STATUTORY RULES OF NORTHERN IRELAND

2012 No. 427

The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012

PART 3

DECISION MAKING

CHAPTER 3

SUPERSESSION

Grounds for supersession

17.—(1) A decision mentioned in Article 19(1)(**1**) may be superseded by a decision of the Department, on an application or on the Department's own initiative, where—

    (a) there has been a relevant change of circumstances since the decision had effect or it is expected that a relevant change of circumstances will occur;

    (b) the decision was made in ignorance of, or was based on a mistake as to, some material fact; or

    (c) the decision was wrong in law (unless it was a decision made on appeal).

(2) The circumstances in which a decision may be superseded include where the relevant change of circumstances causes the maintenance calculation to cease by virtue of paragraph 16 of Schedule 1(**2**) or where the Department no longer has jurisdiction by virtue of Article 41(**3**).

(3) A decision may be superseded by a decision made by the Department where it receives an application for the supersession of a decision by way of an application under Article 28G.

(4) A decision may not be superseded in circumstances where it may be revised.

(5) A decision to refuse an application for a maintenance calculation may not be superseded.

(6) In making a supersession decision under Article 19(1) the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the decision to be made on the Department's own initiative.

(7) This regulation is subject to any provision in Chapter 4 relating to the circumstances in which a supersession decision may be made.

(**1**)   Paragraph (1) is amended by section 9(2) of, and Schedule 9 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**2**)   Paragraph 16 was amended by paragraph 32(5) of Schedule 6 to the Social Security (Northern Ireland) Order 1998, section 1(2) of, and paragraphs 11 and 28(c) of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 1(29)(b) of Schedule 4 to the Child Maintenance Act (Northern Ireland) 2008

(**3**)   Article 41 is amended by paragraph 26 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, sections 1(2)(a) and 21 of, and paragraph 11 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and paragraph 128 of Schedule 1 to S.I. 2009/1941

Effective dates for supersession decisions

18.—(1) This regulation sets out cases and circumstances in which a supersession decision takes effect on a date other than the date mentioned in Article 19(4)(**4**).

(2) Where the ground for the supersession decision is that a relevant change of circumstances is expected to occur or that a ground for a variation is expected to occur, the decision takes effect from the date on which that change or that ground is expected to occur.

(3) Where the ground for the supersession decision is that a relevant change of circumstances of the following kind has occurred, the decision takes effect from the date on which the change occurred—

    (a) a child ceases to be a qualifying child, a relevant other child, or a child supported under another arrangement;

    (b) the person with care dies or ceases to be a person with care in relation to a qualifying child;

    (c) the person with care, the non-resident parent or a qualifying child ceases to be habitually resident in the United Kingdom;

    (d) the non-resident parent begins or ceases to receive a benefit mentioned in regulation 43(1) or begins or ceases to be a person who receives, or whose partner receives, a benefit referred to in regulation 43(2).

(4) Where the ground for the supersession decision is that a relevant change of circumstances affecting the non-resident parent's current income has occurred and the non-resident parent was required to report that change in accordance with regulations under Article 16(1)(**5**), the decision takes effect from the date on which the change occurred.

(5) Where the ground for the supersession decision is that there is a new qualifying child in relation to the non-resident parent, the decision takes effect from the date which would be the initial effective date in relation to an application under Article 7 in relation to that child if there were no maintenance calculation already in force.

(6) Where paragraphs (2) to (5) do not apply—

    (a) if the supersession decision is made on an application by one of the parties, the decision takes effect from the date of the application;

    (b) if the supersession decision is made on the Department's own initiative on the basis of information provided by a third party, the decision takes effect from the date on which that information is provided; and

    (c) if the supersession decision is made on the Department's own initiative and sub-paragraph (b) does not apply, the decision takes effect from the date on which it is made.

(7) In paragraph (3)—

    (a) the reference to a child supported under another arrangement is to a child supported under a qualifying maintenance arrangement mentioned in paragraph 5A of Schedule 1(**6**) or a child mentioned in regulation 51; and

    (b) the reference to the date on which a person begins or ceases to receive a benefit is to the date on which entitlement to the benefit commences or ceases.

(8) This regulation is subject to any provision in Chapter 4 relating to the date from which a supersession decision made under that Chapter takes effect.

(**4**) Paragraph 4 is amended by section 9(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
(**5**) Article 16(1) is amended by section 12 of, and paragraph 16 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and Schedule 5 to the Child Maintenance Act (Northern Ireland) 2008
(**6**) Paragraph 5A is inserted by paragraph 5(2) of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008