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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 246**

**The Social Security (1998 Order) (Commencement  
No. 6 and Consequential and Transitional  
Provisions) Order (Northern Ireland) 1999**

**TRANSITIONAL PROVISIONS AND REVOCATIONS**

**Child support**

**23.**—(1) Any decision which fell to be made, but was not made, before 1st June 1999 by a child support officer shall be made by the Department.

(2) Except for the purposes of paragraph (6) and any provision as to the time within which an appeal is to be brought, a decision of a child support officer shall be treated as a decision of the Department made under—

- (a) subject to sub-paragraph (b) and paragraph (3), the provision under which the child support officer made the decision; or
- (b) Article 19 of the Child Support Order where the child support officer made the decision under Article 20 or 21 of that Order.

(3) A fresh maintenance assessment made pursuant to Article 18(4) of the Child Support Order by virtue of the saving in Article 3(3) of the Social Security (1998 Order) (Commencement No. 2) Order (Northern Ireland) 1998(1) shall be treated for the purpose of subsequent decisions as if it were made by virtue of a decision of the Department under Article 19 of the Child Support Order.

(4) For the purposes of a fresh maintenance assessment which falls to be made pursuant to Article 18(4) of the Child Support Order by virtue of the saving in Article 3(3) of the Social Security (1998 Order) (Commencement No. 2) Order (Northern Ireland) 1998, “relevant week” in the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 shall mean, notwithstanding regulation 1(2) of those Regulations, the period of 7 days immediately preceding the date on which a request for information or evidence was made under regulation 16(5) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 as that provision was in operation when that request was sent.

(5) The date on which the fresh maintenance assessment mentioned in paragraph (4) made on or after 1st June 1999 takes effect shall be determined in accordance with the provisions of Article 18(5) of the Child Support Order and regulations made thereunder as those provisions were in operation immediately before 1st June 1999.

(6) An application which was not determined before 1st June 1999 for a review of a decision of a child support officer shall be treated—

- (a) in a case where the application—
  - (i) is received within one month of the date of notification of the decision which is the subject of the application or such longer period as may be allowed by Article 20; and
  - (ii) is made other than on the ground of a relevant change of circumstances,

as an application to the Department for a revision of a decision under Article 18 of the Child Support Order; and

- (b) in any other case, as an application to the Department for a decision under Article 19 of the Child Support Order superseding an earlier decision.

(7) A revision under Article 18 of the Child Support Order of a decision made before 22nd January 1996 to cancel a Category B interim maintenance assessment (within the meaning of regulation 8(3)(b) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992<sup>(2)</sup>) shall take effect from 22nd January 1996.

(8) For the purposes of paragraph (9), this paragraph applies where the decision of the Department—

- (a) supersedes a decision of a child support officer; and  
 (b) is made on the basis of information or evidence which was not provided by a relevant person directly.

(9) Where paragraph (8) applies, a decision which supersedes an earlier decision shall take effect from the first day of the maintenance period in which that information or evidence was received by—

- (a) except where sub-paragraph (b) applies, an officer of the Department exercising functions under the Child Support Order; or  
 (b) a child support officer.

(10) Where—

- (a) a departure direction under Article 28F of the Child Support Order takes effect on 1st June 1999;  
 (b) the applicant in response to whose application that direction was given made a later application before 1st June 1999 for a departure direction—  
     (i) on grounds additional to the grounds in respect of which the earlier direction was given, or  
     (ii) on the basis that there has been a change of circumstances in respect of any of those grounds; and  
 (c) that later application was not determined before 1st June 1999,

that application shall be treated as if it were made under Article 19 of, as extended by paragraph 2 of Schedule 4C to, the Child Support Order for a decision superseding an earlier decision.

(11) A decision made by virtue of paragraph (10) which supersedes an earlier decision shall take effect from the first day of the maintenance period in which the later application was made.

(12) A decision made—

- (a) by the Department on its own initiative under Article 19 of, as extended by paragraph 2 of Schedule 4C to, the Child Support Order superseding an earlier decision with respect to a departure direction; and  
 (b) made on the basis of information or evidence provided to it before 1st June 1999 by a person who is not the applicant in response to whose application the departure direction was given,

shall take effect from the first day of the maintenance period in which that information or evidence was provided to the Department.

(13) A decision of—

- (a) the Department made before 1st June 1999 with respect to a departure direction; or

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(2) S.R. 1992 No. 340; relevant amending regulations are S.R. 1995 No. 475 and S.R. 1999 No. 167

(b) a child support appeal tribunal upon referral under Article 28D(1)(b) of the Child Support Order,  
may be revised under Article 18 of, as extended by paragraph 1 of Schedule 4C to, the Child Support Order in consequence of information or evidence—

- (i) received by the Department from a relevant person within one month of the date of notification of that decision or such longer period as may be allowed by Article 24, and
- (ii) not acted upon before 1st June 1999 .

(14) Except for the purposes of paragraph (16), an appeal to a child support appeal tribunal which was not determined before 1st June 1999—

- (a) shall be treated as an appeal to an appeal tribunal;
- (b) brought against a decision of a child support officer, shall be treated as an appeal brought against a decision of the Department; and
- (c) may not be withdrawn without the consent in writing of every other party to the proceedings.

(15) In paragraphs (14) and (28) “party to the proceedings” means—

- (a) the absent parent (within the meaning given to that expression in Article 4(2) of the Child Support Order);
- (b) the person with care (within the meaning given to that expression in Article 4(3) of the Child Support Order); and
- (c) the Department.

(16) Regulations 3(1A) to (11B) (making an appeal or application and time limits) and 15 (setting aside) of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993<sup>(3)</sup> (in this Article referred to as “the Procedure Regulations”) shall continue to apply (notwithstanding their revocation) for the purposes specified in paragraph (17) subject to the modifications to those regulations specified respectively in paragraphs (18) and (19).

(17) Paragraph (16) applies for the purposes of—

- (a) any appeal against a decision—
  - (i) of the Department, made before 1st June 1999 on an application for a departure direction, or
  - (ii) of a child support officer; and
- (b) any application to set aside a decision of a child support appeal tribunal.

(18) In regulation 3 of the Procedure Regulations—

- (a) in paragraph (1A)<sup>(4)</sup> for “in paragraph (1)” there shall be substituted “in Article 23(17) of the Social Security (1998 Order) (Commencement No. 6 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999”;
- (b) in paragraph (3) for “under Article 22(1) of the Order” there shall be substituted “against a decision of a child support officer”;
- (c) for paragraph (6) there shall be substituted the following paragraph—

“(6) Where an appeal or application is made—

- (a) after the specified time has expired; and
- (b) before 1st July 2000,

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<sup>(3)</sup> S.R. 1993 No. 50; relevant amending regulations are S.R. 1996 Nos. 457, 541 and 590 and S.R. 1998 No. 8

<sup>(4)</sup> Paragraph (1A) was substituted by regulation 2(2)(a) of S.R. 1996 No. 457

that time may for special reasons be extended by a legally qualified panel member to the date of the making of the appeal or application.”;

(d) in paragraph (7) for “a chairman” there shall be substituted “a legally qualified panel member”;

(e) in paragraphs (7), (9A)(5), (11) and (11A) for “the chairman” there shall be substituted “the legally qualified panel member”;

(f) in paragraph (8) for “any chairman” there shall be substituted “a legally qualified panel member”; and

(g) after paragraph (11B) there shall be added the following paragraph—

“(11C) In this regulation—

“legally qualified panel member” has the same meaning as in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(6); and

“tribunal” means an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998(7).”.

(19) In regulation 15 of the Procedure Regulations—

(a) in paragraph (1) after “on an application made” there shall be inserted “before 1st July 2000” and for “the tribunal who gave the decision or by another tribunal” there shall be substituted “a tribunal”;

(b) in paragraph (5) “regulation 2 and” shall be omitted; and

(c) after paragraph (5) there shall be added the following paragraph—

“(6) Except in paragraph (1)(a) “tribunal” in this regulation means an appeal tribunal constituted under Article 8 of the Social Security (Northern Ireland) Order 1998.”.

(20) Paragraphs (21) to (24) shall apply where—

(a) the clerk to the tribunal gave a direction under regulation 11(1)(8) (hearings) of the Procedure Regulations; and

(b) notification under that provision was not received by him before the appointed day.

(21) A notification in response to a direction given under regulation 11(1) of the Procedure Regulations shall be in writing and shall be made within 14 days of receipt of the direction or within such other period as the clerk to the appeal tribunal may direct.

(22) An appeal may be struck out by a clerk to the appeal tribunal where a notification referred to in paragraph (21) is not received within the period specified in that paragraph.

(23) An appeal which has been struck out in accordance with paragraph (22) shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.

(24) An oral hearing of the appeal shall be held where—

(a) notification is received by the clerk to the appeal tribunal under paragraph (21); or

(b) the chairman, or in the case of an appeal tribunal which has only one member, that member, is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

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(5) Paragraph (9A) was inserted by regulation 2(2)(b) of S.R. 1996 No. 457; paragraph (11) was substituted by, and paragraphs (11A) and (11B) were inserted by, regulation 2(2)(d) of those regulations

(6) S.R. 1999 No. 162

(7) S.I. 1998/1506 (N.I. 10)

(8) Paragraph (1) was substituted by regulation 2(7)(a) of S.R. 1996 No. 457 and amended by S.R. 1996 No. 541 and S.R. 1998 No. 8

(25) A legally qualified panel member may reinstate an appeal which has been struck out under regulation 6 of the Procedure Regulations on application made by any party to the proceedings not later than three months from the date of the order under paragraph (1) of that regulation if he is satisfied that—

- (a) the applicant did not receive a notice under paragraph (2) of that regulation; and
- (b) the conditions in paragraph (2A) of that regulation were not satisfied.

(26) In paragraph (25) “legally qualified panel member” has the same meaning as in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.

(27) Notwithstanding the revocation of the Procedure Regulations, information such as was mentioned in regulation 17(2) of those Regulations immediately before that regulation was revoked shall not be disclosed if a written notification is received under that regulation within the period specified in that regulation.

(28) A copy of a statement of—

- (a) the reasons for a child support appeal tribunal’s decision;
- (b) its findings on questions of fact material thereto; and
- (c) the terms of any—
  - (i) direction under Article 22(4) of the Child Support Order (before that provision was substituted by Article 42 of the Order); and
  - (ii) decision made by the tribunal under Article 28H(4)(c) of the Child Support Order (before that provision was substituted by paragraph 24 of Schedule 6 to the Order) or on a referral,

shall be supplied to each party to the proceedings if requested by any of them within 21 days of the date on which notification of the decision was given or sent.

(29) Except for the purposes of—

- (a) the Child Support Commissioners (Procedure) Regulations (Northern Ireland) 1999(9);
- (b) paragraphs (16) and (28); or
- (c) determining whether any irregularity resulted from failure to comply with the requirements of the Procedure Regulations,

a decision of a child support appeal tribunal shall be treated as a decision of an appeal tribunal.

(30) An appeal tribunal shall completely rehear any appeal to a child support appeal tribunal which stands adjourned immediately before 1st June 1999.

(31) For the purpose of Article 19(1) of the Child Support Order, a decision of a Child Support Commissioner on an appeal from a child support appeal tribunal shall be treated as a decision of a Child Support Commissioner on an appeal from an appeal tribunal.

(32) In this Article “maintenance period” has the same meaning as in regulation 1(2) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992.

(33) In this Article and Article 24 “relevant person” has the same meaning as in regulation 1(2) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992.

### **Late application for a revision**

**24.—**(1) The period of one month specified in Article 23(6)(a)(i) or (13)(i) may be extended where the requirements specified in the following provisions of this Article are satisfied.

- (2) An application for an extension of time shall—
- (a) be made before 1st July 2000 by a relevant person or a person acting on his behalf; and
  - (b) contain—
    - (i) particulars of the grounds on which the extension of time is sought, and
    - (ii) sufficient details of the decision which it is sought to have revised to enable that decision to be identified.
- (3) An application for an extension of time shall not be granted unless the person making the application or any person acting for him satisfies the Department that—
- (a) it is reasonable to grant the application;
  - (b) the application for a decision to be revised has merit; and
  - (c) special circumstances are relevant to the application for an extension of time,
- and as a result of those special circumstances, it was not practicable for the application for a decision to be revised to be made within one month of the date of notification of the decision which it is sought to have revised.
- (4) In determining whether it is reasonable to grant an application for an extension of time, no account shall be taken of the following—
- (a) that the person making the application for an extension of time or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by Article 23(6)(a)(i) or (13)(i)); or
  - (b) that a Child Support Commissioner or a court has taken a different view of the law from that previously understood and applied.
- (5) An application under this Article for an extension of time which has been refused may not be renewed.
- (6) In this Article “Child Support Commissioner” includes a Child Support Commissioner appointed under section 22 of the Child Support Act 1991<sup>(10)</sup>.

### **Transitional functions of staff of appeal tribunals and of the President of appeal tribunals**

25. Any appointment under paragraph 6 of Schedule 1 to the Social Security (Northern Ireland) Order 1998 shall be treated during the period commencing on 1st June 1999 and ending on—
- (a) 28th November 1999 as being, in addition, an appointment for—
    - (i) social security appeal tribunals, and
    - (ii) the President and full-time chairmen of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals;
  - (b) 17th October 1999 as being, in addition, an appointment for disability appeal tribunals; and
  - (c) 5th September 1999 as being, in addition, an appointment for medical appeal tribunals.

### **Revocations**

- 26.—(1) Regulation 2(4)(b)(iv) of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 1999<sup>(11)</sup> is hereby revoked.
- (2) The Regulations specified in column (1) of Schedule 2 are revoked to the extent mentioned in column (3) of that Schedule.

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<sup>(10)</sup> 1991 c. 48

<sup>(11)</sup> S.R. 1999 No. 167

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**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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