

1993 No. 164

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendments) Regulations
(Northern Ireland) 1993**

Made 31st March 1993

Coming into operation 5th April 1993

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(3), 4(3)(c), 14(2) and (3), 16(3), 18(1), 19(6)(b), 20(11), 38(3) and (4), 39, 40, 41(3) and 47 of, and paragraphs 5(1) and (2) and 6 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 1993 and shall come into operation on 5th April 1993 immediately after the regulations which they amend come into operation.

(2) In these regulations—

“Arrears, Interest and Adjustment of Maintenance Assessments Regulations” means the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(b);

“Maintenance Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(c);

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

“Maintenance Assessments and Special Cases Regulations” means the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(e).

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

(b) S.R. 1992 No. 342

(c) S.R. 1992 No. 466

(d) S.R. 1992 No. 340

(e) S.R. 1992 No. 341

Amendment of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations

2.—(1) The Arrears, Interest and Adjustment of Maintenance Assessments Regulations shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 3 (liability to make payments of interest with respect to arrears) in paragraphs (4), (5) and (6) after “review under Article” there shall be inserted “18, 19,”.

(3) In regulation 4 (circumstances in which no liability to pay interest arises) after paragraph (2) there shall be added the following paragraph—

“(3) An absent parent who pays all outstanding arrears of interest within 28 days of the due date shall not be liable to make payments of interest with respect to those arrears.”.

(4) In regulation 5 (payment of arrears by agreement) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) The Department may at any time enter into an agreement with an absent parent (an “arrears agreement”) for the absent parent to pay all outstanding arrears by making payments on agreed dates of agreed amounts.

(2) Where an arrears agreement has been entered into, the Department shall prepare a schedule of the dates on which payments of arrears shall be made and the amount to be paid on each such date, and shall send a copy of the schedule to such persons as it thinks fit.”.

(5) In regulation 6 (rate of interest and calculation of interest) after paragraph (4) there shall be added the following paragraph—

“(5) Where any calculation of interest payable under this Part results in a fraction of a penny, that fraction shall be disregarded.”.

(6) In regulation 12 (review of adjustments under regulation 10 or of the calculation of arrears or interest) paragraphs (3), (4) and (6) shall be omitted.

(7) In regulation 13 (procedure and notifications on applications and reviews under regulation 12)—

(a) in paragraphs (1) and (2) “or (3)” shall be omitted;

(b) paragraph (5) shall be omitted; and

(c) in paragraph (6) for “paragraphs (2) to (5)” there shall be substituted “paragraphs (2) to (4)”.

Amendment of the Maintenance Arrangements and Jurisdiction Regulations

3.—(1) The Maintenance Arrangements and Jurisdiction Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 7 (cancellation of a maintenance assessment on grounds of lack of jurisdiction) after paragraph (3) there shall be added the following paragraph—

“(4) Where a parent is treated as an absent parent for the purposes of the Order and of the Maintenance Assessments and Special Cases Regulations by virtue of regulation 20 of those regulations, he shall be treated as an absent parent for the purposes of paragraphs (1) to (3).”.

- (3) In regulation 8 (maintenance assessments and maintenance orders made in error)—
- (a) in paragraph (1) after sub-paragraph (a) there shall be inserted the following sub-paragraph—
- “(aa) the maintenance order has ceased to have effect by virtue of the provisions of regulation 3;”; and
- (b) in paragraph (2)—
- (i) after sub-paragraph (a) there shall be inserted the following sub-paragraph—
- “(aa) the maintenance assessment is cancelled or ceases to have effect;”, and
- (ii) after “shall be treated as not having been cancelled” there shall be inserted “or, as the case may be, as not having ceased to have effect”.

Amendment of the Maintenance Assessment Procedure Regulations

4.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (15).

(2) In regulation 5 (notice to other persons of an application for a maintenance assessment)—

- (a) in paragraph (1) for “Where” there shall be substituted “Subject to paragraph (2A), where”;
- (b) in paragraph (2) after “shall” there shall be inserted “, subject to paragraph (2A),”;
- (c) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) The provisions of paragraphs (1) and (2) shall not apply where the Department is satisfied that an application for a maintenance assessment can be dealt with in the absence of a completed and returned maintenance enquiry form.”.

(3) In regulation 8 (amount and duration of an interim maintenance assessment)—

- (a) after paragraph (1) there shall be inserted the following paragraphs—
- “(1A) There shall be two categories of interim maintenance assessment, Category A interim maintenance assessments and Category B interim maintenance assessments.

(1B) An interim maintenance assessment made by a child support officer shall be—

- (a) a Category A interim maintenance assessment, where the information that is required by him as to the income of the absent parent to enable him to make an assessment in accordance with the provisions of Part I of Schedule 1 to the Order has not been provided by that absent parent, and that parent has that information in his possession or can reasonably be expected to acquire it;

(b) a Category B interim maintenance assessment, where the information that is required by him as to the income of the partner or other member of the family of the absent parent or parent with care to enable him to make an assessment in accordance with the provisions of Part I of Schedule 1 to the Order has not been provided by that partner or other member of the family, and that partner or other member of the family has that information in his possession or can reasonably be expected to acquire it.”;

(b) in paragraph (2)—

(i) for “an” there shall be substituted “a Category A”, and

(ii) after “not apply to” there shall be inserted “Category A”;

(c) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) The amount of child support maintenance fixed by a Category B interim maintenance assessment shall be determined in accordance with paragraphs (2B) and (2C).

(2B) Where a child support officer is unable to determine the exempt income—

(a) of an absent parent under regulation 9 of the Maintenance Assessments and Special Cases Regulations because he is unable to determine whether regulation 9(2) of those regulations applies;

(b) of a parent with care under regulation 10 of those regulations because he is unable to determine whether regulation 9(2) of those regulations, as modified by and applied by regulation 10 of those regulations applies,

the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order on the assumption that—

(i) in a case falling within sub-paragraph (a), regulation 9(2)(a) of those regulations does apply;

(ii) in a case falling within sub-paragraph (b), regulation 9(2)(b) of those regulations as modified by and applied by regulation 10 of those regulations does apply.

(2C) Where the disposable income of an absent parent would, without taking account of the income of any member of his family, bring him within the provisions of paragraph 6 of Schedule 1 to the Order (protected income), and a child support officer is unable to ascertain the disposable income of the other members of his family, the amount of the Category B interim maintenance assessment shall be the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order on the assumption that the provisions of paragraph 6 of Schedule 1 to the Order do not apply to the absent parent.”;

(d) in paragraph (11) for “an” there shall be substituted “a Category A”;

- (e) in paragraph (12) after “not apply to” there shall be inserted “Category A”;
- (f) after paragraph (12) there shall be added the following paragraph—
“(13) In this regulation “family” and “partner” have the same meanings as in the Maintenance Assessments and Special Cases Regulations.”.
- (4) In regulation 9 (cancellation of an interim maintenance assessment)—
- (a) in paragraph (1) for “an” there shall be substituted “a Category A”;
- (b) in paragraph (8) after “Regulations 10, 11” there shall be inserted “, 23”.
- (5) In regulation 12 (notification of a refusal to make a new or a fresh maintenance assessment)—
- (a) in paragraph (1)—
- (i) for “Article 19 or” where it first occurs, there shall be substituted “Article 19 of the Order or to make an assessment or a fresh assessment following a review under Article”;
- (ii) in sub-paragraph (b) for “persons,” there shall be substituted “persons;”;
- (iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph—
“(c) where there is a refusal to make an assessment following a review under Article 20 of the Order, the applicant,”;
- (b) in paragraph (2)—
- (i) in sub-paragraph (c) for “Order.” there shall be substituted “Order;”;
- (ii) after sub-paragraph (c) there shall be added the following sub-paragraph—
“(d) where there is a refusal to make an assessment following a review under Article 20 of the Order, Article 22 of the Order.”.
- (6) In regulation 16 (intervals between periodical reviews and notice of a periodical review)—
- (a) for paragraphs (1) and (2) there shall be substituted the following paragraphs—
- “(1) Subject to regulation 17(1), where a maintenance assessment in force is—
- (a) an assessment that has not been previously reviewed;
- (b) a fresh assessment following an earlier review under Article 18 of the Order; or
- (c) a fresh assessment following a review under Article 19 of the Order,
- that assessment shall be reviewed by a child support officer under Article 18 of the Order after it has been in force for a period of 52 weeks.

(2) Where a maintenance assessment in force is a fresh assessment following a review under Article 20 or 21 of the Order, that assessment shall be reviewed by a child support officer under Article 18 of the Order after it has been in force for a period of 52 weeks less the period between the effective date of the previous assessment falling within paragraph (1) and the effective date of the fresh assessment following the review under Article 20 or 21 of the Order.”;

(b) in paragraph (7)(a) for “a case is” there shall be substituted “the case is one”.

(7) In regulation 18 (conduct of a review on a change of circumstances)—

(a) in paragraph (2) for “paragraphs (3) and (4), and except where the circumstances set out in regulation 16(7) apply” there shall be substituted “paragraphs (3), (4) and (4A)”;

(b) after paragraph (4) there shall be inserted the following paragraph—

“(4A) The provisions of paragraph (2) shall not apply in relation to a relevant person where—

(a) the case is one prescribed in regulation 22 or 23 of the Maintenance Assessments and Special Cases Regulations as a case to be treated as a special case for the purposes of the Order;

(b) there has been a review under Article 18 or 19 of the Order in relation to another maintenance assessment in force relating to that person;

(c) the child support officer concerned has notified that person of the assessments following that review not earlier than 13 weeks prior to the date the child support officer gives notice under paragraph (1); and

(d) the child support officer has no reason to believe that there has been a change in that person’s circumstances.”.

(8) In regulation 19 (fresh assessments following a review on a change of circumstances)—

(a) in paragraph (1) for “paragraphs (2) and (3)” there shall be substituted “paragraphs (2) to (4)”;

(b) after paragraph (3) there shall be added the following paragraph—

“(4) Where a child support officer on completing a review under Article 19 of the Order determines that—

(a) the absent parent is, by virtue of paragraph 5(4) of Schedule 1 to the Order, to be taken for the purposes of that Schedule to have no assessable income; or

(b) the case falls within paragraph 7(2) of Schedule 1 to the Order,

he shall make a fresh maintenance assessment.”.

(9) In regulation 23 (time limits for an application for a review of a decision by a child support officer) after paragraph (2) there shall be added the following paragraph—

“(3) Where—

- (a) a child support officer refuses an application for a maintenance assessment on the grounds of lack of jurisdiction;
- (b) the applicant makes no application at that stage for that refusal to be reviewed under Article 20(1)(a) of the Order but applies to a court for a maintenance order in relation to the children concerned;
- (c) the court refuses to make a maintenance order on the grounds of lack of jurisdiction; and
- (d) the applicant then makes an application for the refusal mentioned in sub-paragraph (a) to be reviewed under Article 20(1)(a) of the Order,

the date the applicant is notified of the court’s decision shall, for the purposes of paragraphs (1) and (2), be treated as the date of notification to the applicant of the decision whose review he seeks.”.

(10) After regulation 25 (procedure on a review of a decision by a child support officer) there shall be inserted the following regulation—

“Review under Article 20 of the Order where parentage is an issue

25A. Where an applicant for a review under Article 20 of the Order gives as one, but not the only, reason for making the application that—

- (a) the decision of which he seeks the review has been made on the basis that a particular person (whether the applicant or some other person) either is, or is not, a parent of a child in question; and
- (b) the decision should not have been made on that basis,

the Department shall treat the application as two applications, one relating solely to the issue of parentage and the other relating to all other matters giving rise to the application, and shall proceed accordingly.”.

(11) In regulation 39 (suspension of a reduced benefit direction when a modified applicable amount is payable)—

- (a) in paragraph (3)(a) for “homes for persons in need” there shall be substituted “residential care homes”;
- (b) in paragraph (3)(c) “, 10D” shall be omitted.

(12) In regulation 41 (review of a reduced benefit direction)—

- (a) in paragraph (1)—
 - (i) after “a direction is in force” there shall be inserted “or some other person”;
 - (ii) in sub-paragraph (a) for “that parent” where it first occurs there shall be substituted “the parent with care”, and
 - (iii) in sub-paragraph (b) for “that parent” there shall be substituted “the parent with care”;
- (b) in paragraph (2) after “a direction is in force” there shall be inserted “or some other person”;
- (c) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) Where a direction is in force and the Department becomes aware that a question arises as to whether the welfare of a child is likely to be affected by the direction continuing to be in force, the Department shall refer the matter to a child support officer who shall conduct a review to determine whether the direction is to continue or is to cease to be in force.

(2B) Where a direction is in force and a child support officer becomes aware that a question arises as to whether the welfare of a child is likely to be affected by the direction continuing to be in force, a child support officer shall conduct a review to determine whether the direction is to continue or is to cease to be in force.”;

(d) in paragraphs (5) and (6) for “the parent concerned gave the reasons specified in paragraph (1)” there shall be substituted “the reasons specified in paragraph (1) were given”;

(e) paragraph (7) shall be omitted;

(f) for paragraph (9) there shall be substituted the following paragraphs—

“(9) A parent with care who is aggrieved by a decision of a child support officer following a review may appeal to a child support appeal tribunal against that decision.

(10) Articles 22(2) to (4) and 23 of the Order shall apply in relation to appeals under paragraph (9) as they apply in relation to appeals under Article 22 of the Order.

(11) A notification under paragraph (8) shall include information as to the provisions of paragraphs (9) and (10).”.

(13) In regulation 49(b) (persons who are not persons with care) at the end there shall be added “except where that person is a parent of such a child and the Board allow the child to live with that parent under sections 105(3) and 145(1) of that Act”;

(14) After regulation 54 (provisions common to regulations 52 and 53) there shall be added the following regulation—

“Action by the Department on receipt of an application under Article 19 or 20 of the Order where a question as to the entitlement to benefit arises

55.—(1) Where an application for a review under Article 19 or 20 of the Order has been made to the Department and it is of the opinion that the application gives rise to a question as to the entitlement to benefit of any person, it may disclose the information contained in that application to an adjudication officer or, in the case of housing benefit to the appropriate authority.

(2) Where the Department discloses information under paragraph (1), it need not refer the application to a child support officer earlier than the expiration of a period of 28 days beginning with the date prescribed in paragraph (3).

(3) The date prescribed for the purposes of paragraph (2) is the second day after the date the Department receives the application for a review under Article 19 or 20 of the Order, excluding any Saturday, Sunday, or

any day which is a bank holiday in England, Wales, Scotland or Northern Ireland under the Banking and Financial Dealings Act 1971(a).

(4) In this regulation—

(a) “benefit” is to be construed in accordance with the benefit Acts;

(b) “appropriate authority” means the Northern Ireland Housing Executive or the Department of the Environment.”.

(15) In Schedule 1 (meaning of “child” for the purposes of the Order) in paragraph 2 for “Technician” in both places where it occurs there shall be substituted “Technology”.

Amendment of the Maintenance Assessments and Special Cases Regulations

5.—(1) The Maintenance Assessments and Special Cases Regulations shall be amended in accordance with paragraphs (2) to (15).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in the definition of “course of advanced education” for “Technician” there shall be substituted “Technology”;

(b) after the definition of “Contributions and Benefits Act” there shall be inserted the following definition—

“ “couple” means a married or unmarried couple;”;

(c) the definition of “home for persons in need” shall be omitted;

(d) the definition of “the Independent Living Fund” shall be omitted;

(e) after the definition of “Income Support Regulations” there shall be inserted the following definitions—

“ “the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;”;

(f) for the definition of “relevant week” there shall be substituted the following definition—

“ “relevant week” means—

(a) in relation to an application for child support maintenance—

(i) in the case of the person making the application, the period of 7 days immediately preceding the date on which the appropriate maintenance assessment application form (being an effective application within the meaning of regulation 2(4) of the Maintenance Assessment Procedure Regulations) is submitted to the Department;

- (ii) in the case of a person to whom a maintenance assessment enquiry form is given or sent as the result of such an application, the period of 7 days immediately preceding the date on which that form is given to him or, as the case may be, the date on which it is treated as having been sent to him under regulation 1(6)(b) of the Maintenance Assessment Procedure Regulations;
- (b) in relation to a review of a maintenance assessment under Article 18 or 19 of the Order, the period of 7 days immediately preceding the date on which a request is made for information or evidence under regulation 16(5) or, as the case may be, regulation 18(2) of the Maintenance Assessment Procedure Regulations;”;
- (g) after the definition of “relevant week” there shall be inserted the following definition—
 - “ “residential care home” has the same meaning as in regulation 19(2) of the Income Support Regulations;”;
- (h) after paragraph (2) there shall be inserted the following paragraph—
 - “(2A) Where any provision of these regulations requires the income of a person to be estimated and that or any other provision of these regulations requires that the amount of such estimated income is to be taken into account for any purpose after deducting from it a sum in respect of income tax or of primary Class 1 contributions under the Contributions and Benefits Act or of contributions paid by that person towards an occupational or personal pension scheme, then—
 - (a) the amount to be deducted in respect of income tax shall be calculated by applying to that income the rates of income tax applicable at the effective date less only the personal relief to which that person is entitled under Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988(a) (personal reliefs); but if the period in respect of which that income is to be estimated is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
 - (b) the amount to be deducted in respect of Class 1 contributions under the Contributions and Benefits Act shall be calculated by applying to that income the appropriate primary percentage applicable in the relevant week; and
 - (c) the amount to be deducted in respect of contributions paid by that person towards an occupational or personal pension scheme shall be one-half of the sums so paid.”.
- (3) In regulation 9 (exempt income: calculation or estimation of E)—
 - (a) in paragraph (1)(h)(ii) for “home for persons in need” there shall be substituted “residential care home”;

(b) in paragraph (2)(c) after “calculated under regulation 7(1)” there shall be inserted “(but excluding the amount mentioned in regulation 7(1)(d))”.

(4) In regulation 10 (exempt income: calculation or estimation of F) at the end there shall be added “except that paragraphs (3) and (4) of that regulation shall apply only in a case where the parent with care shares day to day care of the child mentioned in those paragraphs with one or more other persons”.

(5) In regulation 11 (protected income) in paragraph (1)(i)(ii) for “home for persons in need” there shall be substituted “residential care home”.

(6) In regulation 15(5) (amount of housing costs) after “calculated under” there shall be inserted “paragraphs (1), (2) and (9) of” and for “that regulation” there shall be substituted “those paragraphs (disregarding any other provision of that regulation)”.

(7) In regulation 22 (multiple applications relating to an absent parent) for paragraph (4) there shall be substituted the following paragraph—

“(4) Where the aggregate of the child support maintenance payable by the absent parent is less than the minimum amount prescribed in regulation 13(1), the child support maintenance payable shall be—

(a) that prescribed minimum amount apportioned between the two or more applications in the same ratio as the maintenance requirements in question bear to each other; or

(b) where, because of the application of regulation 2(2), such an apportionment produces an aggregate amount which is different from that prescribed minimum amount, that different amount.”.

(8) In regulation 27(2) (child who is a boarder or an in-patient) after “modified so” there shall be inserted “that”.

(9) After regulation 27 there shall be inserted the following regulation—

“*Child who is allowed to live with his parent under sections 105(3) and 145(1) of the Children and Young Persons Act (Northern Ireland) 1968*

27A.—(1) Where the circumstances of a case are that a qualifying child who is in the care of a Health and Social Services Board is allowed by the Board to live with a parent of his under sections 105(3) and 145(1) of the Children and Young Persons Act (Northern Ireland) 1968(a), that case shall be treated as a special case for the purposes of the Order.

(2) For the purposes of this case, Article 4(3)(b) of the Order shall be modified so that for the reference to the person who usually provides day to day care for the child there shall be substituted a reference to the parent of a child whom the Board allow the child to live with under sections 105(3) and 145(1) of the Children and Young Persons Act (Northern Ireland) 1968.”.

(10) In regulation 28 (amount payable where absent parent is in receipt of income support or other prescribed benefit)—

- (a) in paragraph (1)(b) after “(income support family premium)” there shall be inserted “and does not have day to day care of any child (whether or not a relevant child)”;
- (b) in paragraph (1)(c) for “he does not satisfy the conditions for entitlement to” there shall be substituted “his income does not include”;
- (c) after paragraph (2) there shall be added the following paragraphs—

“(3) Subject to paragraph (4), where an absent parent is liable under Article 40 of the Order and this regulation to make payments in place of payments of child support maintenance with respect to two or more qualifying children in relation to whom there is more than one person with care, the prescribed amount mentioned in paragraph (2) shall be apportioned between the persons with care in the same ratio as the maintenance requirements of the qualifying child or children in relation to each of those persons with care bear to each other.

(4) If, in making the apportionment required by paragraph (3), the effect of the application of regulation 2(2) would be such that the aggregate amount payable would be different from the amount prescribed in paragraph (2) the Department shall adjust that apportionment so as to eliminate that difference; and that adjustment shall be varied from time to time so as to secure that, taking one week with another and so far as is practicable, each person with care receives the amount which that person would have received if no adjustment had been made under this paragraph.

(5) The provisions of Schedule 5(a) shall have effect in relation to cases to which Article 40 of the Order and this regulation apply.”

(11) In Schedule 1 (calculation of N and M) in paragraph 3 (earnings of a self-employed earner)—

- (a) in sub-paragraph (3)—
 - (i) at the beginning there shall be inserted “Subject to sub-paragraph (7),”;
 - (ii) at the beginning of heads (a) and (b) there shall be inserted “except in a case to which paragraph 4 applies,”;
- (b) in sub-paragraph (5) after “calculated” there shall be inserted “on the basis of chargeable earnings and”;
- (c) in sub-paragraph (6) after “applicable” there shall be inserted “to the chargeable earnings”;
- (d) after sub-paragraph (6) there shall be added the following sub-paragraphs—

“(7) In the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners’ Benefits) Regulations

(Northern Ireland) 1975(a), sub-paragraph (3) shall have effect as though it requires a deduction from the earner's gross receipts of an amount calculated by—

- (a) deducting from the gross receipts of the partnership or fishing boat the sums mentioned in sub-paragraph (3)(a) and (b); and
- (b) deducting from the earner's share of the balance after such deductions the sums mentioned in sub-paragraph (3)(c) to (e).

(8) In sub-paragraphs (5) and (6), "chargeable earnings" means the gross receipts of the employment less any deductions mentioned in sub-paragraphs (3)(a) and (b)."

(12) In Schedule 2 (amounts to be disregarded when calculating or estimating N and M)—

- (a) in paragraph 23 for sub-paragraph (a) there shall be substituted the following sub-paragraph—

"(a) payments which are to be taken into account as eligible housing costs under paragraph 1(b), (c), (d) and (p) of Schedule 3 (eligible housing costs for the purposes of determining exempt income and protected income) and paragraph 3 of that Schedule (exempt income: additional provisions relating to eligible housing costs);";

- (b) in paragraph 25(a) for "the amount referred to in regulation 9(1)(g)(i)" there shall be substituted "the aggregate of the amounts to be taken into account in the calculation of E under regulation 9(1)(g)";

- (c) for paragraph 45 there shall be substituted the following paragraph—
"45. Except in the case of a self-employed earner, payments in kind.";

- (d) after paragraph 47 there shall be inserted the following paragraphs—
"47A. Any guardian's allowance under Part III of the Contributions and Benefits Act.

47B. Any payment in respect of duties mentioned in paragraph 1(1)(i) of Schedule 1 relating to a period of one year or more."

(13) In Schedule 3 (eligible housing costs)—

- (a) in paragraph 1(d) after "home" there shall be inserted ", including interest on a loan for any service charge imposed to meet the cost of such repairs and improvements"; and

- (b) paragraph 1(o) shall be omitted.

(14) In Schedule 4 in paragraph (c) for "the Independent Living Fund" there shall be substituted "the Independent Living (1993) Fund or the Independent Living (Extension) Fund".

(15) After Schedule 4 there shall be added Schedule 5 as set out in the Schedule to these regulations.

(a) S.R. 1975 No. 108, to which there are amendments not relevant to these regulations

No. 164

Family Law

775

Sealed with the Official Seal of the Department of Health and Social Services on 31st March 1993.

(L.S.)

A. Devlin

Assistant Secretary

Schedule to be inserted into the Maintenance Assessments and Special Cases Regulations

“SCHEDULE 5

Regulation 28(5)

Provisions applying to cases to which Article 40 of the Order and regulation 28 apply

1. In this Schedule “relevant decision” means a decision of a child support officer given under Article 40 of the Order (contribution to maintenance by deduction from benefit) and regulation 28.

2. A relevant decision may be reviewed by a child support officer, either on application by a relevant person or of his own motion, if it appears to him that the absent parent has at some time after that decision was given satisfied the conditions prescribed by regulation 28(1) or, as the case may be, no longer satisfies those conditions.

3. A relevant decision shall be reviewed by a child support officer when it has been in force for 52 weeks.

4.—(1) Before conducting a review under paragraph 6 the child support officer shall—

(a) give 14 days’ notice of the proposed review to the relevant persons (within the meaning of regulation 1(2) of the Maintenance Assessment Procedure Regulations), and

(b) invite representations, either in person or in writing, from the relevant persons on any matter relating to the review and set out the provisions of sub-paragraphs (2) to (4) in relation to such representations.

(2) Subject to sub-paragraph (3), where the child support officer conducting the review does not, within 14 days of the date on which notice of the review was given, receive a request from a relevant person to make representations in person, or receives such a request and arranges for an appointment for such representations to be made but that appointment is not kept, he may complete the review in the absence of such representations from that person.

(3) Where the child support officer conducting the review is satisfied that there was good reason for failure to keep an appointment, he shall provide for a further opportunity for the making of representations by the relevant person before he completes the review.

(4) Where the child support officer conducting the review does not receive written representations from a relevant person within 14 days of the date on which notice of the review was given, he may complete the review in the absence of written representations from that person.

5. After completing a review under paragraph 2, 3 or 6, the child support officer shall notify all relevant persons of the result of the review and—

(a) in the case of a review under paragraph 2 or 3, of the right to apply for a further review under paragraph 6; and

(b) in the case of a review under that paragraph, of the right of appeal under Article 22 of the Order (appeals) as applied by paragraph 8.

6. Where a child support officer has made a decision under regulation 28 or paragraph 2 or 3, any relevant person may apply to the Department for a review of that decision and, subject to the modifications set out in paragraph 7, the provisions of Article 20(5) to (7) of the Order shall apply to such a review.

7. The modifications to the provisions of Article 20(5) to (7) of the Order referred to in paragraph 6 are—

- (a) any reference in those provisions to a maintenance assessment shall be read as a reference to a relevant decision; and
- (b) Article 20(6) shall apply as if the reference to the cancellation of an assessment was omitted.

8. The provisions of Article 22 of the Order shall apply in relation to a review or a refusal to review under paragraph 6.

9. The provisions of paragraphs (1) and (2) of regulation 5 of the Child Support (Collection and Enforcement) Regulations 1992(a) shall apply to the transmission of payments in place of payments of child support maintenance under Article 40 of the Order and regulation 28 as they apply to the transmission of payments of child support maintenance.”

(a) S.R. 1992 No. 390

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992, the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992, the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 and the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 all of which are made under the Child Support (Northern Ireland) Order 1991 (“the Order”).

The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations are amended in the following respects—

- (a) regulation 4 is amended by providing that there be no liability to pay interest on arrears which are paid within 28 days of the payment being missed (regulation 2(3));
- (b) regulation 5 is amended to remove the requirement that an arrears agreement be in writing, but obliging the Department to prepare a payments schedule where an arrears agreement has been entered into (regulation 2(4));
- (c) regulation 12 is amended to remove the jurisdiction of a child support officer to review the calculation of arrears due under a maintenance assessment or of the interest payable with respect to arrears (regulation 2(6)), and consequential amendments are made to regulation 13 (regulation 2(7)).

The Child Support (Maintenance Arrangements and Jurisdiction) Regulations are amended to provide that the provisions of regulation 7 (cancellation of a maintenance assessment on grounds of lack of jurisdiction) extend to parents who are treated as absent parents for the purposes of the Order (regulation 3(2)).

The Child Support (Maintenance Assessment Procedure) Regulations are amended in the following respects—

- (a) regulation 5 is amended to remove the obligation on the Department, where it is satisfied that a maintenance assessment can be dealt with in the absence of a completed and returned maintenance enquiry form, to give notice of an effective application to the relevant persons other than the applicant and to give or send them maintenance enquiry forms (regulation 4(2));
- (b) regulation 8 is amended to introduce an additional category of interim maintenance assessment where a child support officer is unable to make a maintenance assessment because the partner of an absent parent or of a parent with care fails to provide information about income (regulation 4(3)) and regulation 9 (cancellation of an interim maintenance assessment) is amended so that its provisions do not apply to this additional category of interim maintenance assessments (regulation 4(4));
- (c) regulation 16 is amended so that a fresh assessment following a review under Article 20 or 21 of the Order does not affect the date of the next periodical review under Article 18 of the Order (regulation 4(6));
- (d) regulation 18 is amended to remove, in two situations, the requirement that for a fresh maintenance assessment to be made following a change of circumstances review under Article 19 of the Order, the difference between the previous and fresh assessment has to exceed a minimum amount (regulation 4(7));
- (e) regulation 23 is amended to extend the time limits to seek review of a child support officer's refusal to make a maintenance assessment on the grounds of lack of jurisdiction where, on a subsequent application to a court for a maintenance order, the court refuses to make an order on the grounds of lack of jurisdiction (regulation 4(9));
- (f) a new regulation 25A is inserted: this provides for treating an application for a review under Article 20 of the Order where parentage is an issue, but not the only issue, as two separate applications (regulation 4(10));
- (g) regulation 41 is amended to provide that a reduced benefit direction may be reviewed where relevant reasons are provided by a person other than a parent with care; and where a question arises as to whether the welfare of a child is likely to be affected by a reduced benefit direction continuing in force (regulation 4(12));
- (h) regulation 49 is amended, in conjunction with the insertion of a new regulation 27A into the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992, so as to include

within the category of persons with care a parent of a child whom a Health and Social Services Board allow the child to live with under sections 105(3) and 145(1) of the Children and Young Persons Act (Northern Ireland) 1968 (regulations 4(13) and 5(9));

- (i) regulation 55 is added to the regulations: this permits the Department to disclose information contained in an application for a review under Article 19 or 20 of the Order where a question as to the entitlement to benefit arises, and to delay referring the application to a child support officer in these circumstances (regulation 4(14)).

The Child Support (Maintenance Assessments and Special Cases) Regulations are amended in the following respects—

- (a) in regulation 1 several definitions are amended or substituted and a new paragraph (2A) is inserted which deals with the calculation of income tax and social security contributions (regulation 5(2));
- (b) a new sub-paragraph (7) is inserted into paragraph 3 of Schedule 1 to provide for the calculation of the earnings of business partners and share fishermen (regulation 5(11)(d));
- (c) two new paragraphs are inserted into Schedule 2 so as to provide that in calculating a parent's net income any guardian's allowance under the Social Security (Contributions and Benefits) (Northern Ireland) Act 1992 and any allowances in respect of duties mentioned in paragraph 1(1)(i) of Schedule 1 (auxiliary coastguard, part-time fireman etc.) and which relate to a period of a year or more are to be disregarded (regulation 5(12)(d)); and
- (d) paragraph (1)(d) of Schedule 3 is amended so as to provide that the sum to be taken into account as eligible housing costs are to include any interest on a loan taken out to meet any service charge imposed to meet the cost of the repairs and improvements mentioned in that sub-paragraph (regulation 5(13)(a)).

Other minor amendments are also made to the regulations mentioned in the first paragraph of this Note.