

**1992 No. 339**

**FAMILY LAW**

**CHILD SUPPORT**

**The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992**

*Made* . . . . . 30th July 1992

*Coming into operation* . . . . . 5th April 1993

**ARRANGEMENT OF REGULATIONS**

**PART I**

**GENERAL**

1. Citation, commencement and interpretation

**PART II**

**FURNISHING OF INFORMATION OR EVIDENCE**

2. Persons under a duty to furnish information or evidence
3. Purposes for which information or evidence may be required
4. Information from an appropriate authority in connection with housing benefit
5. Time within which information or evidence is to be furnished
6. Continuing duty of persons with care
7. Powers of inspectors in relation to Crown residences

**PART III**

**DISCLOSURE OF INFORMATION**

8. Disclosure of information to a court or tribunal
9. Disclosure of information to an appropriate authority for use in the exercise of housing benefit functions
10. Disclosure of information to the Department
11. Employment to which Article 46 of the Order applies

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 7(4), 9(9), 16(1) and (3), 46(5), 47 and 50 of, and

paragraph 16(10) of Schedule 1 to and paragraph 4 of Schedule 2 to, the Child Support (Northern Ireland) Order 1991<sup>(a)</sup> and of all other powers enabling it in that behalf, hereby makes the following regulations:

## PART I

## GENERAL

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 and shall come into operation on 5th April 1993.

(2) In these regulations—

“the Order” means the Child Support (Northern Ireland) Order 1991;

“appropriate authority” means the Northern Ireland Housing Executive or the Department of the Environment, as the case may be;

“Health and Social Services Board” means a Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(b)</sup>;

“Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992<sup>(c)</sup>;

“Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992<sup>(d)</sup>;

“parent with care” means a person who, in respect of the same child or children, is both a parent and a person with care;

“related proceedings” means proceedings in which a relevant court order was or is being sought;

“relevant court order” means—

(a) an order as to periodical or capital provision or as to variation of property rights made under a statutory provision specified in paragraphs (a) to (d) of Article 10(11) of the Order or prescribed under Article 10(11)(e) of the Order in relation to a qualifying child or a relevant person; or

(b) in relation to a qualifying child, an order in respect of custody, care and control or access made under—

(i) the Guardianship of Infants Act 1886<sup>(e)</sup>, the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945<sup>(f)</sup>, the Matrimonial Causes (Northern Ireland)

(a) S.I. 1991/2628 (N.I. 23)

(b) S.I. 1972/1265 (N.I. 14)

(c) S.R. 1992 No. 341

(d) S.R. 1992 No. 340

(e) 1886 c. 27

(f) 1945 c. 14; the whole Act was repealed by Schedule 4 to the Domestic Proceedings (Northern Ireland) Order 1980 (S.I. 1980/563 (N.I. 5)) subject to the savings specified in Article 42 of, and Schedule 2 to, that Order

Order 1978(a) or the Domestic Proceedings (Northern Ireland) Order 1980(b), or

(ii) the High Court's inherent jurisdiction with respect to children; "relevant person" means—

- (a) a person with care;
- (b) an absent parent;
- (c) a parent who is treated as an absent parent under regulation 20 of the Maintenance Assessments and Special Cases Regulations, in respect of whom a maintenance assessment has been applied for or is or has been in force.

## PART II

### FURNISHING OF INFORMATION OR EVIDENCE

#### *Persons under a duty to furnish information or evidence*

2.—(1) Where an application for a maintenance assessment has been made under the Order, a person falling within a category listed in paragraph (2) shall, subject to the restrictions specified in that paragraph, furnish such information or evidence as is required by the Department and which is needed to enable a determination to be made in relation to one or more of the matters listed in regulation 3(1), and the person concerned has that information or evidence in his possession or can reasonably be expected to acquire that information or evidence.

(2) The persons who may be required to furnish information or evidence, and the matter or matters with respect to which such information or evidence may be required, are as follows—

- (a) the relevant persons, with respect to the matters listed in regulation 3(1);
- (b) a person who is alleged to be a parent of a child with respect to whom an application for a maintenance assessment has been made who denies that he is one of that child's parents, with respect to the matters listed in sub-paragraphs (b) and (d) of regulation 3(1);
- (c) the current or recent employer of the absent parent or the parent with care in relation to whom an application for a maintenance assessment has been made, with respect to the matters listed in sub-paragraphs (d), (e), (f), (h) and (j) of regulation 3(1);
- (d) the Health and Social Services Board in whose area a person falling within a category listed in sub-paragraphs (a) and (b) resides or has resided, with respect to the matter listed in sub-paragraph (a) of regulation 3(1);
- (e) a person specified in paragraph (3), in any case where, in relation to the qualifying child or qualifying children or the absent parent—

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(a) S.I. 1978/1045 (N.I. 15)

(b) S.I. 1980/563 (N.I. 5)

- (i) there is or has been a relevant court order, or
- (ii) there have been, or are pending, related proceedings before a court,

with respect to the matters listed in sub-paragraphs (g), (h) and (k) of regulation 3(1).

(3) The persons who may be required to furnish information or evidence in relation to a relevant court order or related proceedings under the provisions of paragraph (2)(e) are—

- (a) in relation to the High Court, the Master (Probate and Matrimonial) or the Master (Care and Protection);
- (b) in relation to a county court, the chief clerk;
- (c) in relation to a court of summary jurisdiction, the clerk of petty sessions.

*Purposes for which information or evidence may be required*

3.—(1) The Department may require information or evidence under the provisions of regulation 2 only if that information or evidence is needed to enable—

- (a) a decision to be made as to whether, in relation to an application for a maintenance assessment, there exists a qualifying child, an absent parent and a person with care;
- (b) a decision to be made as to whether a child support officer has jurisdiction to make a maintenance assessment under Article 41 of the Order;
- (c) a decision to be made, where more than one application has been made, as to which application is to be proceeded with;
- (d) an absent parent to be identified;
- (e) an absent parent to be traced;
- (f) the amount of child support maintenance payable by an absent parent to be assessed;
- (g) the amount payable under a relevant court order to be ascertained;
- (h) the amounts specified in sub-paragraphs (f) and (g) to be recovered from an absent parent;
- (i) the amount of interest payable with respect to arrears of child support maintenance to be determined;
- (j) the amount specified in sub-paragraph (i) to be recovered from an absent parent;
- (k) any related proceedings to be identified.

(2) The information or evidence to be furnished in accordance with regulation 2 may in particular include information and evidence as to—

- (a) the habitual residence of the person with care, the absent parent and any child in respect of whom an application for a maintenance assessment has been made;

- (b) the name and address of the person with care and of the absent parent; their marital status, and the relationship of the person with care to any child in respect of whom an application for a maintenance assessment has been made;
- (c) the name, address and date of birth of any such child, that child's marital status, and any education that child is undergoing;
- (d) the persons who have parental responsibility for any qualifying child where there is more than one person with care;
- (e) the time spent by a qualifying child in respect of whom an application for a maintenance assessment has been made with each person with care, where there is more than one such person;
- (f) the matters relevant for determining, in a case falling within Article 27 of the Order (disputes about parentage), whether that case falls within one of the Cases set out in paragraph (2) of that Article, and if it does not, the matters relevant for determining the parentage of a child whose parentage is in dispute;
- (g) the name and address of any current or recent employer of an absent parent or a parent with care, and the gross earnings and the deductions from those earnings deriving from each employment;
- (h) the address from which an absent parent or parent with care who is self-employed carries on his trade or business, the trading name, and the gross receipts and expenses and other outgoings of the trade or business;
- (i) any other income of an absent parent and a parent with care;
- (j) any income, other than earnings, of a qualifying child;
- (k) amounts payable and paid under a relevant court order or a maintenance agreement;
- (l) the persons living in the same household as the absent parent or living in the same household as the parent with care, their relationship to the absent parent or the parent with care, as the case may be, and to each other, and, in the case of the children of any such party, the dates of birth of those children;
- (m) the matters set out in sub-paragraphs (g) and (h) in relation to the persons specified in sub-paragraph (l) other than any children living in the same household as the absent parent or the parent with care, as the case may be;
- (n) income other than earnings of the persons living in the same household as the absent parent or the parent with care;
- (o) benefits related to disability that the absent parent, parent with care and other persons living in the same household as the absent parent or the parent with care are entitled to or would be entitled to if certain conditions were satisfied;
- (p) the housing costs to be taken into account for the purposes of determining assessable or disposable income;

- (q) the identifying details of any bank, building society or similar account held in the name of the absent parent or the person with care, and statements relating to any such account;
- (r) the matters relevant for determining whether—
  - (i) a maintenance assessment has ceased to have effect or should be cancelled under the provisions of paragraph 16 of Schedule 1 to the Order;
  - (ii) a person is a child within the meaning of Article 3 of the Order.

*Information from an appropriate authority in connection with housing benefit*

4. For the purposes of Schedule 2 to the Order, “relevant information” means information as to the amount of housing costs of an absent parent or person with care which are treated as eligible rent or eligible rates for housing benefit purposes, and the entitlement to housing benefit at the date the Department requests such information under paragraph 2 of that Schedule.

*Time within which information or evidence is to be furnished*

5. Subject to the provisions of regulations 2(5), 6(1), 16(5) and 18(2) of the Maintenance Assessment Procedure Regulations, any information or evidence furnished in accordance with regulations 2 and 3 shall be furnished as soon as is reasonably practicable in the particular circumstances of the case.

*Continuing duty of persons with care*

6. Where a person with care with respect to whom a maintenance assessment has been made believes that, by virtue of Article 3 or 41 of, or paragraph 16 of Schedule 1 to, the Order, the assessment has ceased to have effect or should be cancelled, that person shall, as soon as is reasonably practicable, inform the Department of that belief, and of the reasons for it, and shall provide such other information as the Department may reasonably require, with a view to assisting the Department or a child support officer in determining whether the assessment has ceased to have effect, or should be cancelled.

*Powers of inspectors in relation to Crown residences*

7. Subject to Her Majesty not being in residence, an inspector appointed under Article 17 of the Order may enter any Crown premises for the purpose of exercising any powers conferred on him by that Article.

### PART III

#### DISCLOSURE OF INFORMATION

*Disclosure of information to a court or tribunal*

8. The Department or a child support officer may disclose any information held by them for the purposes of the Order to—

- (a) a court;
- (b) any tribunal or other body or person mentioned in the Order;
- (c) any tribunal established under the benefit Acts,

where such disclosure is made for the purposes of any proceedings before any of those bodies relating to the Order or to the benefit Acts.

*Disclosure of information to an appropriate authority for use in the exercise of housing benefit functions*

9. The Department or a child support officer may disclose information held by them for the purposes of the Order to, and as required by, an appropriate authority for use in the exercise of its functions relating to housing benefit.

*Disclosure of information to the Department*

10. A child support officer may disclose any information held by him for the purposes of the Order to, and as required by, the Department for use in connection with the functions of the Department under any of the benefit Acts.

*Employment to which Article 46 of the Order applies*

11. For the purposes of Article 46 of the Order (unauthorised disclosure of information) the following kinds of employment are prescribed in addition to those specified in paragraphs (a) to (e) of Article 46(5)—

- (a) the Comptroller and Auditor General for Northern Ireland;
- (b) the Northern Ireland Parliamentary Commissioner for Administration;
- (c) the Northern Ireland Commissioner for Complaints;
- (d) any member of the staff of the Northern Ireland Audit Office;
- (e) any other person who carries out the administrative work of that Office, or who provides, or is employed in the provision of, services to it;
- (f) any officer of the Commissioners referred to in paragraphs (b) and (c); and
- (g) any person who provides, or is employed in the provision of, services to the Department.

Sealed with the Official Seal of the Department of Health and Social Services on 30th July 1992.

(L.S.)

C. Davie

Assistant Secretary

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations provide for the furnishing of information or evidence required in connection with the determination of any application under the Child Support (Northern Ireland) Order 1991 ("the Order"), or questions arising in connection with such an application, or related to the collection or enforcement of child support maintenance or other maintenance under the Order. The regulations also provide for the disclosure, by the Department of Health and Social Services ("the Department") or a child support officer, of information held by them for the purposes of the Order.

Regulation 1 contains interpretation provisions.

Regulation 2 prescribes the persons who are under a duty to furnish information or evidence, and regulation 3 prescribes the purposes for which information or evidence may be required.

Regulation 4 prescribes the information that can be obtained from the Northern Ireland Housing Executive or the Department of the Environment, as the case may be, in connection with housing benefit.

Regulation 5 makes provision as to time limits for furnishing information or evidence, and regulation 6 provides for a continuing duty of persons with care.

Regulation 7 provides for inspectors appointed under Article 17 of the Order to enter Crown premises for the purpose of exercising powers conferred by that Article.

Regulation 8 provides for the disclosure of information by the Department or a child support officer to a court or tribunal, and regulation 9 provides for the disclosure of information to the Northern Ireland Housing Executive or the Department of the Environment, as the case may be, for use in the exercise of their functions relating to housing benefit.

Regulation 10 provides for the disclosure of information by a child support officer to the Department in connection with the Department's functions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and the Social Security Administration (Northern Ireland) Act 1992 (c. 8).

Regulation 11 prescribes employments, additional to those specified in Article 46 of the Order, to which the provisions of that Article, relating to the unauthorised disclosure of information, apply.

Articles 7(4), 9(9), 16(1) and (3), 46(5), 47 and 50 of, and paragraph 16(10) of Schedule 1 to and paragraph 4 of Schedule 2 to, the Order are the enabling provisions under which these regulations are made. They were



brought into operation on 18th June 1992 by the Child Support (1991 Order) (Commencement No. 1) Order (Northern Ireland) 1992 (c. 13).