”) and 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”). These Regulations also dis-apply the provisions in section 29(4) to (7) of the Child Support Order (Northern Ireland) 1991 (S.I. 1991/2628 (N.I. 23)) in relation to a segment 5 case where liability is ended whilst these Regulations are in operation. A segment 5 case is one within the meaning given in the scheme prepared by the Department under the Ending Liability Regulations (“the Ending Liability Scheme”).

Regulation 2 amends the 1992 Regulations. Regulation 2 adds a new circumstance in which a Deduction from Earnings Order (“DEO”) can be discharged, namely where this appears to the Department to be appropriate as liability has ceased to accrue because the case has been closed under the Ending Liability Scheme. This will apply to all cases, regardless of whether a subsequent application is made to the 2012 child maintenance scheme.

Regulation 3 applies modifications to cases where an application has been made to the 2012 child maintenance scheme (“the new scheme”). Paragraph (2) amends regulation 7 of the 1992 Regulations so that a notice to the person liable for payment of child support maintenance must include any outstanding old scheme arrears which have been transferred to the computer system upon which maintenance is calculated for the new scheme. An old scheme case is a case falling under the 1993 or 2003 child maintenance schemes.

Paragraph (3) inserts a new regulation 36 into the 1992 Regulations which applies the following modifications for segment 5 cases:

- where the Department specifies a DEO as the appropriate method of payment, there is no requirement upon the Department in these cases to consider whether there is good reason not to do so in accordance with the prescribed matters to be taken into account, or not taken into account;
- payments under a DEO do not need to be made in equal instalments;

- where the Department has specified a method of payment for a portion of the maintenance calculation, the remainder of the amount due under the calculation being paid under a DEO, the Department may discharge the DEO where the liable person has made payments by the other specified method for an appropriate period of time, and the Department considers it reasonable to do so;
- the right of appeal against a decision by the Department that there is good reason to specify a DEO as a method of payment is removed because the Department no longer has to consider this before specifying a DEO as a method of payment.

Regulation 6 is related. This provides that the requirements in Article 29(4) to (7) of the Child Support (Northern Ireland) Order 1991 do not apply in relation to segment 5 cases. These are requirements to make provision in regulations in relation to DEOs specified as an appropriate method of payment relating to the consideration of whether there is good reason not to use a DEO, matters to be taken into account, or not taken into account, and appeals.

Regulation 4 amends the 2012 Regulations to insert a transitional provision, the effect of which is that where a DEO is in force in an old scheme case and there are maintenance arrears outstanding at the time of an application to the new scheme, that DEO will continue to be administered under the old scheme until any outstanding old scheme arrears are transitioned over to the computer system administering the new scheme.

Regulation 5 amends the Ending Liability Regulations, changing the liability end date in cases where liability is ended by the Department under the Ending Liability Scheme so that it can be no later than 200 days after notice has been given by the Department requiring an interested party to make a choice as to whether to remain in the statutory child maintenance scheme.

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