

1992 No. 467 (C. 20)

FAMILY LAW

CHILD SUPPORT

**The Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992.**

*Made . . . . . 2nd November 1992*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) to (5) of the Child Support (Northern Ireland) Order 1991(a) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(b) and of all other powers enabling it in that behalf, hereby makes the following order:

*Citation*

1. This order may be cited as the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992.

*Day appointed for the coming into operation of certain provisions of the Child Support (Northern Ireland) Order 1991*

2. Subject to the following provisions of this order, the day appointed for the coming into operation of all the provisions of the Child Support (Northern Ireland) Order 1991, in so far as they are not already in operation, except Articles 21(3), 30(2), 34(2) and 51(2), is 5th April 1993.

*Transitional provisions*

3. The transitional provisions set out in the Schedule shall have effect.

Sealed with the Official Seal of the Department of Health and Social Services on 2nd November 1992.

(L.S.)

A. N. Burns

Assistant Secretary

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

(b) 1974 c. 28

## PART I

## PHASED TAKE-ON OF CASES

## 1. In this Part—

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

“benefit” means income support, family credit, or disability working allowance under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), or any other benefit prescribed under Article 9(1) of the Order (applications by persons receiving benefit);

“transitional period” means the period beginning with and including 5th April 1993 and ending with 6th April 1997.

2. Subject to paragraph 3, during the transitional period no application under Article 7 of the Order (applications for child support maintenance) in relation to a qualifying child or any qualifying children may be made at any time when—

(a) there is in force a maintenance order or maintenance agreement in respect of that qualifying child or those qualifying children and the absent parent, or there is pending before any court an application for such a maintenance order; or

(b) benefit is being paid to a parent of that child or those children.

3.—(1) Paragraph 2 does not apply to an application made—

(a) in that part of the transitional period beginning with and including 8th April 1996, if the surname of the person with care begins with any of the letters A to D inclusive;

(b) in that part of the transitional period beginning with and including 1st July 1996, if the surname of the person with care begins with any of the letters E to K inclusive;

(c) in that part of the transitional period beginning with and including 7th October 1996, if the surname of the person with care begins with any of the letters L to R inclusive, and

(d) in that part of the transitional period beginning with and including 6th January 1997, if the surname of the person with care begins with any of the letters S to Z inclusive.

(2) Where paragraph 2 applies to a case because there is pending before a court an application for a maintenance order, and that application was made before 5th April 1993, that paragraph shall not prevent the making of an application for a maintenance assessment under Article 7 of the Order; but in such a case Article 10(3) of the Order shall not have effect until such an application is actually made.

4. For so long as paragraph 2 operates in a case so as to prevent an application being made under Article 7 of the Order, and no application has been made under Article 9 of the Order, then in relation to that case Article 10(3) of the Order (role of the courts with respect to maintenance orders) shall be modified so as to have effect as if the word “vary” was omitted.

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(a) 1992 c. 7. Disability working allowance is prescribed for the purposes of Article 9(1) of the Child Support (Northern Ireland) Order 1991 by regulation 33 of S.R. 1992 No. 340

## PART II

## MODIFICATION OF MAINTENANCE ASSESSMENT IN CERTAIN CASES

## 5. In this Part—

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

“formula amount” means the amount of child support maintenance that would, but for the provisions of this Part, be payable under an original assessment, or any fresh assessment made during the period specified in paragraph 7 consequent on a review under Article 19, 20 or 21 of the Order;

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(a);

“modified amount” means an amount which is £20 greater than the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(a);

“original assessment” means a maintenance assessment made in respect of a qualifying child where no previous such assessment has been made or, where the assessment is made in respect of more than one child, where no previous such assessment has been made in respect of any of those children.

6.—(1) Subject to sub-paragraph (2), the provisions of this Part apply to cases where—

(a) on 4th April 1993 there is in force, in respect of all the qualifying children in respect of whom an application for a maintenance assessment is made under the Order and the absent parent concerned, one or more—

(i) maintenance orders;

(ii) orders under section 151 of the Army Act 1955(b) (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act 1955(c) (deductions from pay for maintenance of wife or child) or arrangements corresponding to such an order and made under Article 1(b) or 3 of the Naval and Marine Pay and Pensions (Deductions for Maintenance) Order 1959(d), or

(iii) maintenance agreements (being agreements which are made or evidenced in writing);

(b) the absent parent is responsible for maintaining a child or children residing with him other than the child or children in respect of whom the application is made;

(c) the formula amount is not more than £60, and

(d) the formula amount exceeds the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in sub-paragraph (a) by more than £20 a week.

(2) Nothing in this Part applies to an interim maintenance assessment made under Article 14 of the Order.

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(a) S.R. 1992 No. 340

(b) 1955 c. 18

(c) 1955 c. 19

(d) This Order in Council is not a statutory instrument but copies may be obtained from the Ministry of Defence, Naval Pay (Pensions and Conditions of Service) Branch, Old Admiralty Buildings, Spring Gardens, London SW1A 2BE

7. In a case to which this Part applies, the amount payable under an original assessment, or any fresh assessment made consequent on a review under Article 19, 20 or 21 of the Order, during the period of one year beginning with the date on which the original assessment takes effect or, if shorter, until any of the conditions mentioned in paragraph 6(1) is no longer satisfied, shall, instead of being the formula amount, be the modified amount.

8. For the purpose of determining the aggregate weekly amount payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(a) any payments in kind and any payments made to a third party on behalf of or for the benefit of the qualifying child or qualifying children or the person with care shall be disregarded.

9. If, in making a maintenance assessment, a child support officer has applied the provisions of this Part, regulation 10(2) of the Maintenance Assessment Procedure Regulations shall have effect as if there was added at the end—

“(g) the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(a) of the Schedule to the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992 (modification of maintenance assessment in certain cases).”.

10. The first review of an original assessment under Article 18 of the Order (periodical reviews) shall be conducted on the basis that the amount payable under the assessment immediately before the review takes place was the formula amount.

11.—(1) The provisions of sub-paragraphs (2) and (3) shall apply where there is a review of a previous assessment under Article 19 of the Order (reviews on change of circumstances) at any time when the amount payable under that assessment is the modified amount.

(2) Where the child support officer determines that, were a fresh assessment to be made as a result of the review, the amount payable under it (disregarding the provisions of this Part) (in this paragraph called “the reviewed formula amount”) would be—

- (a) more than the formula amount, the amount of child support maintenance payable shall be the modified amount plus the difference between the formula amount and the reviewed formula amount;
- (b) less than the formula amount but more than the modified amount, the amount of child support maintenance payable shall be the modified amount;
- (c) less than the modified amount, the amount of child support maintenance payable shall be the reviewed formula amount.

(3) The child support officer shall, in determining the reviewed formula amount, apply the provisions of regulations 19 to 21 of the Maintenance Assessment Procedure Regulations.

## EXPLANATORY NOTE

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

This order brings into operation on 5th April 1993 all the provisions of the Child Support (Northern Ireland) Order 1991 ("the Order") which are not already in operation, or not fully in operation, except for Articles 21(3) (which relates to the giving of notice to prescribed persons before making a fresh maintenance assessment), 30(2) (which relates to the Department of Health and Social Services arranging for the collection of certain payments for the benefit of a child even though it is not arranging for the collection of child support maintenance for that child), 34(2) (which relates to the definition of "relevant information") and 51(2) (which provides for paragraph 1(1) of Schedule 3 to the Order to have effect in a modified form until Schedule 1 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 (S.I. 1991/1712 (N.I. 17)) comes into operation. That Schedule is already in operation.). However, Article 3 and the Schedule contain transitional provisions which delay the full operation of Article 7 of the Order until 7th April 1997 and varies in some cases the way in which the amount of child support maintenance payable during the first year of an assessment is calculated.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The provisions of the Child Support (Northern Ireland) Order 1991 specified in column 1 have been brought into operation on the date specified in column 2 by the earlier commencement order specified in column 3.

Column 1 <i>Provision</i>	Column 2 <i>Date of Commencement</i>	Column 3 <i>Commencement Order</i>
Article 1(3) to (5)	18th June 1992	1992 No. 278 (C. 13)
Article 2	18th June 1992	1992 No. 278 (C. 13)
Article 3	18th June 1992	1992 No. 278 (C. 13)
Article 4(3)(c)	18th June 1992	1992 No. 278 (C. 13)
Article 7(4), (7) and (8)	18th June 1992	1992 No. 278 (C. 13)
Article 8(3)	18th June 1992	1992 No. 278 (C. 13)
Article 9(1) (partially), (9), (10) and (13)	18th June 1992	1992 No. 278 (C. 13)
Article 10(5), (9) and (11)(e)	18th June 1992	1992 No. 278 (C. 13)
Article 12	18th June 1992	1992 No. 278 (C. 13)
Article 14(2), (3) and (5)	18th June 1992	1992 No. 278 (C. 13)
Article 15	1st September 1992	1992 No. 347 (C. 16)
Article 16(1) and (3)	18th June 1992	1992 No. 278 (C. 13)
Article 18(1), (2), (5) and (6)	18th June 1992	1992 No. 278 (C. 13)
Article 19(4) and (6)(b)	18th June 1992	1992 No. 278 (C. 13)
Article 20(8) and (11)	18th June 1992	1992 No. 278 (C. 13)

Column 1 <i>Provision</i>	Column 2 <i>Date of Commencement</i>	Column 3 <i>Commencement Order</i>
Article 23(1) and (4)	1st September 1992	1992 No. 347 (C. 16)
Article 23(2) and (3)	18th June 1992	1992 No. 278 (C. 13)
Article 25(6) and (7)	18th June 1992	1992 No. 278 (C. 13)
Article 26(2)(a), (3)(c) and (5)	18th June 1992	1992 No. 278 (C. 13)
Article 29(2) and (3)	18th June 1992	1992 No. 278 (C. 13)
Article 30(1) and (4)	18th June 1992	1992 No. 278 (C. 13)
Article 31(8)	18th June 1992	1992 No. 278 (C. 13)
Article 32(1) to (5) and (7) to (9)	18th June 1992	1992 No. 278 (C. 13)
Article 34(1)	18th June 1992	1992 No. 278 (C. 13)
Article 35(2) to (4)	18th June 1992	1992 No. 278 (C. 13)
Article 36	18th June 1992	1992 No. 278 (C. 13)
Article 37(4)(a)(ii), (8) and (11)	18th June 1992	1992 No. 278 (C. 13)
Article 38(2), (3) and (4)	18th June 1992	1992 No. 278 (C. 13)
Article 39	18th June 1992	1992 No. 278 (C. 13)
Article 40(1)(b) and (2)(a)	18th June 1992	1992 No. 278 (C. 13)
Article 41(3)	18th June 1992	1992 No. 278 (C. 13)
Article 42	18th June 1992	1992 No. 278 (C. 13)
Article 43(11)	18th June 1992	1992 No. 278 (C. 13)
Article 44	18th June 1992	1992 No. 278 (C. 13)
Article 46(5) and (7)(d)	18th June 1992	1992 No. 278 (C. 13)
Article 47	18th June 1992	1992 No. 278 (C. 13)
Article 48	18th June 1992	1992 No. 278 (C. 13)
Article 49	18th June 1992	1992 No. 278 (C. 13)
Article 50	18th June 1992	1992 No. 278 (C. 13)
Article 51(1)	18th June 1992	1992 No. 278 (C. 13)
Schedule 1 and Article 13 (partially)	18th June 1992	1992 No. 278 (C. 13)
Paragraph 4 of Schedule 2 and Article 16(4) in so far as it relates to that paragraph	18th June 1992	1992 No. 278 (C. 13)
Paragraph 3(3) of Schedule 3 and Article 23(4) in so far as it relates to that para- graph	18th June 1992	1992 No. 278 (C. 13)
Schedule 3 in so far as not already in operation and Article 23(4) in so far as it relates to those provisions	1st September 1992	1992 No. 347 (C. 16)

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Column 1 <i>Provision</i>	Column 2 <i>Date of Commencement</i>	Column 3 <i>Commencement Order</i>
Paragraph 1 of Schedule 4 and Article 24 in so far as it relates to that paragraph	18th June 1992	1992 No. 278 (C. 13)
Paragraphs 2 to 4 of Schedule 4 and Article 24 in so far as it relates to those paragraphs	1st September 1992	1992 No. 347 (C. 16)
Paragraph 1 of Schedule 5 and Article 51(3) in so far as it relates to that paragraph	1st September 1992	1992 No. 347 (C. 16)

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