
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 15

The Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001.

(2) Regulations 3(8)(b), (19) and (22), 5(3) and 6 and, for the purposes of those provisions, this regulation, shall come into operation on 2nd April 2001.

(3) The remainder of these Regulations shall come into operation in relation to a particular case on the day on which sections 1(2) and (3), 4, 17(1) and (2) and 19(1) of, and paragraphs 11 and 24 of Schedule 3 to, the Act come into operation for the purposes of that type of case.

(4) In these Regulations “the Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(1).

Amendment of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations

2.—(1) The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(2) shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 1(2) (interpretation)—

(a) the definitions of “absent parent”, “due date”, “Maintenance Assessments and Special Cases Regulations” and “Maintenance Assessment Procedure Regulations” shall be omitted;

(b) after the definition of “arrears notice” there shall be inserted the following definitions—
““Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001(3);
“non-resident parent” includes a person treated as such under regulation 8 of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(4);”;

(c) in the definition of “relevant person” for “Maintenance Assessment Procedure Regulations” there shall be substituted “Maintenance Calculation Procedure Regulations”.

(3) In Part II (arrears of child support maintenance and interest on arrears), in the heading “and interest on arrears” shall be omitted.

(1) 2000 (c. 4) (N.I.)

(2) S.R. 1992 No. 342; relevant amending rules are S.R. 1993 No. 164, S.R. 1995 Nos. 162 and 475, S.R. 1996 No. 289 and S.R. 1999 No. 246 (C. 20)

(3) S.R. 2001 No. 17

(4) S.R. 2001 No. 18

- (4) In regulation 2 (applicability of provisions as to arrears and interest and arrears notices)—
- (a) in the heading “and interest” shall be omitted;
 - (b) in paragraphs (1) and (3)(b) for “regulations 3 to 9” there shall be substituted “regulations 5 and 8”;
 - (c) in paragraphs (2), (3)(c) and (4) for “absent parent” there shall be substituted “non-resident parent”;
 - (d) in paragraph (3)(b) “and interest” shall be omitted.
- (5) Regulations 3(5) (liability to make payments of interest with respect to arrears), 4(6) (circumstances in which no liability to pay interest arises), 6(7) (rate of interest and calculation of interest) and 7(8) (receipt and retention of interest paid) shall be omitted.
- (6) In regulation 5 (payment of arrears by agreement)—
- (a) in paragraph (1)(9) for “an absent parent” there shall be substituted “a non-resident parent” and for “the absent parent” there shall be substituted “the non-resident parent”;
 - (b) paragraphs (3), (4) and (6) shall be omitted; and
 - (c) in paragraph (5) for “absent parent” there shall be substituted “non-resident parent”.
- (7) In regulation 8(10) (retention of arrears)—
- (a) in paragraph (1)(a) for “an absent parent” there shall be substituted “a non-resident parent”; and
 - (b) in paragraph (2) for “absent parent” there shall be substituted “non-resident parent” and for “assessment” there shall be substituted “calculation”.
- (8) In the headings to Part III (attribution of payments and adjustment of the amount payable under a maintenance assessment) and to regulation 10 (adjustment of the amount payable under a maintenance assessment) for “assessment” there shall be substituted “calculation”.
- (9) In regulation 9 (attribution of payments) for “assessment” there shall be substituted “calculation” and for “an absent parent” there shall be substituted “a non-resident parent”.
- (10) In regulation 10(11) (adjustment of the amount payable under a maintenance assessment)—
- (a) in paragraph (1)—
 - (i) “new or a fresh” shall be omitted and for “assessment” wherever it appears there shall be substituted “calculation”;
 - (ii) in sub-paragraph (b)(i) for “absent parent” there shall be substituted “non-resident parent”;
 - (b) after paragraph (3) there shall be inserted the following paragraph—

“(3A) Where there has been a voluntary payment, the Department may—

 - (a) apply the amount of the voluntary payment to reduce any arrears of child support maintenance due under any previous maintenance calculation made in respect of the same relevant persons; or

(5) Regulation 3 was amended by Article 10(2) of S.R. 1999 No. 246 (C. 20)

(6) Regulation 4 was amended by regulation 2(3) of S.R. 1993 No. 164, regulation 3(2) of S.R. 1995 No. 162 and Article 10(3) of S.R. 1999 No. 246 (C. 20)

(7) Regulation 6 was amended by regulation 2(5) of S.R. 1993 No. 164

(8) Regulation 7 was amended by regulation 22(2)(a) of S.R. 1996 No. 289

(9) Paragraph (1) was substituted by regulation 2(4) of S.R. 1993 No.164

(10) Regulation 8 was substituted by regulation 5(2) of S.R.1995 No.475 and amended by regulation 22(2)(b) of S.R. 1996 No. 289

(11) Regulation 10 was substituted by regulation 3(3) of S.R. 1995 No.162 and amended by Article 10(4) of S.R. 1999 No. 246 (C. 20)

- (b) where there is no previous relevant maintenance calculation or an amount of the voluntary payment remains after the application of sub-paragraph (a), and subject to paragraph (4), adjust the amount payable under a current maintenance calculation by such amount as it considers appropriate in all the circumstances of the case having regard in particular to—
 - (i) the circumstances of the non-resident parent and the person with care;
 - (ii) the amount of the voluntary payment in relation to the amount due under the current maintenance calculation, and
 - (iii) the period over which it would be reasonable for the voluntary payment to be taken into account.”; and
- (c) in paragraph (4)—
 - (i) for “(2) or (3)” there shall be substituted “(3A) or regulation 15D of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(12)”;
 - (ii) for “assessment” there shall be substituted “calculation”, and
 - (iii) for “the minimum amount prescribed under paragraph 7” there shall be substituted “an amount equivalent to a flat rate fixed by paragraph 4(1)”.
- (11) In regulation 10A(1)(13) (reimbursement of a repayment of overpaid child maintenance)—
 - (a) for “an absent parent” there shall be substituted “a non-resident parent”;
 - (b) in sub-paragraph (a) for “assessment” there shall be substituted “calculation” and “family credit or disability working allowance” shall be omitted; and
 - (c) sub-paragraph (b) shall be omitted.
- (12) After regulation 10A there shall be inserted the following regulation—

“Repayment of a reimbursement of a voluntary payment

10B. The Department may require a relevant person to repay the whole or any part of any payment by way of reimbursement made to a non-resident parent under Article 38B(2) of the Order(14) where—

- (a) a voluntary payment was made;
- (b) Article 38B(1A)(b) applies; and

income support or income-based jobseeker’s allowance was not in payment to that person at any time during the period in which the voluntary payment was made or at the date or dates on which the payment by way of reimbursement was made.”.

Amendment of the Child Support (Collection and Enforcement) Regulations

3.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(15) shall be amended in accordance with paragraphs (2) to (22).

(2) In regulation 1 (interpretation)—

(a) in paragraph (2)—

(i) after the definition of “the Order” there shall be inserted the following definition—

(12) S.R. 1999 No. 162; regulation 15D is inserted by regulation 2(9) of S.R. 2001 No. 23

(13) Regulation 10A was inserted by regulation 5(3) of S.R. 1995 No. 475 and amended by regulation 22(2)(c) of S.R. 1996 No. 289

(14) Article 38B was inserted by Article 16 of the Child Support (Northern Ireland) Order 1995 and paragraph (1A) was inserted by section 19(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(15) S.R. 1992 No. 390; relevant amending regulations are S.R. 1995 No. 162 and S.R. 1996 No. 317

““interest” means interest which has become payable under Article 38 of the Order before its amendment by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;”, and

- (ii) after the definition of “liable person” there shall be inserted the following definition—

““voluntary payment” means a payment as defined in Article 28J of the Order⁽¹⁶⁾ and Regulations made under that Article.”;

- (b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) Except in relation to regulation 8(3)(a) and Schedule 2, “fee” means an assessment fee or a collection fee, which for these purposes have the same meaning as in the Child Support Fees Regulations (Northern Ireland) 1993⁽¹⁷⁾ prior to their revocation by the Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001⁽¹⁸⁾.”; and

- (c) in paragraph (3)(b) for the words from “the second day” to the end there shall be substituted “the day that it is posted.”.

(3) In regulation 2 (payment of child support maintenance) for “assessment” there shall be substituted “calculation”.

- (4) In regulation 3 (method of payment)—

- (a) in paragraph (1)—

(i) after “child support maintenance” there shall be inserted “, penalty payments, interest and fees”;

- (ii) after sub-paragraph (e) there shall be added the following sub-paragraph—

“(f) by debit card.”;

- (b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) In paragraph (1) “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.”;

- (c) in paragraph (2) for “assessment” there shall be substituted “calculation”.

(5) After regulation 5 (transmission of payments) there shall be inserted the following regulation—

“Voluntary payments

5A.—(1) Regulation 5(1) shall apply in relation to voluntary payments as if—

- (a) for “Payments of child support maintenance” there were substituted “Voluntary payments”; and

(b) “or other specified person” were omitted.

(2) In determining when the Department shall transmit a voluntary payment to the person entitled to it, the Department shall have regard to the factor in regulation 4(2)(c)⁽¹⁹⁾.”.

- (6) In regulation 7 (notice to liable person as to requirements about payment)—

- (a) in paragraph (1)—

⁽¹⁶⁾ Article 28J was inserted by section 19(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

⁽¹⁷⁾ S.R. 1993 No. 73; relevant amending regulations are S.R. 1994 No. 37, S.R. 1995 No. 162, S.R. 1996 Nos. 289 and 590 and S.R. 1999 No. 152

⁽¹⁸⁾ S.R. 2001 No. 15

⁽¹⁹⁾ Paragraph (2) was substituted by regulation 4(2) of S.R. 1995 No. 162

- (i) at the beginning there shall be inserted “In the case of child support maintenance,”;
- (ii) after sub-paragraph (d) there shall be added the following sub-paragraph—
 - “(e) the amount of any payment of child support maintenance which is overdue and which remains outstanding.”;
- (b) after paragraph (1) there shall be inserted the following paragraph—
 - “(1A) In the case of penalty payments, interest or fees, the Department shall send the liable person a notice stating—
 - (a) the amount of child support maintenance payable;
 - (b) the amount of arrears;
 - (c) the amount of the penalty payment, interest or fees to be paid, as the case may be;
 - (d) the method of payment;
 - (e) the day by which payment is to be made; and
 - (f) information as to the provisions of Articles 18 and 22 of the Order⁽²⁰⁾.”;
- (c) in paragraph (2)(a) for “assessment” there shall be substituted “calculation”;
- (d) after paragraph (2) there shall be added the following paragraph—
 - “(3) A notice under paragraph (1A) shall be sent to the liable person as soon as reasonably practicable after the decision to require a payment of the penalty payment, interest or fees has been made.”.
- (7) After Part II (collection of child support maintenance) there shall be inserted the following Part—

“Part IIA

Collection of Penalty Payments

Payment of a financial penalty

7A.—(1) This regulation applies where a maintenance calculation is, or has been, in force, the liable person is in arrears with payments of child support maintenance, and the Department requires the liable person to pay penalty payments to it.

(2) For the purposes of regulation 7(1)(e)⁽²¹⁾ a payment will be overdue if it is not received by the time that the next payment of child support maintenance is due.

(3) The Department may require a penalty payment to be made if the outstanding amount is not received within 7 days of the notification in regulation 7(1)(e) or if the liable person fails to pay all outstanding amounts due on dates and of amounts as agreed between the liable person and the Department.

(4) Payments of a penalty payment shall be made within 14 days of the notification referred to in regulation 7(1A)⁽²²⁾.

(5) In this Part a “liable person” means a person liable to make a penalty payment and in Part II and this Part “penalty payment” is to be construed in accordance with Article 38A of the Order.”.

⁽²⁰⁾ Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 and amended by section 8 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Article 22 is substituted by section 10 of that Act

⁽²¹⁾ Sub-paragraph (e) is inserted by regulation 3(6)(a)(ii) of these Regulations

⁽²²⁾ Paragraph (1A) is inserted by regulation 3(6)(b) of these Regulations

- (8) In regulation 8(23) (interpretation of this Part)—
- (a) in paragraph (1)—
- (i) the definitions of “disposable income”, “exempt income”, “interim maintenance assessment”(24), “prescribed minimum amount”, “protected earnings rate” and “protected income level” shall be omitted, and
- (ii) after the definition of “pay-day” there shall be added the following definition—
- ““protected earnings proportion” means the proportion referred to in regulation 11(2).”;
- (b) in paragraph (4)(b) at the end there shall be inserted “other than pay or allowances payable by his employer to him as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996(25))”.
- (9) In regulation 9(e)(26) (deduction from earnings orders) for “protected earnings rate” there shall be substituted “protected earnings proportion”.
- (10) In regulation 10 (normal deduction rate) paragraphs (2)(27) and (3) shall be omitted.
- (11) In regulation 11 (protected earnings rate)—
- (a) for the heading there shall be substituted the following heading—
- “Protected earnings proportion”;**
- (b) in paragraphs (1) and (2) for “protected earnings rate” where it appears there shall be substituted “protected earnings proportion”;
- (c) in paragraph (2)(28)—
- (i) “, except where paragraph (3) or (4) applies,” shall be omitted;
- (ii) for “the liable person’s exempt income” there shall be substituted “60 per cent. of the liable person’s net earnings”, and
- (iii) for “assessment” there shall be substituted “calculation”, and
- (d) paragraphs (3) and (4)(29) shall be omitted.
- (12) In regulation 12 (amount to be deducted by employer)—
- (a) in paragraphs (2), (3) and (6) for “protected earnings rate” where it appears there shall be substituted “protected earnings proportion”; and
- (b) paragraph (5) shall be omitted.
- (13) In regulation 17(1)(30) (requirement to review deduction from earnings order)—
- (a) in sub-paragraph (a) for “assessment” there shall be substituted “calculation”; and
- (b) in sub-paragraph (b) for “and interest on arrears” there shall be substituted “, penalty payment, interest or fees”.

(23) Regulation 8 was amended by regulation 4(4) of S.R. 1995 No. 162

(24) The definition of “interim maintenance assessment” was inserted by regulation 4(4)(c) of S.R. 1995 No. 162 and amended by regulation 5(2) of S.R. 1996 No. 317

(25) 1996 c. 14

(26) Paragraph (e) was substituted by regulation 4(5) of S.R. 1995 No. 162

(27) Paragraph (2) was amended by regulation 4(6)(b) of S.R. 1995 No. 162

(28) Paragraph (2) was amended by regulation 4(7)(a) of S.R. 1995 No. 162

(29) Paragraphs (3) and (4) were added by regulation 4(7)(b) of S.R. 1995 No. 162

(30) Regulation 17 was substituted by regulation 4(8) of S.R. 1995 No. 162

(14) In regulation 20(1)(f)(31) (discharge of deduction from earnings orders) for “an interim maintenance assessment” there shall be substituted “a default or interim maintenance decision” and for “maintenance assessment” there shall be substituted “maintenance calculation”.

(15) In regulation 21(6) (lapse of deduction from earnings orders) “or (5)” shall be omitted.

(16) In regulation 24 (priority as between orders)—

(a) paragraph (1) shall be omitted; and

(b) in paragraph (2)—

(i) for “one or more deduction from earnings orders” there shall be substituted “a deduction from earnings order”;

(ii) in sub-paragraph (a) “or orders” wherever it appears shall be omitted;

(iii) in sub-paragraph (b) for the words from “order,” to the end there shall be substituted—

“order—

(i) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;

(ii) deal with any later order as if the earnings to which it relates were the residue of the liable person’s earnings after the making of any deduction to comply with any earlier order.”.

(17) In regulation 26(2) (notice of intention to apply for a liability order) for “in respect of arrears payable under Article 38(3) of the Order” there shall be substituted “, penalty payments or fees which have become payable and have not been paid”.

(18) In regulation 29 (application for warrant of commitment)—

(a) in paragraphs (1) and (4) for “37” there shall be substituted “36A(32)”; and

(b) in paragraph (3) for “Article 37” there shall be substituted “Articles 36A and 37”.

(19) After regulation 30 (warrant of commitment) there shall be added the following regulation—

“Disqualification from driving order

31.—(1) For the purposes of enabling an inquiry to be made under Article 36A of the Order as to the liable person’s livelihood, means and conduct, a justice of the peace having jurisdiction for the area in which the liable person resides may issue a summons to him to appear before a court of summary jurisdiction and to produce any driving licence held by him, and, where applicable, its counterpart, and, if he does not appear, may issue a warrant for his arrest.

(2) In any proceedings under Articles 36A and 37A of the Order(33), a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed for or on behalf of his employer, shall be evidence of the facts there stated.

(3) Where an application under Article 36A of the Order has been made but no disqualification order is made, the application may be renewed on the ground that the circumstances of the liable person have changed.

(4) A disqualification order shall be in the form prescribed in Schedule 3.

(31) Paragraph (1) was substituted by regulation 4(9) of S.R. 1995 No. 162

(32) Article 36A was inserted by section 16(1) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))

(33) Article 37A was inserted by section 16(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(5) The amount to be included in the disqualification order under Article 37A(3)(b) of the Order in respect of the costs shall be such amount as in the view of the court is equal to the costs reasonably incurred by the Department in respect of the costs of the application for the disqualification order.

(6) An order made under Article 37A of the Order may be executed anywhere in Northern Ireland by any constable, if the liable person fails to produce or surrender his driving licence or its counterpart to the court.

(7) An order under Article 37A of the Order may be executed by a constable notwithstanding that it is not in his possession at the time but such order shall, if demanded, be shown to the liable person as soon as reasonably practicable.

(8) In this regulation “driving licence” means a licence to drive a motor vehicle granted under Part II of the Road Traffic (Northern Ireland) Order 1981(34).”.

(20) In Schedule 1 after “interest” there shall be inserted—

“penalty payments

fees

(21) In Schedule 2 after “interest,” there shall be inserted “penalty payments, fees,”.

(22) After Schedule 2 there shall be inserted as Schedule 3, the Schedule as set out in the Schedule to these Regulations.

Amendment of the Child Support (Collection and Enforcement of Other Forms of Maintenance) Regulations

4.—(1) The Child Support (Collection and Enforcement of Other Forms of Maintenance) Regulations (Northern Ireland) 1992(35) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulations 2(b) (periodical payments and categories of person prescribed for the purposes of Article 30 of the Order) and 3 (collection and enforcement) for “assessment” wherever it appears there shall be substituted “calculation”.

(3) In regulation 3 (collection and enforcement) for “37” there shall be substituted “37A”.

(4) In regulation 4 (collection and enforcement—supplementary) for “absent parent” there shall be substituted “non-resident parent”.

Savings

5.—(1) Where, in respect of a particular case before the date that these Regulations come into operation with respect to that type of case—

- (a) interest has become due but has not been paid;
- (b) the Department has made a payment by way of reimbursement under Article 38B(2) of the Child Support (Northern Ireland) Order 1991; or
- (c) arrears of child support maintenance have not been paid,

these Regulations shall not apply for the purposes of—

- (i) the recovery of the interest referred to in sub-paragraph (a);
- (ii) the repayment to the Department of the whole, or part, of the sum reimbursed referred to in sub-paragraph (b), or
- (iii) the collection and enforcement of the arrears referred to in sub-paragraph (c).

(34) S.I.1981/154 (N.I. 1)

(35) S.R. 1992 No. 465

(2) Where in respect of a particular case after the date that these Regulations come into operation with respect to that type of case an adjustment falls to be made in relation to a maintenance assessment, these Regulations shall not apply for the purposes of making the adjustment.

(3) Where, before the coming into operation of regulation 6, fees have become due but have not been paid, the Child Support Fees Regulations (Northern Ireland) 1993⁽³⁶⁾ shall have effect as if regulation 6 of these Regulations had not been made.

Revocation

6. The Child Support Fees Regulations (Northern Ireland) 1993 are hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 23rd January 2001.

L.S.

John O'Neill
Senior Officer of the
Department for Social Development