

1995 No. 475

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendments No. 2)
Regulations (Northern Ireland) 1995**

Made 18th December 1995

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 14(2) and (3), 16(1), (1A) and (3), 18, 19(4) and (6), 20(8) and (11), 32(1) and (2), 38(2), 38B(3) and (6), 39, 43(5) and (11), 47, 48 and 49(2) and (3) of, and paragraphs 5(1) and (2), 6(2), 8 and 11 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a), Article 12(6) of the Child Support (Northern Ireland) Order 1995(b) 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 No. 2) Regulations (Northern Ireland) 1995 and shall come into operation as follows—

- (a) this regulation, regulation 3(9) only in so far as it inserts regulation 15B into the Maintenance Assessment Procedure Regulations and regulations 4(10) and 11 on 18th December 1995; and
- (b) all other regulations on 22nd January 1996.

(2) In these Regulations “the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(c).

Amendment of the Child Support (Information, Evidence and Disclosure) Regulations

2.—(1) The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(d) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (duty to furnish information)—

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- (a) S.I. 1991/2628 (N.I. 23); Article 16(1A) was inserted by, and Article 43(5) amended by, paragraphs 3(1) and 10 respectively of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and Article 38B was inserted by Article 16 of that Order
 - (b) S.I. 1995/2702 (N.I. 13)
 - (c) S.R. 1992 No. 340; relevant amending regulations are S.R. 1993 No. 164, S.R. 1994 No. 37 and S.R. 1995 Nos. 19 and 162
 - (d) S.R. 1992 No. 339; relevant amending regulations are S.R. 1994 No. 65 and S.R. 1995 Nos. 19 and 162

(a) in paragraph (1)—

- (i) after “maintenance assessment” there shall be inserted “or for a review of a maintenance assessment”;
- (ii) after “Order,” there shall be inserted “or a child support officer is conducting or proposing to conduct a review under Article 21 of the Order,” and
- (iii) after “Department” there shall be inserted “or a child support officer”;

(b) in paragraph (2)—

- (i) in sub-paragraph (b) for “assessment has been made who” there shall be substituted “assessment has been made, or in relation to whom a maintenance assessment has been made in respect of which a child support officer is conducting or proposing to conduct a review and that person”;
- (ii) in sub-paragraphs (c) and (cc)(a) after “application for a maintenance assessment has been made” there shall be inserted “or in relation to whom a maintenance assessment has been made and a child support officer is conducting or proposing to conduct a review of that assessment”.

(3) In regulation 3(1) (purposes for which evidence required) after “The Department” there shall be inserted “or a child support officer”.

(4) After regulation 3 there shall be inserted the following regulation—

“Contents of request for information or evidence

3A. Any request by the Department or a child support officer in accordance with regulations 2 and 3 for the provision of information or evidence in connection with a review or proposed review under Article 18, 19, 20 or 21 of the Order shall set out the possible consequences of failure to provide such information or evidence.”.

(5) For regulation 5 (time for furnishing information) there shall be substituted the following regulation—

“Time within which information or evidence is to be furnished

5.—(1) Subject to paragraph (2) and the provisions of regulations 2(5), 6(1) and 16(5) of the Maintenance Assessment Procedure Regulations, 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.

(2) Where an application for a review has been made under Article 19 or 20 of the Order, or a child support officer is proposing to conduct or is conducting a review under Article 21 of the Order, and the Department or a child support officer has after 22nd January 1996 requested any person to provide information or evidence in accordance with the provisions of regulations 2 and 3 in connection with that review or proposed review, that person shall furnish such information or evidence within 14 days of that request being made.”.

- (6) In regulation 9A(1)(a) (disclosure of information to other persons)—
- (a) at the end of sub-paragraph (c) “or” shall be omitted;
 - (b) after sub-paragraph (d) there shall be added the following sub-paragraphs—
 - “(e) why a decision has been made not to arrange for, or to cease, collection of any child support maintenance under Article 29 of the Order;
 - (f) why a particular method of enforcement, under Article 31, 33, 35 or 37 of the Order of an amount due under a maintenance assessment has been adopted in a particular case; or
 - (g) why a decision has been made not to enforce, or to cease to enforce, under Article 31 or 33 of the Order the amount due under a maintenance assessment.”.

(7) For regulation 10 (disclosure of information to the Department) there shall be substituted the following regulations—

“Disclosure of information by the Department

10.—(1) The Department may disclose to a child support officer, in the circumstances set out in paragraph (2), information held by it for the purposes of the Order which has been provided by or in relation to a person in connection with an application for a maintenance assessment or in connection with an assessment which is or has been in force.

(2) The information referred to in paragraph (1) may be disclosed for use in connection with any other application for a maintenance assessment or in connection with a review of a maintenance assessment which is or has been in force, in respect of which the person referred to in paragraph (1) is the absent parent, alleged absent parent or person with care.

Disclosure of information by a child support officer

10A.—(1) A child support officer may disclose to another child support officer or to the Department, in the circumstances set out in paragraph (2), information held by him for the purposes of the Order which has been provided by or in relation to a person in connection with an application for a maintenance assessment, in connection with a review of a maintenance assessment, or otherwise in connection with an assessment which is or has been in force.

(2) The information referred to in paragraph (1) may be disclosed for use in connection with any other application for a maintenance assessment, or in connection with any other review of a maintenance assessment, which is or has been in force, in respect of which the person referred to in paragraph (1) is the absent parent, alleged absent parent or person with care.”.

Amendment of the Maintenance Assessment Procedure Regulations

3.—(1) The Maintenance Assessment Procedure Regulations shall be amended in accordance with paragraphs (2) to (25).

(2) In regulation 1(3) (interpretation)—

(a) after “a direction is “suspended” if” the word “either” shall be omitted;

(b) at the end of sub-paragraph (a) of the definition of “suspended” “or” shall be omitted;

(c) at the end of sub-paragraph (b) of that definition there shall be added “or” and the following sub-paragraph—

“(c) at the time that the direction is given one or more of the deductions set out in regulation 39A is being made from the income support payable to or in respect of the parent concerned.”.

(3) For regulation 8 (amount and duration of an interim maintenance assessment) there shall be substituted the following regulations—

“Categories of interim maintenance assessment

8.—(1) Where a child support officer serves notice under Article 14(4) of the Order of his intention to make an interim maintenance assessment, he shall not make that interim assessment before the end of a period of 14 days, commencing with the date that notice was given or sent.

(2) There shall be four categories of interim maintenance assessment, Category A, Category B, Category C and Category D interim maintenance assessments.

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

(a) a Category A interim maintenance assessment, where any information, other than information referred to in sub-paragraph (b), that is required by him 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 for the purposes of the calculation of the income of that partner or other member of the family under regulation 9(2), 10, 11(2) or 12(1) of the Maintenance Assessments and Special Cases Regulations—

(i) 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, or

(ii) has been provided by that partner or other member of the family to the absent parent or parent with care, but the absent

parent or parent with care has not provided it to the Department or the child support officer;

- (c) a Category C interim maintenance assessment where—
- (i) the absent parent is a self-employed earner as defined in regulation 1(2) of the Maintenance Assessments and Special Cases Regulations;
 - (ii) the absent parent is currently unable to provide, but has indicated that he expects within a reasonable time to be able to provide, information to enable a child support officer to determine the earnings of that absent parent in accordance with paragraphs 3 to 5 of Schedule 1 to the Maintenance Assessments and Special Cases Regulations, and
 - (iii) no maintenance order as defined in Article 10(11) of the Order or written maintenance agreement as defined in Article 11(1) of the Order is in force with respect to children in respect of whom the Category C interim maintenance assessment would be made, or
- (d) a Category D interim maintenance assessment where it appears to a child support officer, on the basis of information available to him as to the income of the absent parent, that the amount of any maintenance assessment made in accordance with Part I of Schedule 1 to the Order applicable to that absent parent may be higher than the amount of a Category A interim maintenance assessment in force in respect of him.

(4) In this regulation and in regulation 8A, “family” and “partner” have the same meanings as in the Maintenance Assessments and Special Cases Regulations.

Amount of an interim maintenance assessment

8A.—(1) The amount of child support maintenance fixed by a Category A interim maintenance assessment shall be 1.5 multiplied by the amount of the maintenance requirement in respect of the qualifying child or qualifying children concerned calculated in accordance with the provisions of paragraph 1 of Schedule 1 to the Order, and paragraphs 2 to 9 of that Schedule shall not apply to Category A interim maintenance assessments.

(2) Subject to paragraph (5), the amount of child support maintenance fixed by a Category B interim maintenance assessment shall be determined in accordance with paragraphs (3) and (4).

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

(4) Where the disposable income of an absent parent, calculated in accordance with regulation 12(1)(a) of the Maintenance Assessments and Special Cases Regulations, 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.

(5) Where the application of the provisions of paragraph (3) or (4) would result in the amount of a Category B interim maintenance assessment being more than 30 per centum of the net income of the absent parent as calculated in accordance with regulation 7 of the Maintenance Assessments and Special Cases Regulations, those provisions shall not apply to that absent parent and instead, the amount of that Category B interim maintenance assessment shall be 30 per centum of his net income as so calculated and where that calculation results in a fraction of a penny, that fraction shall be disregarded.

(6) The amount of child support maintenance fixed by a Category C interim maintenance assessment shall be £30.00 but a child support officer may set a lower amount, including a nil amount, if he thinks it reasonable to do so in all the circumstances of the case.

(7) Paragraph 6 of Schedule 1 to the Order shall not apply to Category C interim maintenance assessments.

(8) A child support officer shall notify the person with care where he is considering setting a lower amount for a Category C interim maintenance assessment in accordance with paragraph (6) and shall take into account any relevant representations made by that person with care in deciding the amount of that Category C interim maintenance assessment.

(9) The amount of child support maintenance fixed by a Category D interim maintenance assessment shall be calculated or estimated by applying to the absent parent's income, in so far as the child support officer is able to determine it at the time of the making of that Category D interim maintenance assessment, the provisions of Part I of Schedule

1 to the Order and regulations made under it, subject to the modification that—

- (a) paragraphs 6 and 8 of that Schedule shall not apply;
- (b) only paragraphs (1)(a) and (5) of regulation 9 of the Maintenance Assessments and Special Cases Regulations shall apply; and
- (c) paragraph 1(3)(b) and (c) of Schedule 1 to the Maintenance Assessments and Special Cases Regulations shall not apply.

(10) Where the absent parent referred to in paragraph (9) is an employed earner as defined in regulation 1 of the Maintenance Assessments and Special Cases Regulations and the child support officer is unable to calculate the net income of that absent parent, his net income shall be estimated under the provisions of paragraph (2A)(a) and (b)(a) of that regulation.

Review of an interim maintenance assessment

8B.—(1) Subject to paragraph (4), where a child support officer—

- (a) makes a Category A interim maintenance assessment following a review of a Category A interim maintenance assessment under Article 18 of the Order; or
- (b) makes a Category D interim maintenance assessment following a review of a Category D interim maintenance assessment under Article 18 of the Order,

the effective date of that assessment shall be 104 weeks after the effective date of the previous interim maintenance assessment, disregarding any previous interim maintenance assessment made following a review under Article 21(b) of the Order.

(2) Subject to paragraph (4), where a child support officer reviews a Category A or Category D interim maintenance assessment under Article 21(1)(c) of the Order on the grounds that it is defective because of a mistake as to its effective date or for reasons which include a mistake as to its effective date, the effective date of a Category A or Category D interim maintenance assessment made following such a review shall be the correct effective date applicable to the interim maintenance assessment being reviewed, as determined in accordance with paragraph (1), regulation 8C(1) or regulation 3(4) of the Maintenance Arrangements and Jurisdiction Regulations, as the case may be.

(3) Subject to paragraph (4), where a child support officer reviews a Category A or Category D interim maintenance assessment under Article 21(1)(c) of the Order on the grounds that it is defective for reasons which do not include a mistake as to its effective date, the effective date of a Category A or Category D interim maintenance assessment made following such a review shall be the same as the effective date of the interim maintenance assessment that has been reviewed.

(a) Paragraph (2A) was inserted by regulation 5(2)(h) of S.R. 1993 No. 164 and amended by regulation 9(2)(d) of S.R. 1995 No. 162

(b) Article 21 was substituted by Article 9 of the Child Support (Northern Ireland) Order 1995

(4) Where the effective date of a Category A interim maintenance assessment made following a review under Article 18 or 21(1)(c) of the Order would by virtue of the provisions of paragraphs (1) to (3) be earlier than 16th February 1995, the effective date of that assessment shall be 16th February 1995.

Effective date of an interim maintenance assessment

8C.—(1) Except where paragraph (2) or regulation 3(4) of the Maintenance Arrangements and Jurisdiction Regulations (effective date of maintenance assessment where court order in force), regulation 9(9) or 32(7)(a) applies, the effective date of an interim maintenance assessment shall be—

- (a) in respect of a Category A interim maintenance assessment, subject to sub-paragraph (d) and to regulations 8B and 9(2) and (3), such date, being not earlier than the first and not later than the seventh day following the date upon which that interim maintenance assessment was made, as falls on the same day of the week as the date determined in accordance with regulation 29(2)(a)(ii) or (b)(ii)(b) as the case may be;
- (b) in respect of a Category B interim maintenance assessment made after 22nd January 1996, subject to sub-paragraph (d) and to regulations 30 to 30C, the date specified in regulation 29(2)(a)(ii) or (b)(ii) as the case may be;
- (c) in respect of a Category C interim maintenance assessment, subject to sub-paragraph (d) and to regulations 30 to 30C, the date set out in sub-paragraph (a);
- (d) in respect of a Category A, Category B or Category C interim maintenance assessment, where the application of the provisions of sub-paragraph (a), (b) or (c) would otherwise set an effective date for an interim maintenance assessment earlier than the end of a period of eight weeks from the date upon which—
 - (i) the maintenance enquiry form referred to in regulation 29(2)(a)(i) was given or sent to an absent parent, or
 - (ii) the application made by an absent parent referred to in regulation 29(2)(b)(i) was received by the Department,
 in circumstances where that absent parent has complied with the provisions of regulation 29(2)(a)(i) or (b)(i) or paragraph (2A) of regulation 29 applies, the date determined in accordance with regulation 29(2)(a)(i) or (b)(i).

(2) The effective date of an interim maintenance assessment made under Article 14(1)(b) or (c) of the Order(c) shall, subject to regulations 8B, 9(2), (3) and (9), or 32(7), and, as regards Category B and Category C interim maintenance assessments, to regulations 30 to 30C, be such

(a) Paragraph (7) is added by regulation 3(22) of these Regulations

(b) Paragraph (2) was substituted by regulation 8(10)(b) of S.R. 1995 No. 162

(c) Paragraph (1) was substituted by Article 5 of the Child Support (Northern Ireland) Order 1995

date, not earlier than the first and not later than the seventh day following the date upon which that interim maintenance assessment was made, as falls on the same day of the week as the effective date of the maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order which is being reviewed.

(3) In cases where the effective date of an interim maintenance assessment is determined under paragraph (1), regulation 8B or 9(2), (3) or (9), where a maintenance assessment, except a maintenance assessment falling within regulation 8D(7), is made after an interim maintenance assessment has been in force, child support maintenance calculated in accordance with Part I of Schedule 1 to the Order shall be payable in respect of the period preceding that during which the interim maintenance assessment was in force.

(4) The child support maintenance payable under the provisions of paragraph (3) shall be payable in respect of the period between the effective date of the assessment (or, where separate assessments are made for different periods under paragraph 15 of Schedule 1 to the Order, the effective date of the assessment in respect of the earliest such period) and the effective date of the interim maintenance assessment.

Miscellaneous provisions in relation to interim maintenance assessments

8D.—(1) Subject to paragraph (2), where a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order is made following an interim maintenance assessment, the amount of child support maintenance payable in respect of the period after 18th April 1995, during which that interim maintenance assessment was in force shall be that fixed by the maintenance assessment.

(2) Paragraph (1) shall not apply where a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order falls within paragraph (7).

(3) Subject to regulation 9(13) and 9A(6)(a), for the purposes of Articles 19, 20 and 21(1)(a), (b) and (e) and (6) of the Order, a maintenance assessment shall not include a Category A or Category D interim maintenance assessment.

(4) The provisions of regulations 28, 30 to 30C, 31, 32(5) and 53 shall not apply to a Category A or Category D interim maintenance assessment.

(5) Subject to paragraph (6) and to regulation 9(15), an interim maintenance assessment shall cease to have effect on the first day of the maintenance period during which the Department receives the information which enables a child support officer to make the maintenance assessment or assessments in relation to the same absent parent, person with care, and qualifying child or qualifying children, calculated in accordance with Part I of Schedule 1 to the Order.

(a) Regulation 9A is inserted by regulation 3(4) of these Regulations

(6) Subject to regulation 9(15), where a child support officer has insufficient information or evidence to enable him to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order for the whole of the period beginning with the effective date applicable to a particular case, an interim maintenance assessment made in that case shall cease to have effect—

- (a) on 18th April 1995 where by that date the Department has received the information or evidence set out in paragraph (7); or
- (b) on the first day of the maintenance period after 18th April 1995 in which the Department has received that information or evidence.

(7) The information or evidence referred to in paragraph (6) is information or evidence enabling a child support officer to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order, for a period beginning after the effective date applicable to that case, in respect of the absent parent, parent with care and qualifying child or qualifying children in respect of whom the interim maintenance assessment referred to in paragraph (6) was made.

(8) For the purposes of paragraph (6), the Department shall be treated as having received the information or evidence which has caused the interim maintenance assessment to cease to have effect on the first day upon which the absent parent in question became entitled to income support.”

(4) For regulation 9 (cancellation of an interim maintenance assessment) there shall be substituted the following regulations—

“Cancellation of an interim maintenance assessment

9.—(1) Where a child support officer is satisfied that there was unavoidable delay by the absent parent in—

- (a) completing and returning a maintenance enquiry form under the provisions of regulation 6(1);
- (b) providing information or evidence that is required by the Department for the determination of an application for a maintenance assessment; or
- (c) providing information or evidence that is required by a child support officer to enable him to conduct or complete a review under Article 18, 19, 20 or 21 of the Order,

he may cancel an interim maintenance assessment which is in force.

(2) Where a child support officer cancels a Category A, Category B or Category D interim maintenance assessment in accordance with the provisions of paragraph (1), and he is satisfied that there was unavoidable delay for only part of the period during which that assessment was in force, and that another Category A, Category B or Category D interim maintenance assessment should be made, the effective date of that other Category A or Category D interim maintenance assessment shall, subject to paragraph (3), be the first day of the maintenance period following the date upon which, in the opinion of the child support officer, the delay

became avoidable and the effective date of that other Category B interim maintenance assessment made after 22nd January 1996 shall be the date set out in regulation 8C(1)(b).

(3) Where the Category A or Category B interim maintenance assessment cancelled in accordance with the provisions of paragraph (1) was made prior to 18th April 1995 and the effective date of any new Category A or Category B interim maintenance assessment would, by virtue of paragraph (2), be prior to 18th April 1995, the effective date of that new Category A or Category B interim maintenance assessment shall be the first day of the maintenance period which begins on or after 18th April 1995.

(4) Where in respect of any Category A or Category B interim maintenance assessment in force before 18th April 1995 the delay referred to in paragraph (1) became avoidable before 18th April 1995, that Category A or Category B interim maintenance assessment may not be cancelled with effect from a date earlier than the date the delay became avoidable.

(5) Subject to paragraph (1), where a child support officer is satisfied that it would be appropriate to make an interim maintenance assessment the Category of which is different from that of the interim maintenance assessment in force, he may cancel the interim maintenance assessment which is in force with effect from—

(a) subject to sub-paragraph (b), whichever is the later of the first day of the maintenance period in which he becomes so satisfied or the first day of the maintenance period which begins on or after 18th April 1995; or

(b) where he is satisfied that the interim maintenance assessment in force should be replaced by a Category B interim maintenance assessment, whichever is the later of the effective date of the interim maintenance assessment in force or 22nd January 1996.

(6) Where an interim maintenance assessment is cancelled under the provisions of paragraph (5)(b) and that interim maintenance assessment was made immediately following a previous interim maintenance assessment, a child support officer shall also cancel that previous interim maintenance assessment with effect from the effective date of that previous interim maintenance assessment or 22nd January 1996, whichever is the later.

(7) Where an interim maintenance assessment has been cancelled in the circumstances set out in paragraph (5)(b) or (6), payments made under that interim maintenance assessment shall be treated as payments made under the Category B interim maintenance assessment which replaces it.

(8) In paragraph (5), "Category" in relation to an interim maintenance assessment means Category A, Category B, Category C or Category D, as the case may be.

(9) Where a child support officer makes an interim maintenance assessment following the cancellation of an interim maintenance

assessment in accordance with paragraph (5), the effective date of the fresh interim maintenance assessment shall be—

- (a) subject to paragraph (b), the date upon which that cancellation took effect;
- (b) where the fresh interim maintenance assessment is a Category B interim maintenance assessment, subject to paragraphs (10) and (11), the date determined in accordance with regulation 8C(1)(b) or 22nd January 1996, whichever is the later.

(10) Where paragraph (9)(b) applies and the interim maintenance assessment cancelled in accordance with paragraph (5) caused a court order to cease to have effect in accordance with regulation 3(5) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in paragraph (9)(b) shall be the date upon which that cancellation took effect.

(11) Where paragraphs (6) and (9)(b) apply and the interim maintenance assessment cancelled in accordance with paragraph (6) caused a court order to cease to have effect in accordance with regulation 3(5) of the Maintenance Arrangements and Jurisdiction Regulations, the effective date of the Category B interim maintenance assessment referred to in paragraph (9)(b) shall be the date upon which the cancellation in accordance with paragraph (6) took effect.

(12) A child support officer may cancel an interim maintenance assessment which is in force with effect from such date as he considers appropriate in all the circumstances on the grounds that—

- (a) there was a material procedural error in connection with the making of the assessment; or
- (b) he is satisfied that he did not, or has subsequently ceased to have jurisdiction to make that interim maintenance assessment.

(13) Where a child support officer has cancelled an interim maintenance assessment under paragraph (12), a relevant person may apply to the Department for a review of that cancellation under Article 20(3) of the Order and the provisions of Article 20(5) to (8) of the Order shall apply to that review.

(14) Where, following a review under Article 20(3) of the Order, a child support officer sets aside the cancellation of the interim maintenance assessment which has been cancelled under paragraph (12), the effective date of the reinstated interim maintenance assessment shall be the date on which the cancelled interim maintenance assessment ceased to have effect or 22nd January 1996, whichever is the later.

(15) An interim maintenance assessment in force which is made under Article 14(1)(b) or (c) of the Order shall be cancelled by a child support officer with effect from the effective date of that interim maintenance assessment as soon as is reasonably practicable after he has received the information or evidence which enables him to carry out or to complete a review under Article 18, 19, 20 or 21 of the Order.

(16) Where an interim maintenance assessment has been cancelled under paragraph (15), payments made under it shall be treated as payments made under the maintenance assessment being reviewed under Article 18, 19, 20 or 21 of the Order or under any maintenance assessment made following the review which replaces for the relevant period the maintenance assessment being reviewed.

Application for cancellation of an interim maintenance assessment

9A.—(1) An absent parent with respect to whom a Category A or Category D interim maintenance assessment is in force may apply to a child support officer for that interim assessment to be cancelled.

(2) Any application made under paragraph (1) shall be in writing and shall include a statement of the grounds for the application.

(3) A child support officer who receives an application under the provisions of paragraph (1), shall—

- (a) decide whether the interim maintenance assessment is to be cancelled and, if so, the date with effect from which it is to be cancelled;
- (b) in any case where he does cancel an interim maintenance assessment, decide whether it is appropriate for a maintenance assessment to be made in accordance with the provisions of Part I of Schedule 1 to the Order;
- (c) in any case where he has decided that it is appropriate for a maintenance assessment to be made in accordance with the provisions of Part I of Schedule 1 to the Order, make that assessment.

(4) Where a child support officer has made a decision under paragraph (3), he shall immediately notify the applicant, so far as that is reasonably practicable, and shall give the reasons for his decision in writing.

(5) A notification under paragraph (4) shall include information as to the provisions of Articles 20 and 22 of the Order and regulation 23(1) and, where an assessment is made in accordance with the provisions of Part I of Schedule 1 to the Order, the provisions of Articles 18 and 19 of the Order.

(6) Where a child support officer has made a decision following an application under paragraph (1), the absent parent may apply to the Department for a review of that decision and, subject to the modification set out in paragraph (7), the provisions of Article 20(5) to (8) of the Order shall apply to such a review.

(7) The modification referred to in paragraph (6) is that Article 20(6) of the Order shall have effect as if for “the refusal, assessment or cancellation in question” there is substituted “the decision following an application under regulation 9A(1) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992”.

(8) Regulations 10, 11, 23 and 24 shall apply to reviews under paragraph (6).”

(5) In regulation 10(a) (notifications)—

(a) in paragraph (1)(b) at the beginning there shall be inserted “makes a new interim maintenance assessment under Article 14 of the Order or”, and after “regulation 8” there shall be inserted “or 9”;

(b) in paragraph (2)—

(i) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) the net and assessable income of the absent parent and, where relevant, the amount determined under regulation 9(1)(b) of the Maintenance Assessments and Special Cases Regulations (housing costs);”;

(ii) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(cc) where relevant, the absent parent’s protected income level and the amount of the maintenance assessment before the adjustment in respect of protected income specified in paragraph 6(2) of Schedule 1 to the Order was carried out;”;

(iii) for sub-paragraph (d) there shall be substituted the following sub-paragraph—

“(d) the net and assessable income of the parent with care, and, where relevant, an amount in relation to housing costs determined in the manner specified in regulation 10 of the Maintenance Assessments and Special Cases Regulations (calculation of exempt income of parent with care);”;

(iv) after sub-paragraph (f) there shall be added the following sub-paragraph—

“(h)(b) any amount determined in accordance with Schedule 3A or 3B(c) to the Maintenance Assessments and Special Cases Regulations (qualifying transfer of property and travel costs).”

(6) In regulation 12 (notification of refusal to make new or fresh maintenance assessment) for paragraph (1) there shall be substituted the following paragraph—

“(1) Where a child support officer—

(a) refuses an application for a maintenance assessment under the Order;

(a) Paragraph (1) was substituted by regulation 8(4)(a) of S.R. 1995 No. 162

(b) Where the provisions of Part II of the Schedule to S.R. 1992 No. 467 (C. 20) are applied a further item (sub-paragraph (g)) is to be included in paragraph (2) by virtue of paragraph 9 of that Schedule

(c) Schedules 3A and 3B were inserted by regulation 9(17) of S.R. 1995 No. 162

- (b) refuses to make a fresh assessment following a review under Article 19 of the Order;
- (c) refuses to make an assessment or a fresh assessment following a review under Article 20 of the Order; or
- (d) decides not to make a maintenance assessment or a fresh assessment under Article 21 of the Order,

he shall immediately notify the following persons, so far as that is reasonably practicable—

- (i) where an application for a maintenance assessment under Article 7 or 9 of the Order is refused, the applicant;
- (ii) where there is a refusal to make a fresh assessment following a review under Article 19 or 20(2) of the Order, or a child support officer has decided not to make a fresh assessment following a review under Article 21(1)(c) of the Order, the relevant persons; or
- (iii) where there is a refusal to make an assessment following a review under Article 20(1)(a) of the Order, or a child support officer has decided not to make an assessment following a review under Article 21(1)(a) of the Order, the applicant for that assessment,

and shall give in writing the reasons for his refusal.”.

(7) In regulation 14 (notification of cancellation of assessment)—

- (a) in paragraph (1) for “regulation 9” there shall be substituted “regulation 9A”;
- (b) in paragraph (2) for “30(8)” there shall be substituted “30A(8)”.

(8) In regulation 15 (notification of refusal to reinstate assessment)—

- (a) in paragraph (1) after “assessment that has been cancelled” there shall be inserted “or following a review under Article 21(1)(d) of the Order decides not to reinstate a cancelled maintenance assessment”;
- (b) for paragraph (2) there shall be substituted the following paragraph—

“(2) A notification under paragraph (1) shall, where the review is carried out under Article 20(3) of the Order, include information as to the provisions of Article 22 of the Order and, where the review is carried out under Article 21(1)(d) of the Order, except where that review is of the cancellation of a Category A or Category D interim maintenance assessment, the provisions of Article 20 of the Order and regulations 23(1) and 30A(8).”.

(9) After regulation 15 there shall be inserted the following regulations—

“Notification of reinstatement of a maintenance assessment

15A.—(1) Where a child support officer, following a review under Article 20(3) or 21(1)(d) of the Order, has decided that the cancellation of a maintenance assessment should be set aside, he shall immediately notify the relevant persons, so far as that is reasonably practicable, and shall give in writing reasons for the setting aside of

the cancellation and, if applicable, the date with effect from which the maintenance assessment is reinstated.

(2) A notification under paragraph (1) shall, where the review is carried out under Article 20(3) of the Order, include information as to the provisions of Article 22 of the Order.

Notification that an appeal has lapsed

15B. Where a case falls within Article 22A(1)(a) of the Order and the appeal that has been brought under Article 22 of the Order lapses under the provisions of Article 22A(2) of the Order a child support officer shall, so far as that is reasonably practicable, notify the relevant persons that that appeal has lapsed.”

(10) In regulation 16 (periodical reviews)—

(a) in paragraph (1)(b)—

(i) for “regulation 17(1)” there shall be substituted “regulation 17”;

(ii) at the end of sub-paragraph (c) there shall be added “where before 22nd January 1996 a child support officer decided, in accordance with Article 19(3) of the Order, to proceed with a review,”;

(b) for paragraph (2)(c) there shall be substituted the following paragraph—

“(2) Where a maintenance assessment in force is a fresh assessment, following—

(a) a review under Article 19 of the Order where, after 22nd January 1996, a child support officer decided, in accordance with Article 19(3) of the Order, to proceed with that review;
or

(b) 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—

(i) in a case where the effective date of the assessment that has been reviewed was on or before 18th April 1994, 52 weeks;

(ii) in a case where the effective date of the assessment that has been reviewed was after 18th April 1994, 104 weeks,

less, in either case, the period between the effective date of the assessment that has been reviewed and the effective date of the fresh assessment following that review.”;

(c) in paragraph (5) at the end there shall be inserted “and shall set out the possible consequences of failure to provide that information or evidence”;

(d) in paragraph (7)(b) “or 19” shall be omitted.

(a) Article 22A was inserted by Article 10 of the Child Support (Northern Ireland) Order 1995

(b) Paragraph (1) was substituted by regulation 4(6)(a) of S.R. 1993 No. 164 and amended by regulation 8(8)(a) of S.R. 1995 No. 162

(c) Paragraph (2) was substituted by regulation 4(6)(a) of S.R. 1993 No. 164 and further substituted by regulation 8(8)(b) of S.R. 1995 No. 162

(11) For regulation 17 (review under Article 19 treated as review under Article 18) there shall be substituted the following regulation—

“Review under Article 18 of the Order to be substituted for review under Article 19 of the Order

17. Where after 22nd January 1996 a child support officer considers that he is likely to be required under Article 19(3) of the Order to make one or more fresh maintenance assessments if he conducts a review under that Article and the application for that review was received by the Department not earlier than eight weeks prior to the date upon which the next review of the maintenance assessment in force is due under the provisions of Article 18 of the Order, the child support officer shall carry out a review under Article 18 of the Order instead of the review under Article 19 of the Order for which application has been made.”.

(12) In regulation 18 (change of circumstances reviews)—

(a) for paragraphs (2)(a) and (3)(b) there shall be substituted the following paragraphs—

“(2) Any application made under Article 19 of the Order after 22nd January 1996 shall be in writing and shall give details of the change of circumstances in respect of which a review is sought.

(3) Where a child support officer conducts the review in respect of which notification has been given in accordance with paragraph (1), he shall take into account any information in relation to a change of circumstances notified to him in writing by a relevant person.”;

(b) paragraphs (4) and (4A)(c) shall be omitted.

(13) In regulation 19 (fresh assessments on change of circumstances review)—

(a) in paragraph (1)—

(i) after “who has completed a review” there shall be inserted “of an original assessment”;

(ii) for “fixed by the assessment currently in force” there shall be substituted “fixed by that assessment”, and

(iii) after “as a result of the review” there shall be inserted “of that assessment”;

(b) in paragraph (2)—

(i) after “who has completed a review” there shall be inserted “of an original assessment”;

(ii) after “as a result of the review” there shall be inserted “of that assessment”, and

(iii) after “would apply to that” there shall be inserted “fresh”;

(c) in paragraph (3)—

(a) Paragraph (2) was amended by regulation 4(7) of S.R. 1993 No. 164

(b) Paragraph (3) was substituted by regulation 8(9) of S.R. 1995 No. 162

(c) Paragraph (4A) was inserted by regulation 4(7) of S.R. 1993 No. 164

- (i) after “who has completed a review” there shall be inserted “of an original assessment”;
- (ii) after “were a fresh assessment to be made as a result of the review” there shall be inserted “of that assessment”;
- (iii) after “the children in respect of whom that” there shall be inserted “fresh”, and
- (iv) after “if a fresh assessment were to be made as a result of the review” there shall be inserted “of that original assessment”.

(14) In regulation 20 (change of circumstances reviews: special cases — regulation 22)—

(a) in paragraph (2)—

- (i) after “the aggregate amount of child support maintenance fixed by the” there shall be inserted “original”;
- (ii) “currently in force” shall be omitted, and
- (iii) after “as a result of the review” there shall be inserted “of those original assessments”;

(b) in paragraph (3) for “each fresh assessment” there shall be substituted “a review of each original assessment”.

(15) In regulation 21(2) (change of circumstances reviews: special cases — regulation 23) for “each fresh assessment” there shall be substituted “a review of each original assessment”.

(16) In regulation 26 (review under Article 20(1)(b) of the Order) after “completed a review” there shall be inserted “of an original assessment as defined in Article 19(1) of the Order”.

(17) For regulation 27 (reviews under Article 21 of the Order) there shall be substituted the following regulation—

“Reviews conducted under Article 21(1)(b) of the Order

27. Where a child support officer has completed a review under Article 21(1)(b) of the Order of an original assessment as defined in Article 19(1) of the Order regulations 19 to 21 shall apply in relation to any fresh assessment following that review.”.

(18) In regulation 29(a) (effective dates of new maintenance assessments)—

(a) in paragraph (1) for “regulation 8(3) (interim maintenance assessments)” there shall be substituted “regulations 8C (effective dates of interim maintenance assessments), 29A (effective dates in particular cases), 32(7) (maintenance periods)”;

(b) after sub-paragraph (b) of paragraph (2) there shall be added the following sub-paragraph—

“(c) in a case where the application for a maintenance assessment is an application in relation to which the provisions of regulation

(a) Paragraph (1) was amended by regulation 4(5) of S.R. 1995 No. 19 and regulation 8(10)(a) of S.R. 1995 No. 162 and paragraph (2) was substituted by regulation 8(10)(b) of S.R. 1995 No. 162

3 have been applied, the date an effective maintenance application form is received by the Department.”.

(19) After regulation 29 there shall be inserted the following regulation—

“Effective dates of new maintenance assessments in particular cases

29A.—(1) Subject to regulation 32(7), where a new maintenance assessment is made in accordance with Part I of Schedule 1 to the Order following an interim maintenance assessment which has ceased to have effect in the circumstances set out in regulation 8D(6), the effective date of that maintenance assessment shall be the date upon which that interim maintenance assessment ceased to have effect in accordance with that regulation.

(2) Where a child support officer receives the information or evidence to enable him to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order for a period prior to the date upon which an interim maintenance assessment has ceased to have effect in the circumstances set out in regulation 8D(6), that maintenance assessment shall, subject to regulation 32(7), have effect for the period from the date set by regulation 3(6)(a) of the Maintenance Arrangements and Jurisdiction Regulations or regulation 29(2)(a) or (b), as the case may be, to the effective date of the maintenance assessment referred to in paragraph (1).”.

(20) For regulation 30 (effective dates on review) there shall be substituted the following regulations—

“Effective dates of maintenance assessments following a review under Article 18 or 19 of the Order

30.—(1) Subject to paragraph (2), where a fresh maintenance assessment is made following a review under Article 18 of the Order, the effective date of that assessment shall be 104 weeks after the effective date of the previous assessment disregarding any previous assessment made following a review made under Article 19 of the Order, where after 22nd January 1996 a child support officer decided, in accordance with Article 19(3) of the Order, to proceed with a review, or under Article 20 or 21 of the Order or any interim maintenance assessment made under Article 14(1)(b) or (c) of the Order.

(2) Where a fresh maintenance assessment is made following a review under Article 18 of the Order in the circumstances set out in regulation 17, the effective date of that fresh maintenance assessment shall be the date determined under paragraph (3).

(3) Subject to paragraphs (4), (5) and (6), where an application is made under Article 19 of the Order for a review of a maintenance assessment in force, and a fresh maintenance assessment is made in accordance with the provisions of regulation 19, 20 or 21, the effective date of that assessment shall be the first day of the maintenance period in which the application is received.

(a) Paragraph (6) was added by regulation 3 of S.R. 1995 No. 19

(4) Where an application is made under Article 19 of the Order for a review of a maintenance assessment in force following the death of a qualifying child and a fresh maintenance assessment is made in accordance with the provisions of regulation 19, 20 or 21, the effective date of that assessment shall be the first day of the maintenance period during the course of which that child died.

(5) Where a child support officer has carried out a review of an original assessment under Article 19(4A)(a) of the Order, the effective date of any fresh assessment made under Article 19(6) of the Order shall be the date determined under paragraph (3).

(6) Where a fresh maintenance assessment is made under Article 19(7)(b) of the Order following a review of a subsequent assessment, the effective date of that fresh assessment shall be the effective date of that subsequent assessment.

Effective dates of maintenance assessments following a review under Article 20 of the Order

30A.—(1) Where, following a review under Article 20(1)(a) of the Order, a maintenance assessment is made following a refusal to make a maintenance assessment, the effective date of that assessment shall be the effective date of the assessment that would have been made if the application for a maintenance assessment had not been refused.

(2) Subject to paragraphs (3) to (6) and to regulation 30C, where an application is made under Article 20(2) of the Order for a review of a maintenance assessment in force at the time of that application, the effective date of a fresh assessment (if one is made) following such a review shall be—

(a) where the application is received by the Department within 28 days of the date of notification of that assessment, or on a later date but the Department is satisfied that there was unavoidable delay, the effective date as determined by the child support officer dealing with the review;

(b) subject to sub-paragraph (a), where the application is received by the Department later than 28 days after the date of notification of that assessment, the first day of the maintenance period in which the application is received.

(3) Subject to paragraph (5), where an application is made under Article 20(2) of the Order for a review of a maintenance assessment in force following notification being given to the relevant person that the child support officer does not propose to review the assessment in consequence of the coming into operation of the provisions mentioned in paragraph (4), the effective date of a fresh assessment (if one is made) following such a review shall be—

(a) where the application is received within 28 days of the Department notifying the relevant person of the child support

(a) Paragraph (4A) was inserted by Article 6 of the Child Support (Northern Ireland) Order 1995

(b) Paragraph (7) was inserted by Article 6 of the Child Support (Northern Ireland) Order 1995

officer's decision, or on a later date where the Department is satisfied that there was unavoidable delay, the effective date as determined by the child support officer dealing with the review;

- (b) subject to sub-paragraph (a), where the application is received by the Department later than 28 days after the date of the notification of the child support officer's decision, the first day of the maintenance period in which the application is received.

(4) Paragraph (3) applies to the following provisions of the Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995(a)—

- (a) regulation 9(5)(a);
(b) regulation 9(6);
(c) regulation 9(7)(a)(iv) and (v);
(d) regulation 9(11).

(5) Where the application made under Article 20(2) of the Order is made following notification being given to the relevant person that the child support officer has determined that the amount to be allowed in the computation of the relevant person's exempt income in accordance with Schedule 3A to the Maintenance Assessments and Special Cases Regulations is nil by reason of the failure of the relevant person to furnish within a reasonable time the evidence required by paragraph 2 of that Schedule—

- (a) where the Department is satisfied that there was good cause for the delay in furnishing the evidence, the effective date of any assessment made in consequence of the review shall be the effective date which would have been applicable to the assessment had the evidence been furnished timeously;
- (b) where the Department is not satisfied that there was good cause for the delay, the effective date of any revised assessment shall be the first day of the maintenance period in which the relevant person provides that evidence.

(6) The effective date of any fresh maintenance assessment, made following a review under Article 20(6A)(b) of the Order of a maintenance assessment made after the original assessment, shall be the effective date of the maintenance assessment which has been reviewed.

(7) Where an application is made under Article 20(1)(b) of the Order, for a review of a refusal of an application under Article 19 of the Order for the review of a maintenance assessment, the effective date of a fresh maintenance assessment (if one is made) shall be the date determined under regulation 30(3).

(8) Where, following a review under Article 20(3) of the Order, a cancelled maintenance assessment is reinstated, the effective date of the reinstated assessment shall be the date on which the cancelled assessment ceased to have effect.

(a) S.R. 1995 No. 162

(b) Paragraph (6A) was inserted by Article 7 of the Child Support (Northern Ireland) Order 1995

Effective dates of maintenance assessments following a review under Article 21 of the Order

30B.—(1) Where a maintenance assessment is made following a review under Article 21(1)(a) of the Order of a refusal to make a maintenance assessment, the effective date of that maintenance assessment shall be the date determined under regulation 30A(1).

(2) Where a fresh maintenance assessment is made, following a review under Article 21(1)(b) of the Order of a refusal of an application under Article 19 of the Order for review of a maintenance assessment, the effective date of that fresh maintenance assessment shall be the date determined under regulation 30(3) to (6).

(3) Subject to paragraph (5) and regulation 30C, where a child support officer has carried out a review of a maintenance assessment on the grounds set out in Article 21(2) of the Order, the effective date of any fresh maintenance assessment made following that review shall be the effective date as determined by the child support officer dealing with the review.

(4) Subject to paragraph (5) and regulation 30C, where a child support officer has carried out a review of a maintenance assessment on the grounds set out in Article 21(6) of the Order, the effective date of any fresh assessment made following such review shall be the first day of the maintenance period in which the child support officer suspected that he might be required to make one or more fresh maintenance assessments if an application under Article 19 of the Order were made.

(5) Where a fresh maintenance assessment is made under Article 21 of the Order following the death of a qualifying child, the effective date of that assessment shall be the first day of the maintenance period during which that child died.

Provisions as to effective dates of maintenance assessments in specific cases

30C.—(1) Where there has been a misrepresentation or failure to disclose a material fact on the part of the person with care or absent parent in connection with an application for a maintenance assessment under the Order, a review under Article 18 of the Order, or with information or evidence requested by a child support officer on a review under Article 19, 20 or 21 of the Order and that misrepresentation or failure has resulted in an incorrect assessment or a series of incorrect assessments, the effective date of a fresh assessment (or of a fresh assessment in relation to the earliest relevant period) following discovery of the misrepresentation or failure shall be the effective date of the incorrect assessment or the first incorrect assessment, as the case may be.

(2) Where a fresh maintenance assessment is made on a review under Article 20 or 21 of the Order by reason of an assessment having been made in ignorance of a material fact or having been based on a mistake as to a material fact and that ignorance or mistake, as the case may be, is attributable to an operational or administrative error on the part of the

Department or of a child support officer, the effective date of that assessment shall be the effective date of the assessment that has been reviewed.

(3) Where a child support officer on a review under Article 20 or 21 of the Order is satisfied that a maintenance assessment which is or has been in force is defective by reason of a mistake as to the effective date of that assessment, the effective date of a fresh assessment shall be that determined in accordance with paragraph (1) or (2) or regulations 8C(1), 29 to 30B or 32(7), or in accordance with regulation 3(4), (6) or (7) of the Maintenance Arrangements and Jurisdiction Regulations(a), as the case may be.”

(21) After regulation 31 (cancellation of a maintenance assessment) there shall be inserted the following regulation—

“Notification of intention to cancel a maintenance assessment under paragraph 16(4A) of Schedule 1 to the Order

31A.—(1) A child support officer shall, if it is reasonably practicable to do so, give written notice to the relevant persons of his intention to cancel a maintenance assessment under paragraph 16(4A)(b) of Schedule 1 to the Order.

(2) Where a notice under paragraph (1) has been given, a child support officer shall not cancel that maintenance assessment before the end of a period of 14 days commencing with the date that notice was given or sent.”

(22) In regulation 32 (maintenance periods)—

(a) in paragraph (6) after “the earlier maintenance assessment,” there shall be inserted “except where regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations or paragraph (8) applies,”;

(b) after paragraph (6) there shall be added the following paragraphs—

“(7) Subject to regulation 3(6) of the Maintenance Arrangements and Jurisdiction Regulations and to paragraph (8), the effective date of a maintenance assessment made in response to an application falling within paragraph (6) shall be the date upon which the first maintenance period in relation to that application commences in accordance with that paragraph.

(8) The first maintenance period in relation to a maintenance assessment which is made in response to an application falling within paragraph (6) and which immediately follows an interim maintenance assessment shall commence on the effective date of that interim maintenance assessment or 22nd January 1996, whichever is the later, and the effective date of that maintenance assessment shall be the date upon which that first maintenance period commences.”

(23) After regulation 34 (periods for compliance) there shall be inserted the following regulation—

(a) Paragraph (7) was added by regulation 7(4)(b) of S.R. 1995 No. 162

(b) Paragraph (4A) was inserted by Article 8 of the Child Support (Northern Ireland) Order 1995

“Circumstances in which a reduced benefit direction shall not be given

34A. A child support officer shall not after 22nd January 1996 give a reduced benefit direction 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(a); or
- (b) an amount equal to one or more of the amounts specified in subparagraph (a) is included, by virtue of regulation 9 of the Maintenance Assessments and Special Cases Regulations, in the exempt income of the parent in question and family credit or disability working allowance is paid to or in respect of that parent.”

(24) After regulation 39 (suspension of a reduced benefit direction) there shall be inserted the following regulation—

“Suspension of a reduced benefit direction where certain deductions are being made from income support

39A.—(1) A reduced benefit direction made after 22nd January 1996 shall be suspended where, on the date it is given, one or more of the deductions specified in paragraph (2) are being made from income support paid to or in respect of the parent concerned.

(2) The deductions relevant for the purposes of paragraph (1) are—

- (a) deductions in respect of arrears of housing costs, fuel charges or rates under paragraphs 3, 5, 6 or 7 of Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b);
- (b) deductions in respect of overpaid benefit under regulations 15, 16 or 17 of the Social Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(c);
- (c) deductions in respect of social fund awards under section 74(1) to (3) of the Social Security Administration (Northern Ireland) Act 1992(d).

(3) When income support payable to or in respect of the parent concerned is no longer subject to the deductions relevant for the purposes of paragraph (1), the reduced benefit direction shall cease to be suspended at the end of a period of 14 days after notification has been served under regulation 47A.”

(25) After regulation 47 (notice of termination of a reduced benefit direction) there shall be inserted the following regulation—

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- (a) S.R. 1987 No. 459; amounts in Part IV of Schedule 2 were substituted by S.R. 1995 No. 71
 - (b) S.R. 1987 No. 465; Schedule 8A was inserted by S.R. 1988 No. 67 and amended by S.R. 1988 No. 141, S.R. 1989 Nos. 40 and 398, S.R. 1991 No. 488, S.R. 1992 Nos. 271 and 453 and 1994 No. 345
 - (c) S.R. 1988 No. 142; relevant amending regulations are S.R. 1989 No. 495, S.R. 1992 No. 6 and S.R. 1995 No. 150
 - (d) 1992 c. 8

“Notice of termination of suspension of a reduced benefit direction

47A.—(1) Where the deductions relevant for the purposes of regulation 39A cease to be made, a child support officer shall, so far as is reasonably practicable, serve on the parent concerned notice of the date from which the suspension of the reduced benefit direction shall cease.

(2) The adjudication officer shall be served with a copy of any notice served under paragraph (1).”

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations

4.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(a) shall be amended in accordance with paragraphs (2) to (11).

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

(a) in paragraph (2)—

(i) for sub-paragraph (ii) in the definition of “day to day care”(b), there shall be substituted the following sub-paragraphs—

“(ii) in relation to an application for child support maintenance, “relevant week” shall have the meaning ascribed to it in head (ii) of sub-paragraph (a) of the definition of “relevant week” in this paragraph;

(iii) in relation to a review of a maintenance assessment under Article 18 of the Order “relevant week” means the period of 7 days immediately preceding whichever is the later of the date on which a request is made to an absent parent or to a person with care for information or evidence under regulation 16(5) of the Maintenance Assessment Procedure Regulations, or

(iv) in relation to a review under Article 19, 20(1)(a), (1)(b), (2), or (6A) or 21(1)(a) to (c) or (6) of the Order, “relevant week” shall have the meaning ascribed to it in sub-paragraph (a), (c), (d), (e) or (f), as the case may be, of the definition of “relevant week” in this paragraph;”;

(ii) in sub-paragraph (a) in the definition of “relevant week”, after “in relation to an application for child support maintenance” there shall be inserted “or a review under Article 20(1)(a) or 21(1)(a) of the Order”;

(iii) for sub-paragraph (b) in the definition of “relevant week”, there shall be substituted the following sub-paragraphs—

“(b) in relation to a review of an assessment under Article 18 of the Order, the period of 7 days immediately preceding the date on which a request for information or evidence under

(a) S.R. 1992 No. 341; relevant amending regulations are S.R. 1993 No. 164, S.R. 1994 No. 37 and S.R. 1995 No. 162

(b) The definition of “day to day care” was substituted by regulation 9(2)(a) of S.R. 1995 No. 162

regulation 16(5) of the Maintenance Assessment Procedure Regulations is made;

- (c) in relation to a review under Article 19 of the Order, the period of 7 days immediately preceding the date on which the application for review is received by the Department;
- (d) in relation to a review under Article 20(1)(b) or 21(1)(b) of the Order, the period of 7 days immediately preceding the date on which application for the review under Article 19 of the Order was received by the Department;
- (e) in relation to a review under Article 20(2), (6A) or 21(1)(c) of the Order, the relevant week which was applicable for the purposes of the making of the maintenance assessment which is being reviewed; or
- (f) in relation to a review under Article 21(6) of the Order, the period of 7 days immediately preceding the date on which, in the circumstances referred to in that paragraph, the child support officer first suspected that it would be appropriate to make one or more fresh assessments.”;

(b) in paragraph (2A)(e)(ii)(a) after “week” there shall be inserted “but no deduction shall be made in respect of the portion (if any) of the bonus or commission which, if added to estimated income, would cause such income to exceed the upper earnings limit for Class 1 contributions as provided for in section 5(1)(b) of the Contributions and Benefits Act”.

(3) In regulation 2(2)(b) (calculation or estimation of amounts) for “regulation 8(2C)” there shall be substituted “regulation 8A(5)”.

(4) In regulation 9(1)(h)(c) (exempt income) after “that home” there shall be inserted “but where the Northern Ireland Housing Executive has determined that the absent parent in question or his partner is entitled to housing benefit in respect of fees for that accommodation or that home, the net amount of such fees after deduction of housing benefit”.

(5) In regulation 11 (protected income)—

(a) in paragraph (1)—

- (i) in sub-paragraph (b) for “regulation 15(10)(a)” there shall be substituted “regulation 15(4)”;
- (ii) in sub-paragraph (i)(d) after “that home” there shall be inserted “but where housing benefit is paid to the absent parent in question or his partner in respect of fees for that accommodation or that home, the net amount of such fees after deduction of housing benefit”;

(a) Paragraph (2A) was inserted by regulation 5(2)(h) of S.R. 1993 No. 164 and amended by regulation 9(2)(d) of S.R. 1995 No. 162 and sub-paragraph (e) was added by regulation 9(2)(d)(iv) of S.R. 1995 No. 162

(b) Paragraph (2) was amended by regulation 9(3) of S.R. 1995 No. 162

(c) Sub-paragraph (h) was amended by regulation 5(3)(a) of S.R. 1993 No. 164

(d) Sub-paragraph (i) was amended by regulation 5(5) of S.R. 1993 No. 164

- (b) in paragraph (2)(a) at the end of head (iii)(a) “and” shall be omitted and after head (iii) there shall be added the following heads—
- “(iv) paragraph 26 of Schedule 2 shall apply as though the reference to paragraph 3(2) and (4) of Schedule 3 were omitted;
- (v) there shall be deducted the amount of any maintenance which is being paid in respect of a child by the absent parent or his partner under an order requiring such payment made by a court outside Northern Ireland, and”.
- (6) In regulation 15(b) (amount of housing costs) paragraphs (10) and (11) shall be renumbered as paragraphs (4) and (5).
- (7) In regulation 22 (multiple applications relating to an absent parent)—
- (a) for paragraph (1) there shall be substituted the following paragraph—
- “(1) Where an application for a maintenance assessment has been made in respect of an absent parent and—
- (a) at least one other application for a maintenance assessment has been made in relation to the same absent parent (or a person who is treated as an absent parent by regulation 20(2)) but to different children; or
- (b) at least one maintenance assessment is in force in relation to the same absent parent or a person who is treated as an absent parent by regulation 20(2) but to different children,
- that case shall be treated as a special case for the purposes of the Order.”;
- (b) in paragraph (2)(c) for “paragraph (1)” there shall be substituted “paragraph (1)(a)” and after “applies” there shall be inserted “or in respect of the application made in circumstances where paragraph (1)(b) applies”;
- (c) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) Where paragraph (1)(b) applies, and a maintenance assessment has been made in respect of the application referred to in paragraph (1), each maintenance assessment in force at the time of that assessment shall be reduced using the formula for calculation of assessable income set out in paragraph (2) and each reduction shall take effect on the date specified in regulation 32(7) of the Maintenance Assessment Procedure Regulations.”.
- (8) In Schedule 2(d) (amounts to be disregarded when calculating or estimating N and M) in paragraph 26 for the words from “the total of—” to the end of that paragraph there shall be substituted “the total of the amount of the payments set out in paragraphs 1(b) and 3(2) and (4) of Schedule 3 as modified, where applicable, by regulation 18.”.

(a) Head (iii) was added by regulation 9(7)(b)(i) of S.R. 1995 No. 162
 (b) Paragraph (10) was substituted by regulation 9(9)(c) of S.R. 1995 No. 162
 (c) Paragraph (2) was substituted by regulation 9(11) of S.R. 1995 No. 162
 (d) Paragraph 26 was amended by regulation 9(15)(b) of S.R. 1995 No. 162

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

(a) after sub-paragraph (2) of paragraph 3 there shall be inserted the following sub-paragraph—

“(2A) Where an absent parent or as the case may be a parent with care has entered into a loan for repairs or improvements of a kind referred to in paragraph 1(d) and that parent makes periodical payments of an amount provided for in accordance with the terms of that loan to reduce the amount of that loan, the amount of those payments shall be eligible to be taken into account as housing costs of that parent.”;

(b) in paragraph 6(a)—

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

“(a) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1(a)(i) of Schedule 1 to the Housing Benefit Regulations (ineligible service charges), the amounts specified as ineligible in paragraph 1A of that Schedule.”;

(ii) sub-paragraph (aa) shall be omitted;

(iii) at the end of sub-paragraph (b) there shall be added “and” and the following sub-paragraph—

“(c) where the costs are inclusive of charges, other than those which are not to be included by virtue of sub-paragraphs (a) and (b), that part of those charges which exceeds the greater of the following amounts—

(i) the total of the charges other than those which are ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations (housing costs);

(ii) 25 per centum of the total amount of eligible housing costs,

and for the purposes of this sub-paragraph, where the amount of those charges is not separately identifiable, that amount shall be such amount as is reasonably attributable to those charges.”.

(10) In Schedule 3A(b) (amount to be allowed in respect of transfers of property)—

(a) in paragraph 8 at the beginning there shall be inserted “Subject to paragraph 8A.”;

(b) after paragraph 8 there shall be inserted the following paragraph—

“8A.—(1) This paragraph applies where—

(a) Sub-paragraph (a) was amended by, and sub-paragraph (aa) inserted by, regulation 9(16)(e) of S.R. 1995 No. 162

(b) Schedule 3A was inserted by regulation 9(17) of S.R. 1995 No. 162

- (a) the property which is the subject of a compensating transfer is or includes cash or deposits as defined in paragraph 5(a);
- (b) that property was acquired by the parent with care after the relevant date;
- (c) the absent parent has no legal interest in that property;
- (d) if that property is or includes cash obtained by a mortgage or charge, that mortgage or charge was executed by the parent with care after the relevant date and was of property to the whole of which that parent is legally entitled; and
- (e) the effect of the compensating transfer is that the parent with care or a relevant child is beneficially entitled (subject to any mortgage or charge) to the whole of the absent parent's estate in the land which is the subject of the qualifying transfer.

(2) Where sub-paragraph (1) applies, the qualifying value of the compensating transfer shall be the amount of the cash or deposits transferred pursuant to the court order or written maintenance agreement referred to in head (a) of the definition of "qualifying transfer" in paragraph 1(1)."

(11) In Schedule 3B(a) (amount to be allowed in respect of travelling costs) for paragraph 17 there shall be substituted the following paragraphs—

"17. Subject to paragraph 17A, there shall be calculated, or if that is impracticable estimated, for each pair of places referred to in paragraph 16 between which straight-line distances are required to be calculated or estimated, the number of journeys which the relevant person makes between them during a period comprising a whole number of weeks which appears to the child support officer to be representative of the normal working pattern of the relevant person.

17A. For the purposes of the calculation required by paragraph 17, there shall be disregarded—

- (a) any pair of journeys between the same work place and his home where the first journey is from his work place to his home and the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours; and
- (b) any journey in respect of which—
 - (i) the travelling costs are borne wholly or in part by the relevant employer, or
 - (ii) the relevant employer provides transport for any part of the journey for the use of the relevant person."

Amendment of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations

5.—(1) The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(b) shall be amended in accordance with paragraphs (2) to (5).

(a) Schedule 3B was inserted by regulation 9(17) of S.R. 1995 No. 162

(b) S.R. 1992 No. 342; relevant amending regulations are S.R. 1993 No. 164 and S.R. 1995 No. 162

(2) For regulation 8 (retention of arrears) there shall be substituted the following regulation—

“Retention of recovered arrears of child support maintenance by the Department

8.—(1) This regulation applies where—

- (a) the Department recovers arrears from an absent parent under Article 38 of the Order; and
- (b) income support is paid to or in respect of the person with care or was paid to or in respect of that person at the date or dates upon which the payment or payments of child support maintenance referred to in paragraph (2) should have been made.

(2) Where paragraph 1 applies, the Department may retain such amount of those arrears as is equal to the difference between the amount of income support that was paid to or in respect of the person with care and the amount of income support that the Department is satisfied would have been paid had the absent parent paid, by the due dates, the amounts due under the child support maintenance assessment in force or to be taken to have been in force by virtue of the provisions of Article 38(2A)(a) of the Order.”

(3) After regulation 10(b) (adjustment of amounts), there shall be inserted the following regulation—

“Reimbursement of a repayment of overpaid child maintenance

10A.—(1) The Department may require a relevant person to repay the whole or a part of any payment by way of reimbursement made to an absent parent under Article 38B(2)(c) of the Order where the overpayment referred to in Article 38B(1) of the Order arose—

- (a) in respect of the amount payable under a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order and where income support, family credit or disability working allowance was not in payment to that person at any time during the period in which that overpayment occurred or at the date or dates on which the payment by way of reimbursement was made; or
- (b) in respect of the amount payable under an interim maintenance assessment and that amount has not been varied under regulation 8D(1)(d) of the Maintenance Assessment Procedure Regulations following the making of a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order.

(2) In a case falling within Article 7 of the Order, where the circumstances set out in Article 38B(6) apply, the Department may retain out of the child support maintenance collected by it in accordance with Article 29 of the Order such sums as cover the amount of any payment

(a) Article 38 was amended by paragraph 9 of Schedule 3 to the Child Support (Northern Ireland) Order 1995
 (b) Regulation 10 was substituted by regulation 3(3) of S.R. 1995 No. 162
 (c) Article 38B was inserted by Article 16 of the Child Support (Northern Ireland) Order 1995
 (d) Regulation 8D is inserted by regulation 3(3) of these Regulations

by way of reimbursement required by the Department from the relevant person under Article 38B(3) of the Order.”.

(4) In regulation 12(a) (review of adjustments) in paragraph (3) for “21(1)” there shall be substituted “21(2)”.

(5) In regulation 13 (procedure and notifications on applications and reviews under regulation 12) for paragraph (6)(b) there shall be substituted the following paragraphs—

“(6) A notification under paragraphs (2), (4) and (5)(c), and under paragraph (3) following a review under regulation 12(1), shall include information as to the provisions of Article 22 of the Order;

(7) A notification under paragraph (3) following a review under regulation 12(3) shall include information as to the provisions of Article 20 of the Order.”.

Amendment of the Child Support (Collection and Enforcement) Regulations

6. In regulation 9 of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(d) (deduction from earnings orders) after paragraph (c) there shall be inserted the following paragraph—

“(cc) where known, the liable person’s national insurance number;”.

Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations

7.—(1) The Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(e) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 3 (maintenance assessments and court orders) at the beginning of paragraphs (4) and (7) there shall be inserted “Subject to regulation 32(7) of the Maintenance Assessment Procedure Regulations(f),”.

(3) After regulation 8 (assessments and orders made in error) there shall be added the following regulation—

“Cases in which application may be made under Article 7 of the Order”

9. The provisions of Article 7(10)(g) of the Order shall not apply to prevent an application being made under that Article after 22nd January 1996 where a decision has been made by the relevant court either that it has no power to vary or that it has no power to enforce a maintenance order in a particular case.”.

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- (a) Regulation 12 was substituted by regulation 3(5) of S.R. 1995 No. 162
 (b) Paragraph (6) was amended by regulation 2(7) of S.R. 1993 No. 164
 (c) Paragraph (5) was inserted by regulation 3(6) of S.R. 1995 No. 162, original paragraph (5) was omitted by regulation 2(7) of S.R. 1993 No. 164
 (d) S.R. 1992 No. 390; regulation 9 was amended by regulation 2 of S.R. 1994 No. 37 and regulation 4(5) of S.R. 1995 No. 162
 (e) S.R. 1992 No. 466; relevant amending regulations are S.R. 1993 No. 164 and S.R. 1995 Nos. 19 and 162
 (f) Paragraph (7) is added by regulation 3(22) of these Regulations
 (g) Paragraph (10) was inserted by Article 12 of the Child Support (Northern Ireland) Order 1995

Amendment of the Child Support (Great Britain Reciprocal Arrangements) Regulations

8.—(1) The Child Support (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1993(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (adaptation) after “Schedule 1” there shall be inserted “as amended by the Exchange of Letters set out in Schedule 1A”.

(3) After Schedule 1 (memorandum) there shall be inserted, as Schedule 1A, the Schedule set out in the Schedule to these Regulations.

(4) In Schedule 2 (adaptation of certain provisions) after the entry relating to Article 17 there shall be inserted the following entry—

“Article 28. Sections 27 and 28 Declaration of parentage”.

Amendment of the Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations

9.—(1) The Child Support (Miscellaneous Amendments and Transitional Provisions) Regulations (Northern Ireland) 1994(b) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 7(2) (scope)—

(a) in sub-paragraph (a) for “regulation 8(1B)” there shall be substituted “regulation 8(3)” and “or” at the end shall be omitted;

(b) at the end of sub-paragraph (b) there shall be added “or” and the following sub-paragraph—

“(c) a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order which is made following a Category A or Category D interim maintenance assessment within the meaning of regulation 8 of the Maintenance Assessment Procedure Regulations where that Category A or Category D interim maintenance assessment is made after 22nd January 1996.”.

(3) In regulation 10 (reviews)—

(a) in paragraph (1) after “under that assessment is” there shall be inserted “or was”;

(b) in paragraph (4) for “regulation 30” there shall be substituted “regulations 30 to 30C”.

Amendment of the Child Support and Income Support (Amendment) Regulations

10. In regulation 13 of the Child Support and Income Support (Amendment) Regulations (Northern Ireland) 1995(c) (transitional provisions)—

(a) S.R. 1993 No. 117

(b) S.R. 1994 No. 37; relevant amending regulations are S.R. 1995 No. 162

(c) S.R. 1995 No. 162

- (a) in paragraph (1) for “or on that date there is in force a decision of a child support officer under Article 40 of the Order (contribution to maintenance by deduction from benefit) and that decision or” there shall be substituted “and”;
- (b) in paragraph (2), sub-paragraph (f) shall be omitted.

Reviews consequent on amendments made by these Regulations

11. Where a child support officer makes a fresh assessment following a review under Article 21(6) of the Order in consequence of the coming into operation of regulation 4(10), the effective date of that fresh assessment shall be the first day of the maintenance period following 18th December 1995 and regulations 19 to 22, 26 and 27 of the Maintenance Assessment Procedure Regulations shall not apply to that assessment.

Transitional and consequential provisions

12.—(1) The provisions set out in paragraph (2) shall not apply to a maintenance assessment in force on 22nd January 1996 until it is reviewed under Article 18, 19 or 20 of the Order.

(2) The provisions referred to in paragraph (1) are—

(a) regulation 4(2)(b);

(b) regulation 4(4);

(c) regulation 4(5)(a)(ii);

(d) head (v) of regulation 11(2)(a) of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 as inserted by regulation 4(5)(b) of these Regulations;

(e) regulation 4(8); and

(f) regulation 4(9).

(3) Where a review is carried out wholly or partly in consequence of one or more of the provisions set out in regulation 4(2), (4), (5)(a)(ii) or (b), (8), (9) or (11), and the amount of any fresh assessment made following that review is different from the amount of any fresh assessment that would have been made had those provisions not been in operation, the effective date of that fresh assessment shall not be earlier than 22nd January 1996.

(4) The provisions of regulation 18(2) of the Maintenance Assessment Procedure Regulations as inserted by regulation 3(12)(a) of these Regulations and the provisions of regulation 3(12)(b) shall not apply to a review which before 22nd January 1996, a child support officer has decided to conduct.

Sealed with the Official Seal of the Department of Health and Social Services on 18th December 1995.

(L.S.)

Kenneth L. Millar

Assistant Secretary

SCHEDULE TO BE INSERTED INTO THE CHILD SUPPORT (GREAT BRITAIN
RECIPROCAL ARRANGEMENTS) REGULATIONS (NORTHERN IRELAND) 1993 AS
SCHEDULE 1A TO THOSE REGULATIONS

SCHEDULE 1A

Regulation 2(1)

EXCHANGE OF LETTERS AMENDING THE MEMORANDUM OF ARRANGEMENTS
RELATING TO THE PROVISION MADE FOR CHILD SUPPORT MAINTENANCE IN THE
UNITED KINGDOM

No. 1

THE SECRETARY OF STATE FOR SOCIAL SECURITY AND THE DEPARTMENT OF
HEALTH AND SOCIAL SERVICES FOR NORTHERN IRELAND

7th November 1995

Sir,

I have the honour to refer to the Memorandum of Arrangements relating to the provision made for Child Support Maintenance between the Secretary of State for Social Security of the one part and the Department of Health and Social Services for Northern Ireland of the other part which came in to effect on 5 April 1993 (which in this letter is referred to as "the Principal Memorandum") and to recent discussions between the Department of Social Security and the Department of Health and Social Services for Northern Ireland concerning the need to amend the Principal Memorandum so as to make further provision in relation to child support matters.

I now have the honour to propose the following amendments to the Principal Memorandum:

After paragraph (4) of Article 5 there shall be inserted:—

"(5) Subject to paragraph (7), where an application for a maintenance assessment is made under the provisions for one territory in relation to an absent parent, a person treated as such, or an alleged absent parent who resides in the other territory, that application shall be dealt with in, and in accordance with the provision made for, the territory in which the person with care resides.

(6) Subject to paragraph (7), where an application for a maintenance assessment is made under section 7 of the Act by a qualifying child, the application shall be dealt with in, and in accordance with the provision made for, the territory in which the person with care of that child resides.

(7) Where paragraphs (5) or (6) apply, the determining authority shall, in determining the amount of child support maintenance to be fixed by any maintenance assessment, take into account in calculating that amount, any provisions which would otherwise have been applicable to that calculation had the assessment been made in accordance with the provision made for the other territory."

After Part 6 there shall be inserted the following Part:—

"PART 6A

PARENTAGE

12A. Where a person with care resides in one territory and an alleged parent who denies that he is one of the parents of a child in respect of whom an application for a maintenance assessment has been made resides in the other territory:—

- (a) The person with care or the Secretary of State may apply for a declaration as to whether or not the alleged parent is one of the child's parents, under Article 28 of the Order;
- (b) The person with care or the Department of Health and Social Services may apply for such a declaration under section 27 of the Act; and
- (c) The Department of Health and Social Services may bring an action for declarator of parentage under the provisions of section 28 of the Act."

If the foregoing proposals are acceptable to you, I have the honour to propose that this letter and your reply to that effect shall constitute a Memorandum of Arrangements between us which shall come into effect on 21st January 1996.

Andrew Mitchell

For the Secretary of State for Social Security

No. 2

THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR NORTHERN IRELAND TO
THE SECRETARY OF STATE FOR SOCIAL SECURITY

8th November 1995

Sir

I refer to your letter of 7th November 1995 which reads as follows:

"I have the honour to refer to the Memorandum of Arrangements relating to the provision made for Child Support Maintenance between the Secretary of State for Social Security of the one part and the Department of Health and Social Services for Northern Ireland of the other part which came into effect on 5 April 1993 (which in this letter is referred to as "the Principal Memorandum") and to the recent discussions between the Department of Social Security and the Department of Health and Social Services for Northern Ireland concerning the need to amend the Principal Memorandum so as to make further provision in relation to child support matters.

I now have the honour to propose the following amendments to the Principal Memorandum:

After paragraph (4) of Article 5 there shall be inserted:—

"(5) Subject to paragraph (7), where an application for a maintenance assessment is made under the provisions for one territory in relation to an absent parent, a person treated as such, or an alleged absent parent, who resides in the other territory, that application shall be dealt with in, and in accordance with the provision made for, the territory in which the person with care resides.

(6) Subject to paragraph (7), where an application for a maintenance assessment is made under section 7 of the Act by a qualifying child, the application shall be dealt with in, and in accordance with the provision made for, the territory in which the person with care of that child resides.

(7) Where paragraph (5) or (6) apply, the determining authority shall, in determining the amount of child support maintenance to be fixed by any maintenance assessment, take into account in calculating that amount, any provisions which would otherwise have been applicable to that calculation had the assessment been made in accordance with the provision made for the other territory.”.

After Part 6 there shall be inserted the following Part:—

“PART 6A

PARENTAGE

12A. Where a person with care resides in one territory and an alleged parent who denies that he is one of the parents of a child in respect of whom an application for a maintenance assessment has been made resides in the other territory:—

- (a) The person with care or the Secretary of State may apply for a declaration as to whether or not the alleged parent is one of the child’s parents, under Article 28 of the Order;
- (b) The person with care or the Department of Health and Social Services may apply for such a declaration under section 27 of the Act; and
- (c) The Department of Health and Social Services may bring an action for declarator of parentage under the provisions of section 28 of the Act.”.

I have the honour to confirm that the foregoing proposals are acceptable to the Department of Health and Social Services for Northern Ireland and agree that your letter and this reply shall constitute a Memorandum of Arrangements between us which shall come into effect on 21st January 1996.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on the 8th day of November 1995.

F. A. Elliott
Permanent Secretary

(This note is not part of the Regulations.)

These Regulations amend various regulations made under the Child Support (Northern Ireland) Order 1991 (“the Order”).

The Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 are amended to apply to the provision of information on reviews (regulation 2(2) and (3)); to set the time within which certain information is to be supplied (regulation 2(5)); to extend the circumstances in which information can be given (regulation 2(6)); and to make provision for disclosure of information by the Department of Health and Social Services (“the Department”) to a child support officer and by a child support officer to the Department (regulation 2(7)).

The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 are amended in the following respects—

- (a) regulations 8 and 9 are divided into a number of regulations to make them more comprehensible. Amendments have also been made to make provision for the effective date of Category B interim maintenance assessments generally to have the same effective date as would be applicable to a full maintenance assessment in that case; for effective dates of interim maintenance assessments made where an absent parent has failed to provide information required on review; for an interim maintenance assessment to cease to have effect where a child support officer receives information as to an absent parent’s circumstances for part but not the whole of the period since the maintenance enquiry form was sent; and in some circumstances for review of a cancellation of an interim maintenance assessment (regulation 3(3) and (4));
- (b) regulation 15B is inserted to make provision for notification of lapsing of an appeal under Article 22A of the Order (regulation 3(9));
- (c) regulation 17 is substituted to provide that where an application for a review under Article 19 of the Order is received less than 8 weeks before a periodical review under Article 18 of the Order is due to take place, the periodical review rather than the review under Article 19 of the Order shall be done (regulation 3(11));
- (d) regulation 18 is amended to make new provision for reviews under Article 19 of the Order to take account of the amendment of that Article. The regulation provides that a child support officer must take account of matters which are brought to his attention by the parties (regulation 3(12));
- (e) regulation 29A is inserted to provide for effective dates of new assessments which relate to part only of the period after the maintenance enquiry form was sent and also for the effective date of a subsequent assessment made when all relevant information is available for the whole of the relevant period (regulation 3(19));

- (f) regulation 30 is divided into a number of regulations to make it more comprehensible and some amendments are made to effective dates of assessments made on review, in particular, on a review under the new provisions of Article 21 of the Order (regulation 3(20));
- (g) regulations 34A and 39A are inserted to make provision for the circumstances in which a reduced benefit direction should not be given or will be suspended (regulation 3(23) and (24)).

The Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 are amended to make further provision for the definition of "relevant week" for the purposes of reviews and the definition of "day to day care" (regulation 4(2)); to make clear that where housing costs consist of fees paid for residential care, the amount of such fees, for the purposes of exempt and protected income, shall be net of any housing benefit (regulation 4(4) and (5)); to make provision for adjustment of existing maintenance assessments where a new application is made in multiple application cases (regulation 4(7)); and to make provision for the value of a compensating transfer made out of assets belonging to the parent with care alone (regulation 4(10)).

The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992 are amended to make provision for the circumstances in which a parent with care must reimburse the Department for overpayments of maintenance which it has repaid to the absent parent as provided for in Article 38A of the Order, which was inserted by Article 16 of the Child Support (Northern Ireland) Order 1995 (regulation 5).

The Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992 are amended to allow an application for a maintenance assessment to be made notwithstanding that a court order is in existence, where the court has decided that it has no power to vary or enforce that order (regulation 7(3)).

Other amendments made are of a minor, technical or consequential nature.

Article 12(6) of the Child Support (Northern Ireland) Order 1995 is the enabling provision under which regulation 7(3) of these Regulations is made. It was brought into operation on 16th November 1995 by the Child Support (1995 Order) (Commencement No. 1) Order (Northern Ireland) 1995 (S.R. 1995 No. 428 (C. 8)).