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STATUTORY RULES OF NORTHERN IRELAND

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**2001 No. 17**

**The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001**

**Part IV**

**Reduced Benefit Decisions**

**Interpretation of Part IV**

8.—(1) For the purposes of this Part—

“applicable amount”, is to be construed in accordance with Part IV of the Income Support Regulations and regulations 83 to 86 of the Jobseeker’s Allowance Regulations;

“benefit week”, in relation to income support has the same meaning as in the Income Support Regulations, and in relation to jobseeker’s allowance has the same meaning as in the Jobseeker’s Allowance Regulations;

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(1);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(2);

“parent concerned” means the parent with respect to whom a reduced benefit decision is given;

“reduced benefit decision” has the same meaning as in Article 43(10)(b) of the Order; and

“relevant benefit” has the same meaning as in Article 43(10)(c) of the Order.

(2) In this Part references to a reduced benefit decision as being “in operation”, “suspended” or “in force” shall be construed as follows—

(a) a reduced benefit decision is “in operation” if, by virtue of that decision, relevant benefit is currently being reduced;

(b) a reduced benefit decision is “suspended” if—

(i) after that decision has been given, relevant benefit ceases to be payable, or becomes payable at one of the rates indicated in regulation 14(4) or, as the case may be, regulation 15(4);

(ii) at the time the reduced benefit decision is given, relevant benefit is payable at one of the rates indicated in regulation 15(4) or, as the case may be, regulation 16(4),

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(1) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139 and 395, S.R. 1990 No. 131, S.R. 1991 Nos. 170 and 345, S.R. 1992 No. 403, S.R. 1993 Nos. 149, 165 and 373, S.R. 1994 Nos. 65, 77, 266 and 327, S.R. 1995 No. 86, S.R. 1996 Nos. 93, 199, 288, 375, 405, 489 and 499, S.R. 1997 No. 412, S.R. 1998 Nos. 2 and 81 and S.R. 2000 Nos. 38, 71 and 125

(2) S.R. 1996 No. 198; relevant amending rules are S.R. 1996 Nos. 288, 356, 358 and 503, S.R. 1997 Nos. 130 and 412, S.R. 1998 Nos. 2 and 81, S.R. 1999 No. 428 (C. 32) and S.R. 2000 Nos. 38, 71 and 125

and these Regulations provide for relevant benefit payable from a later date to be reduced by virtue of the same reduced benefit decision; and

- (c) a reduced benefit decision is “in force” if it is either in operation or suspended.

#### **Period within which reasons are to be given**

9. The period specified for the purposes of Article 43(2) of the Order (for the parent with care to supply reasons) is 4 weeks from the date on which the Department serves notice under that paragraph.

#### **Circumstances in which a reduced benefit decision shall not be given**

10. The Department shall not give a reduced benefit decision where—

- (a) income support is paid to, or in respect of, the parent in question and the applicable amount of the claimant for income support includes one or more of the amounts set out in paragraph 15(3), (4) or (6) of Part IV of Schedule 2 to the Income Support Regulations<sup>(3)</sup>; or
- (b) an income-based jobseeker’s allowance is paid to, or in respect of, the parent in question and the applicable amount of the claimant for an income-based jobseeker’s allowance includes one or more of the amounts set out in paragraph 20(4), (5) or (7) of Schedule 1 to the Jobseeker’s Allowance Regulations<sup>(4)</sup>.

#### **Amount of and period of reduction of relevant benefit under a reduced benefit decision**

11.—(1) The reduction in the amount payable by way of a relevant benefit to, or in respect of, the parent concerned and the period of such reduction by virtue of a reduced benefit decision shall be determined in accordance with paragraphs (2) to (8).

(2) Subject to paragraph (6) and regulations 12 to 14 and 15, there shall be a reduction for a period of 156 weeks from the day specified in the reduced benefit decision under the provisions of Article 43(8) of the Order in respect of each such week equal to—

$$0.4 \times B$$

where

B is an amount equal to the weekly amount in relation to the week in question, specified in column (2) of paragraph 1(1)(e) of Schedule 2 to the Income Support Regulations<sup>(5)</sup>.

(3) Subject to paragraph (4), a reduced benefit decision shall come into operation on the first day of the second benefit week following the date of the reduced benefit decision.

(4) Subject to paragraph (5), where a reduced benefit decision (“the subsequent decision”) is made on a day when a reduced benefit decision (“the earlier decision”) is in force in respect of the same parent, the subsequent decision shall come into operation on the day immediately following the day on which the earlier decision ceased to be in force.

(5) Where the relevant benefit is income support and the provisions of regulation 26(2) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>(6)</sup> (deferment of payment of different amount of income support) apply, a reduced benefit decision shall come into operation on such later date as may be determined by the Department in accordance with those provisions.

(6) Where the benefit payable is income support or an income-based jobseeker’s allowance and there is a change in the benefit week whilst a reduced benefit decision is in operation, the period of

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(3) Amounts in Part IV of Schedule 2 were substituted by S.R. 2000 No. 38

(4) Amounts in paragraph 20 of Schedule 1 were substituted by S.R. 2000 No. 38

(5) Amounts in paragraph 1(1)(e) of Schedule 2 were substituted by S.R. 2000 No. 38

(6) S.R. 1987 No. 465; relevant amending rules are S.R. 1988 No. 141, S.R. 1989 No. 40 and S.R. 1999 No. 472 (C. 36)

the reduction specified in paragraph (2) shall be a period greater than 155 weeks but less than 156 weeks and ending on the last day of the last benefit week falling entirely within the period of 156 weeks specified in that paragraph.

(7) Where the weekly amount specified in column (2) of paragraph 1(1)(e) of Schedule 2 to the Income Support Regulations changes on a day when a reduced benefit decision is in operation, the amount of the reduction of income support or income-based jobseeker's allowance shall be changed from the first day of the first benefit week to commence for the parent concerned on or after the day that weekly amount changes.

(8) Only one reduced benefit decision in relation to a parent concerned shall be in force at any one time.

### **Modification of reduction under a reduced benefit decision to preserve minimum entitlement to relevant benefit**

**12.** Where in respect of any benefit week the amount of the relevant benefit that would be payable after it has been reduced following a reduced benefit decision would, but for this regulation, be nil or less than the minimum amount of that benefit that is payable as determined—

- (a) in the case of income support, by regulation 26(4) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987;
- (b) in the case of an income-based jobseeker's allowance, by regulation 87A of the Jobseeker's Allowance Regulations(7),

the amount of that reduction shall be decreased to such extent as to raise the amount of that benefit to the minimum amount that is payable.

### **Suspension of a reduced benefit decision when relevant benefit ceases to be payable**

**13.—(1)** Where relevant benefit ceases to be payable to, or in respect of, the parent concerned at a time when a reduced benefit decision is in operation, that reduced benefit decision shall, subject to paragraph (2), be suspended for a period of 52 weeks from the date the relevant benefit ceased to be payable.

(2) Where a reduced benefit decision has been suspended for a period of 52 weeks and no relevant benefit is payable at the end of that period, it shall cease to be in force.

(3) Where a reduced benefit decision is suspended and relevant benefit again becomes payable to, or in respect of, the parent concerned, the amount payable by way of that benefit shall, subject to regulations 14 and 15, be reduced in accordance with that reduced benefit decision for the balance of the reduction period.

(4) The amount or, as the case may be, the amounts of that reduction to be made during the balance of the reduction period shall be determined in accordance with regulation 11(2).

(5) No reduction in the amount of benefit under paragraph (3) shall be made before the expiry of a period of 14 days from service of the notice specified in paragraph (6), and the provisions of regulation 11(3) shall apply as to the date the reduced benefit decision again comes into operation.

(6) Where relevant benefit again becomes payable to, or in respect of, a parent with respect to whom a reduced benefit decision is suspended, that parent shall be notified in writing by the Department that the amount of relevant benefit paid to, or in respect of, that parent will again be reduced, in accordance with the provisions of paragraph (3), if that parent falls within Article 43(1) of the Order.

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(7) [S.R. 1996 No. 198](#); regulation 87A was inserted by regulation 21 of [S.R. 1996 No. 358](#)

### **Suspension of a reduced benefit decision when a modified applicable amount is payable (income support)**

14.—(1) Where a reduced benefit decision is given or is in operation at a time when income support is payable to, or in respect of, the parent concerned but that parent's applicable amount falls to be calculated under the provisions mentioned in paragraph (4), that decision shall be suspended for so long as the applicable amount falls to be calculated under the provisions mentioned in that paragraph, or 52 weeks, whichever period is the shorter.

(2) Where a reduced benefit decision is given or is in operation at a time when income support is payable to, or in respect of, the parent concerned, but that parent's applicable amount includes a residential allowance under regulation 17 of, and paragraph 2A of Schedule 2 to, the Income Support Regulations<sup>(8)</sup> (applicable amounts for persons in residential care and nursing homes), that decision shall be suspended for as long as the applicable amount includes a residential allowance under that regulation and Schedule 2, or 52 weeks, whichever period is the shorter.

(3) Where a case falls within paragraph (1) or (2) and a reduced benefit decision has been suspended for 52 weeks, it shall cease to be in force.

(4) The provisions of paragraph (1) shall apply where the applicable amount in relation to the parent concerned falls to be calculated under—

- (a) regulation 19 of, and Schedule 4 to, the Income Support Regulations (applicable amounts for persons in residential care and nursing homes)<sup>(9)</sup>;
- (b) regulation 21 of, and paragraphs 1 to 3 of Schedule 7 to, the Income Support Regulations (patients)<sup>(10)</sup>;
- (c) regulation 21 of, and paragraphs 10B, 10C and 13 of Schedule 7 to, the Income Support Regulations (persons in residential accommodation)<sup>(11)</sup>.

### **Suspension of a reduced benefit decision when a modified applicable amount is payable (income-based jobseeker's allowance)**

15.—(1) Where a reduced benefit decision is given or is in operation at a time when an income-based jobseeker's allowance is payable to, or in respect of, the parent concerned but that parent's applicable amount falls to be calculated under the provisions mentioned in paragraph (4), that reduced benefit decision shall be suspended for so long as the applicable amount falls to be calculated under those provisions, or 52 weeks, whichever is the shorter.

(2) Where a reduced benefit decision is given or is in operation at a time when an income-based jobseeker's allowance is payable to, or in respect of, the parent concerned but that parent's applicable amount includes a residential allowance under regulation 83(c) of, and paragraph 3 of Schedule 1 to, the Jobseeker's Allowance Regulations (persons in residential care or nursing homes)<sup>(12)</sup>, that reduced benefit decision shall be suspended for so long as the applicable amount includes such a residential allowance, or 52 weeks, whichever is the shorter.

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(8) Regulation 17 was amended by S.R. 1988 Nos. 193 and 318, S.R. 1989 Nos. 139 and 395, S.R. 1993 Nos. 149 and 393 and S.R. 1996 No. 199. Paragraph 2A was inserted by regulation 2(6) of S.R. 1993 No. 149 and amended by S.R. 1993 Nos. 165, 235 and 373, S.R. 1994 No. 65, S.R. 1997 No. 412 and S.R. 2000 No. 38

(9) Regulation 19 was amended by S.R. 1988 Nos. 146, 193, 274 and 318, S.R. 1989 No. 395, S.R. 1991 No. 170, S.R. 1993 Nos. 149 and 373, S.R. 1994 Nos. 65, 77 and 327, S.R. 1996 Nos. 93 and 199. Schedule 4 was amended by S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 No. 395, S.R. 1993 Nos. 149 and 373, S.R. 1996 No. 93, S.R. 1997 No. 412, S.R. 1998 No. 2 and S.R. 2000 No. 38

(10) Regulation 21 was amended by S.R. 1991 Nos. 170 and 345, S.R. 1992 No. 403, S.R. 1993 Nos. 149 and 165, S.R. 1994 Nos. 65, 77, and 266, S.R. 1995 No. 86, S.R. 1996 Nos. 199, 375, 405, 449 and 489, S.R. 1998 No. 81, S.R. 2000 Nos. 38, 71 and 125

(11) Paragraph 10B was inserted by S.R. 1988 No. 146 and amended by S.R. 1988 No. 318, S.R. 1989 No. 139, S.R. 1990 No. 131, S.R. 1993 No. 149 and S.R. 2000 No. 38. Paragraph 10C was inserted by S.R. 1988 No. 431 and amended by S.R. 1990 No. 131, S.R. 1993 No. 149, S.R. 1996 No. 288 and S.R. 2000 No. 38

(12) Paragraph 3 was amended by S.R. 1997 No. 412 and S.R. 2000 No. 38

(3) Where a case falls within paragraph (1) or (2) and a reduced benefit decision has been suspended for 52 weeks, it shall cease to be in force.

(4) The provisions of paragraph (1) shall apply where the applicable amount in relation to the parent concerned falls to be calculated under—

- (a) regulation 85 of, and paragraph 1 or 2 of Schedule 4 to, the Jobseeker’s Allowance Regulations (patients)(13);
- (b) regulation 85 of, and paragraphs 8, 9 or 15 of Schedule 4 to, the Jobseeker’s Allowance Regulations (persons in residential accommodation)(14); or
- (c) regulation 86 of, and Schedule 3 to, the Jobseeker’s Allowance Regulations (applicable amounts for persons in residential care and nursing homes)(15).

### **Termination of a reduced benefit decision**

**16.** A reduced benefit decision shall cease to be in force—

- (a) where the parent concerned—
  - (i) withdraws that parent’s request under Article 9(5) of the Order;
  - (ii) complies with that parent’s obligation under Article 9(7) of the Order, or
  - (iii) consents to take a scientific test (within the meaning of Article 27A of the Order)(16);
- (b) where following written notice under Article 43(6)(b) of the Order, the parent concerned responds to such notice and the Department considers there are reasonable grounds; or
- (c) subject to regulation 13, where relevant benefit ceases to be payable to, or in respect of, the parent concerned.

### **Reduced benefit decisions where there is an additional qualifying child**

**17.—**(1) Where a reduced benefit decision is in operation, or would be in operation but for the provisions of regulations 14 and 15, and the Department gives a further reduced benefit decision with respect to the same parent concerned in relation to an additional qualifying child of whom that parent is a parent with care, the earlier reduced benefit decision shall cease to be in force.

(2) Where a further reduced benefit decision comes into operation in a case falling within paragraph (1), the provisions of regulation 11 shall apply to it.

(3) Where—

- (a) a reduced benefit decision (“the earlier decision”) has ceased to be in force by virtue of regulation 13(2); and
- (b) the Department gives a further reduced benefit decision (“the further decision”) with respect to the same parent concerned where that parent falls within Article 43(1) of the Order,

as long as the further decision remains in force, no additional reduced benefit decision shall be brought into force with respect to that parent in relation to one or more children to whom the earlier decision was given.

(4) Where a case falls within paragraph (1) or (3) and the further decision, but for the provisions of this paragraph, would cease to be in force by virtue of the provisions of regulation 16, but the

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(13) Regulation 85 was amended by S.R. 1996 Nos. 356 and 503, S.R.1997 No. 130, S.R. 1998 No. 81, S.R. 2000 Nos. 71 and 125 and paragraphs 1 and 2 of Schedule 4 were amended by S.R. 2000 No. 38

(14) Paragraphs 8 and 9 were amended by S.R. 2000 No. 38

(15) Schedule 3 was amended by S.R. 1998 No. 2, S.R. 1999 No. 428 (C.32) and S.R. 2000 No. 38

(16) Article 27A was inserted by Article 14 of the Child Support (Northern Ireland) Order 1995 and is amended by paragraph 18 of Schedule 3 to, and paragraph 5 of Schedule 8 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

earlier decision would not have ceased to be in force by virtue of the provisions of regulation 16, the further reduced benefit decision shall remain in force for a period calculated in accordance with regulation 11.

(5) In this regulation “additional qualifying child” means a qualifying child of whom the parent concerned is a parent with care and who was either not such a qualifying child at the time the earlier decision was given or had not been born at the time the earlier decision was given.

**Suspension and termination of a reduced benefit decision where the sole qualifying child ceases to be a child or where the parent concerned ceases to be a person with care**

**18.**—(1) Where a reduced benefit decision is in operation and—

- (a) there is, in relation to that decision, only one qualifying child, and that child ceases to be a child within the meaning of the Order; or
- (b) the parent concerned ceases to be a person with care,

the decision shall be suspended from the last day of the benefit week during the course of which the child ceases to be a child within the meaning of the Order, or the parent concerned ceases to be a person with care, as the case may be.

(2) Where, under the provisions of paragraph (1), a decision has been suspended for a period of 52 weeks and no relevant benefit is payable at that time, it shall cease to be in force.

(3) If during the period specified in paragraph (2) the former child again becomes a child within the meaning of the Order or the parent concerned again becomes a person with care and relevant benefit is payable to, or in respect of, that parent, a reduction in the amount of that benefit shall be made in accordance with the provisions of regulation 13(3) to (6).

**Notice of termination of a reduced benefit decision**

**19.** Where a reduced benefit decision ceases to be in force under the provisions of regulation 16, 17 or 18 the Department shall serve notice of this on the parent concerned and shall specify the date on which the reduced benefit decision ceases to be in force.

**Rounding provisions**

**20.** Where any calculation made under this Part results in a fraction of a penny, that fraction shall be treated as a penny if it exceeds one half and shall otherwise be disregarded.