

**2022 No. 178**

**FAMILY LAW**

**The Child Support (Amendments Relating to Electronic Communications) Order (Northern Ireland) 2022**

*Made* - - - - *25th May 2022*

*Coming into operation* - *26th May 2022*

The Department for Communities(**a**) makes the following Order as the appropriate Department in exercise of the powers conferred by sections 1 and 2 of the Electronic Communications Act (Northern Ireland) 2001(**b**).

In accordance with section 1(3) of that Act, it considers that the authorisation of the use of electronic communications and storage by these Regulations for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications and electronic storage than in other cases.

**Citation and commencement**

**1.** This Order may be cited as the Child Support (Amendments Relating to Electronic Communications) Order (Northern Ireland) 2022 and shall come into operation on 26th May 2022.

**Amendment of the Child Support (Collection and Enforcement) Regulations**

**2.—(1)** The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(**c**) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2), after the definition of “collection fee”, insert—

““electronic communication” has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001;”;

(b) omit “and” at end of paragraph (3)(a);

(c) after paragraph (3)(b), omit the full stop after “1971” and insert—

“and

(c) any document or notice is given or sent to any other person, it shall, if sent by electronic communication, be treated as having been given or sent at the end of the first day after the day it was sent.”.

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(a) 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.))

(b) 2001 c. 9. The terms used in sections 1(1) and (2) are defined in section 4(1), other than “appropriate department” which has the meaning in section 2(1).

(c) S.R. 1992 No. 390.

(3) After regulation 1, add—

**“Use of electronic communications**

**1A.** Schedule 4 makes provision for the use of electronic communications.”.

(4) In regulation 25A(a) (interpretation of parts IIIA to IIID)—

(a) In paragraph (3), for sub-paragraph (b) substitute—

“(b) on a liable person or, if the order is made in respect of a joint account, on another account holder—

(i) a copy of the order sent by electronic communication to that person’s last notified address for electronic communication, is to be treated as having been served at the end of the first working day after the day on which it was sent;

(ii) a copy of the order sent by post to that person’s last known or notified address, is to be treated as having been served at the end of the day on which the copy of the order was posted.”;

(b) omit paragraph (5);

(c) in paragraph (7), omit sub-paragraphs (a) and (b).

(5) After Schedule 3, insert—

**“SCHEDULE 4**

Regulation 1A

**Electronic Communications**

**PART 1**

**Use of Electronic Communications**

**Use of electronic communications**

**1.—(1)** Where these Regulations require or permit a person to carry out an action referred to in sub-paragraph (2)—

(a) that person may, if the conditions specified in paragraph 2 are met, use electronic communication to carry out the action, and

(b) any reference to the action is to be construed as being capable of being carried out using electronic communication.

(2) The actions are—

(a) giving consent;

(b) giving or sending of a document or notice;

(c) notifying a person;

(d) making an application other than an application under—

(i) paragraph (2)(a) of regulation 22 (appeals against deduction from earnings orders);

(ii) regulation 28 (liability orders);

(e) making representations;

(f) serving a notice or order, including a copy of that notice or order;

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(a) Regulation 25A was inserted by Regulation 2 S.R. 2009 No. 286

- (g) setting out in writing.

### **Conditions for the use of electronic communications**

2. The conditions for the use of electronic communications are—
- (a) the electronic communication, its form, and the electronic address for the communication, have been agreed with the recipient for a purpose in paragraph 1(2);
  - (b) the electronic communication is sent in the agreed form to the agreed electronic address for the agreed purpose;
  - (c) the electronic communication is—
    - (i) legible, and
    - (ii) in a form sufficiently permanent to be used for subsequent reference.

### **Use of intermediaries**

3. The Department may use intermediaries in connection with the actions referred to in paragraph 1(2).

## **PART 2**

### **Evidential provisions**

#### **Proof of delivery**

- 4.—(1) An agreed electronic communication is presumed, unless the contrary is proved, to have resulted in delivery if—
- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is recorded on an official computer system; or
  - (b) in the case that it falls to be delivered by the Department, if the despatch of the agreed electronic communication is recorded on an official computer system.
- (2) An agreed electronic communication is presumed, unless the contrary is proved, not to have resulted in delivery if—
- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is not recorded on an official computer system; or
  - (b) in the case that it falls to be delivered by the Department, the despatch of that agreed electronic communication is not recorded on an official computer system.
- (3) The time and date of receipt of an agreed electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

#### **Proof of identity**

- 5.—(1) The identity of the sender and the recipient of an electronic communication is presumed to be the persons whose names are recorded on an official computer system, unless the contrary is proved.
- (2) An electronic communication sent on behalf of another person (“P”) is presumed to have been delivered by P unless P proves that it was delivered without P’s knowledge.

#### **Proof of content**

6. The content of an electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

## **Interpretation**

### **7. In this Schedule—**

“agreed electronic address” means an electronic address agreed in accordance with paragraph 2(a);

“agreed electronic communication” means an electronic communication agreed in accordance with paragraph 2(a);

“agreed form” means the form agreed in accordance with paragraph 2(a);

“agreed purpose” means the purpose agreed in accordance with paragraph 2(a);

“official computer system” means a computer system maintained by or on behalf of the Department for the purposes of these Regulations.”.

## **Amendment of the Child Support Information Regulations**

**3.—**(1) The Child Support Information Regulations (Northern Ireland) 2008(a) are amended as follows.

(2) In regulation 2(1) (interpretation), after the definition of “appropriate authority”, insert—

““electronic communication” has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001;”;

(3) After regulation 2, add—

### **“Use of electronic communications**

**2A.** Schedule 2 makes provision for the use of electronic communications.”.

(4) In regulation 14A(b) (disclosure of information to credit reference agencies), in paragraph (2), for “address” substitute “postal address, or by electronic communication in accordance with Schedule 2”.

(5) In regulation 15 (revocation and saving) for “the Schedule” substitute “Schedule 1”.

(6) In the Schedule heading after “Schedule” insert “1”.

(7) After Schedule 1 insert—

## **“SCHEDULE 2**

Regulation 2A

### **Electronic Communications**

#### **PART 1**

#### **Use of Electronic Communications**

### **Use of electronic communications**

**1.—**(1) Where these Regulations require or permit a person to carry out an action referred to in sub-paragraph (2)—

(a) that person may, if the conditions specified in paragraph 2 are met, use electronic communication to carry out the action, and

(b) any reference to the action is to be construed as being capable of being carried out using electronic communication.

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(a) S.R. 2008 No. 403

(b) Regulation 14A was inserted by Regulation 7 of S.R. 2015 No. 116

- (2) The actions are—
- (a) notifying;
  - (b) the disclosure of any information under regulation 13 (disclosure of information to other persons).

### **Conditions for the use of electronic communications**

2. The conditions for the use of electronic communications are—
- (a) the electronic communication, its form, and the electronic address for the communication, have been agreed with the recipient for a purpose in paragraph 1(2);
  - (b) the electronic communication is sent in the agreed form to the agreed electronic address for the agreed purpose;
  - (c) the electronic communication is—
    - (i) legible, and
    - (ii) in a form sufficiently permanent to be used for subsequent reference.

### **Use of intermediaries**

3. The Department may use intermediaries in connection with the actions referred to in paragraph 1(2).

## **PART 2**

### **Evidential provisions**

#### **Proof of delivery**

- 4.—(1) An agreed electronic communication is presumed, unless the contrary is proved, to have resulted in delivery if—
- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is recorded on an official computer system; or
  - (b) in the case that it falls to be delivered by the Department, if the despatch of the agreed electronic communication is recorded on an official computer system.
- (2) An agreed electronic communication is presumed, unless the contrary is proved, not to have resulted in delivery—
- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is not recorded on an official computer system; or
  - (b) in the case that it falls to be delivered by the Department, the despatch of that agreed electronic communication is not recorded on an official computer system.
- (3) The time and date of receipt of an agreed electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

#### **Proof of identity**

- 5.—(1) The identity of the sender and the recipient of an electronic communication is presumed to be the persons whose names are recorded on an official computer system, unless the contrary is proved.
- (2) An electronic communication sent on behalf of another person (“P”) is presumed to have been delivered by P unless P proves that it was delivered without P’s knowledge.

## **Proof of content**

6. The content of an electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

## **Interpretation**

7. In this Schedule—

“agreed electronic address” means an electronic address agreed in accordance with paragraph 2(a);

“agreed electronic communication” means an electronic communication agreed in accordance with paragraph 2(a);

“agreed form” means the form agreed in accordance with paragraph 2(a);

“agreed purpose” means the purpose agreed in accordance with paragraph 2(a);

“official computer system” means a computer system maintained by or on behalf of the Department for the purposes of these Regulations.”.

## **Amendment of the Child Support (Management of Payments and Arrears) Regulations**

4.—(1) The Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009(a) are amended as follows.

(2) In regulation 2(1) (interpretation), after the definition of “the Decision and Appeals Regulations”, insert—

““electronic communication” has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001;”;

(3) After regulation 2 (interpretation), add—

### **“Use of electronic communications**

2A. Schedule 1 makes provision for the use of electronic communications.”.

(4) In regulation 13G(b) (Department required to give notice)—

(a) in paragraphs (3)(da)(i) and (ii)(c), after “post”, insert “, or electronic communication in accordance with Schedule 1,”;

(b) in paragraph (5) after “notified”, insert “postal”;

(c) after paragraph (5), add—

“(6) For the purposes of this regulation, where the Department sends any written notification by electronic communication to a person’s last known or notified address for electronic communication, that document is treated as having been received by that person at the end of the first day after the day it was sent.”

(5) In regulation 13I (notification of decision to write-off), in paragraph (2)(d), after “post” insert “, or electronic communication in accordance with Schedule 1,”.

(6) In regulation 14 (revocations) for “the Schedule” substitute “Schedule 2”.

(7) In the Schedule heading, after “Schedule” insert “2”.

(8) Before Schedule 2 (revocations), as amended by paragraph (7) insert—

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(a) S.R. 2009 No. 422

(b) Regulation 13G was inserted by Regulation 2 of S.R. 2012 No. 439

(c) Paragraph 3(da) was inserted by Regulation 4(4)(e) of S.R. 2019 No. 221

(d) Regulation 13I was inserted by Regulation 2 of S.R. 2012 No. 439

Electronic Communications

PART 1

Use of Electronic Communications

**Use of electronic communications**

1.—(1) Where these Regulations require or permit a person to carry out an action referred to in sub-paragraph (2)—

- (a) that person may, if the conditions specified in paragraph 2 are met, use electronic communication to carry out the action, and
- (b) any reference to the action is to be construed as being capable of being carried out using electronic communication.

(2) The actions are—

- (a) disclosing information;
- (b) giving consent or permission;
- (c) giving or sending of a document or notice;
- (d) informing or notifying a person;
- (e) making an application;
- (f) making representations;
- (g) preparing an agreement;
- (h) sending or serving an agreement or notice, including a copy of that agreement or notice.

**Conditions for the use of electronic communications**

2. The conditions for the use of electronic communications are—

- (a) the electronic communication, its form, and the electronic address for the communication, have been agreed with the recipient for a purpose in paragraph 1(2);
- (b) the electronic communication is sent in the agreed form to the agreed electronic address for the agreed purpose;
- (c) the electronic communication is—
  - (i) legible, and
  - (ii) in a form sufficiently permanent to be used for subsequent reference.

**Use of intermediaries**

3. The Department may use intermediaries in connection with the actions referred to in paragraph 1(2).

## PART 2

### Evidential provisions

#### **Proof of delivery**

4.—(1) An agreed electronic communication is presumed, unless the contrary is proved, to have resulted in delivery if—

- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is recorded on an official computer system; or
- (b) in the case that it falls to be delivered by the Department, if the despatch of the agreed electronic communication is recorded on an official computer system.

(2) An agreed electronic communication is presumed, unless the contrary is proved, not to have resulted in delivery if—

- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is not recorded on an official computer system; or
- (b) in the case that it falls to be delivered by the Department, the despatch of that agreed electronic communication is not recorded on an official computer system.

(3) The time and date of receipt of an agreed electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

#### **Proof of identity**

5.—(1) The identity of the sender and the recipient of an electronic communication is presumed to be the persons whose names are recorded on an official computer system, unless the contrary is proved.

(2) An electronic communication sent on behalf of another person (“P”) is presumed to have been delivered by P unless P proves that it was delivered without P’s knowledge.

#### **Proof of content**

6. The content of an electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

#### **Interpretation**

7. In this Schedule—

“agreed electronic address” means an electronic address agreed in accordance with paragraph 2(a);

“agreed electronic communication” means an electronic communication agreed in accordance with paragraph 2(a);

“agreed form” means the form agreed in accordance with paragraph 2(a);

“agreed purpose” means the purpose agreed in accordance with paragraph 2(a);

“official computer system” means a computer system maintained by or on behalf of the Department for the purposes of these Regulations.”.

#### **Amendment of the Child Support Maintenance Calculation Regulations**

5.—(1) The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(a) are amended as follows.

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(a) S.R. 2012 No. 427



(2) In regulation 2 (interpretation), after the definition of “the Earnings and Pensions Act”, insert—

““electronic communication” has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001;”;

(3) After regulation 2 (interpretation), add—

**“Use of electronic communications**

**2A.** The Schedule makes provision for the use of electronic communications.”.

(4) In regulation 7 (service of documents), after paragraph (2), add—

“(3) Where the Department sends any written notification or any document by electronic communication to a person’s last known or notified address for electronic communication that document is treated as having been given or sent at the end of the first day after the day it was sent.”.

(5) In regulation 11(a) (notice of application), for paragraph (2), substitute—

“(2) The notice must be sent by—

- (a) post to the last known address of the non-resident parent (as ascertained and verified in accordance with paragraph (3)(a)); or
- (b) by electronic communication in accordance with the Schedule.”.

(6) In regulation 12(b) (initial effective date)—

(a) at the end of paragraph (2)(a) omit “or”;

(b) at the end of paragraph (2)(b) insert—

“or

(c) by electronic communication in accordance with the Schedule, at least one day prior to the initial effective date.”; and

(c) in sub-paragraphs (a) and (b) for “address” substitute “postal address”.

(7) After Regulation 77, insert—

**“SCHEDULE**

Regulation 2A

**Electronic Communications**

**PART 1**

**Use of Electronic Communications**

**Use of electronic communications**

**1.**—(1) Where these Regulations require or permit a person to carry out an action referred to in sub-paragraph (2)—

- (a) that person may, if the conditions specified in paragraph 2 are met, use electronic communication to carry out the action, and
- (b) any reference to the action is to be construed as being capable of being carried out using electronic communication.

(2) The actions are—

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(a) Relevant amending Rules are S.R.2014 No. 193 and S.R. 2016 No. 236

(b) Regulation 12 was amended by S.R. 2014 No. 193

- (a) authorising a representative;
- (b) certification;
- (c) giving or sending of a document or notice;
- (d) informing or notifying a person.

### **Conditions for the use of electronic communications**

2. The conditions for the use of electronic communications are—
- (a) the electronic communication, its form, and the electronic address for the communication, have been agreed with the recipient for a purpose in paragraph 1(2);
  - (b) the electronic communication is sent in the agreed form to the agreed electronic address for the agreed purpose;
  - (c) the electronic communication is—
    - (i) legible, and
    - (ii) in a form sufficiently permanent to be used for subsequent reference.

### **Use of intermediaries**

3. The Department may use intermediaries in connection with the actions referred to in paragraph 1(2).

## **PART 2**

### **Evidential provisions**

#### **Proof of delivery**

- 4.—(1) An agreed electronic communication is presumed, unless the contrary is proved, to have resulted in delivery if—
- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is recorded on an official computer system; or
  - (b) in the case that it falls to be delivered by the Department, if the despatch of the agreed electronic communication is recorded on an official computer system.
- (2) An agreed electronic communication is presumed, unless the contrary is proved, not to have resulted in delivery if—
- (a) in the case that it falls to be delivered to the Department, the delivery of the agreed electronic communication is not recorded on an official computer system; or
  - (b) in the case that it falls to be delivered by the Department, the despatch of that agreed electronic communication is not recorded on an official computer system.
- (3) The time and date of receipt of an agreed electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

#### **Proof of identity**

- 5.—(1) The identity of the sender and the recipient of an electronic communication is presumed to be the persons whose names are recorded on an official computer system, unless the contrary is proved.
- (2) An electronic communication sent on behalf of another person (“P”) is presumed to have been delivered by P unless P proves that it was delivered without P’s knowledge.

### **Proof of content**

6. The content of an electronic communication is presumed to be that recorded on an official computer system, unless the contrary is proved.

### **Interpretation**

7. In this Schedule—

“agreed electronic address” means an electronic address agreed in accordance with paragraph 2(a);

“agreed electronic communication” means an electronic communication agreed in accordance with paragraph 2(a);

“agreed form” means the form agreed in accordance with paragraph 2(a);

“agreed purpose” means the purpose agreed in accordance with paragraph 2(a);

“official computer system” means a computer system maintained by or on behalf of the Department for the purposes of these Regulations.”.

Sealed with the Official Seal of the Department for Communities on 25th May 2022

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Communities

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the regulations below and will permit and facilitate the option of electronic communications for the purposes of calculating, collecting and enforcing child support maintenance.

Regulation 2 amends the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 390).

Regulation 3 amends the Child Support Information Regulations (Northern Ireland) 2008 (S.R. 2008 No. 403).

Regulation 4 amends the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 422).

Regulation 5 amends the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012 (S.R. 2012 No. 427).

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