
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 17

The Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001 and shall come into operation in relation to a particular case on the day on which sections 1(2), 3, 4 and 18 of, and paragraph 27 of Schedule 3 to, the Act come into operation in relation to that type of case.

(2) In these Regulations—

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

“the Children Order” means the Children (Northern Ireland) Order 1995⁽¹⁾;

“the Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000⁽²⁾;

“date of notification to the non-resident parent” means the date on which the non-resident parent is first given notice of a maintenance application;

“effective application” means as provided for in regulation 3;

“date of receipt” means the day on which the information or document is actually received;

“effective date” means the date on which a maintenance calculation takes effect for the purposes of the Order;

“notice of a maintenance application” means notice by the Department under regulation 5(1) that an application for a maintenance calculation has been made, or treated as made, in relation to which the non-resident parent is named as a parent of the child to whom the application relates;

“the Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001⁽³⁾;

“maintenance period” has the same meaning as in Article 19(4A) of the Order⁽⁴⁾;

“relevant person” means—

(a) a person with care;

(b) a non-resident parent;

(1) S.I. 1995/755 (N.I. 2)

(2) 2000 c. 4 (N.I.)

(3) S.R. 2001 No. 18

(4) Article 19(4A) is inserted by section 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

- (c) a parent who is treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations, in respect of whom a maintenance calculation has been applied for, or has been treated as applied for under Article 9(3) of the Order, or is or has been in force.
- (3) The provisions in Schedule 1 shall have effect to supplement the meaning of “child” in Article 3 of the Order.

Documents

2. Except where otherwise stated, where—
- (a) any document is given or sent to the Department, that document shall be treated as having been so given or sent on the day that it is received by the Department; and
 - (b) any document is given or sent to any other person, that document shall, if sent by post to that person’s last known or notified address, be treated as having been given or sent on the day that it is posted.

Part II

Applications for a Maintenance Calculation

Applications under Article 7 of the Order

3.—(1) A person who applies for a maintenance calculation under Article 7 of the Order need not normally do so in writing, but if the Department directs that the application be made in writing, the application shall be made either by completing and returning, in accordance with the Department’s instructions, a form provided for that purpose, or in such other written form as the Department may accept as sufficient in the circumstances of any particular case.

(2) An application for a maintenance calculation is effective if it complies with paragraph (1) and, subject to paragraph (4), is made on the date it is received.

(3) Where an application for a maintenance calculation is not effective the Department may request the person making the application to provide such additional information or evidence as the Department may specify and, where the application was made on a form, the Department may request that the information or evidence be provided on a fresh form.

(4) Where the additional information or evidence requested is received by the Department within 14 days of the date of its request, or at a later date in circumstances where the Department is satisfied that the delay was unavoidable, it shall treat the application as made on the date on which the earlier or earliest application would have been treated as made had it been effective.

(5) Where the Department receives the additional information or evidence requested by it more than 14 days from the date of the request and in circumstances where it is not satisfied that the delay was unavoidable, the Department shall treat the application as made on the date of receipt of the information or evidence.

(6) Subject to paragraph (7), a person who has made an effective application may amend or withdraw the application at any time before a maintenance calculation is made and such amendment or withdrawal need not be in writing unless, in any particular case, the Department requires it to be.

(7) No amendment made under paragraph (6) shall relate to any change of circumstances arising after the effective date of a maintenance calculation resulting from an effective application.

(5) Article 7 was amended by Article 12(1) of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and section 2 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Multiple applications

4.—(1) The provisions of Schedule 2 shall apply in cases where there is more than one application for a maintenance calculation.

(2) The provisions of paragraphs 1, 2 and 3 of Schedule 2 relating to the treatment of two or more applications as a single application shall apply where no request is received for the Department to cease acting in relation to all but one of the applications.

(3) Where, under the provisions of paragraph 1, 2 or 3 of Schedule 2, two or more applications are to be treated as a single application, that application shall be treated as an application for a maintenance calculation to be made with respect to all of the qualifying children mentioned in the applications, and the effective date of that maintenance calculation shall be determined by reference to the earlier or earliest application.

Notice of an application for a maintenance calculation

5.—(1) Where an effective application has been made under Article 7 of the Order, or is treated as made under Article 9(3) of the Order⁽⁶⁾, as the case may be, the Department shall as soon as is reasonably practicable notify, orally or in writing, the non-resident parent and any other relevant persons (other than the person who has made, or is treated as having made, the application) of that application and request such information as it may require to make the maintenance calculation in such form and manner as it may specify in the particular case.

(2) Where the person to whom notice is being given under paragraph (1) is a non-resident parent, that notice shall specify the effective date of the maintenance calculation if one is to be made, and the ability to make a default maintenance decision.

(3) Subject to paragraph (4), a person who has provided information under paragraph (1) may amend the information he has provided at any time before a maintenance calculation is made and such information need not be in writing unless, in any particular case, the Department requires it to be.

(4) No amendment under paragraph (3) shall relate to any change of circumstances arising after the effective date of any maintenance calculation made in response to the application in relation to which the information was requested.

Death of a qualifying child

6.—(1) Where the Department is informed of the death of a qualifying child with respect to whom an application for a maintenance calculation has been made or has been treated as made, it shall—

- (a) proceed with the application as if it had not been made with respect to that child if the Department has not yet made a maintenance calculation;
- (b) treat any maintenance calculation already made by the Department as not having been made if the relevant persons have not been notified of it and proceed with the application as if it had not been made with respect to that child.

(2) Where all of the qualifying children with respect to whom an application for a maintenance calculation has been made have died, and either the calculation has not been made or the relevant persons have not been notified of it, the Department shall treat the application as not having been made.

(6) Article 9 is substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Part III

Default Maintenance Decisions

Default rate

7.—(1) Where the Department makes a default maintenance decision under Article 14(1) of the Order (insufficient information to make a maintenance calculation or to make a decision under Article 18 or 19 of the Order(7)) the default rate is as set out in paragraph (2).

(2) The default rate for the purposes of Article 14(5)(b) of the Order shall be—

£30 where there is one qualifying child of the non-resident parent;

£40 where there are two qualifying children of the non-resident parent;

£50 where there are three or more qualifying children of the non-resident parent,

apportioned, where the non-resident parent has more than one qualifying child and in relation to them there is more than one person with care, as provided in paragraph 6(2) of Part I of Schedule 1 to the Order(8).

(3) Subject to paragraph (4), where any apportionment made under this regulation results in a fraction of a penny that fraction shall be treated as a penny if it is either one half or exceeds one half, otherwise it shall be disregarded.

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

Part IV

Reduced Benefit Decisions

Interpretation of Part IV

8.—(1) For the purposes of this Part—

“applicable amount”, is to be construed in accordance with Part IV of the Income Support Regulations and regulations 83 to 86 of the Jobseeker’s Allowance Regulations;

“benefit week”, in relation to income support has the same meaning as in the Income Support Regulations, and in relation to jobseeker’s allowance has the same meaning as in the Jobseeker’s Allowance Regulations;

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(9);

(7) Articles 18 and 19 were substituted respectively by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and are amended respectively by sections 8 and 9 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(8) Part I of Schedule 1 is substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(9) S.R. 1987 No. 459; relevant amending rules are S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 Nos. 139 and 395, S.R. 1990 No. 131, S.R. 1991 Nos. 170 and 345, S.R. 1992 No. 403, S.R. 1993 Nos. 149, 165 and 373, S.R. 1994 Nos. 65, 77, 266 and 327, S.R. 1995 No. 86, S.R. 1996 Nos. 93, 199, 288, 375, 405, 489 and 499, S.R. 1997 No. 412, S.R. 1998 Nos. 2 and 81 and S.R. 2000 Nos. 38, 71 and 125

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(10);

“parent concerned” means the parent with respect to whom a reduced benefit decision is given;

“reduced benefit decision” has the same meaning as in Article 43(10)(b) of the Order; and

“relevant benefit” has the same meaning as in Article 43(10)(c) of the Order.

(2) In this Part references to a reduced benefit decision as being “in operation”, “suspended” or “in force” shall be construed as follows—

(a) a reduced benefit decision is “in operation” if, by virtue of that decision, relevant benefit is currently being reduced;

(b) a reduced benefit decision is “suspended” if—

(i) after that decision has been given, relevant benefit ceases to be payable, or becomes payable at one of the rates indicated in regulation 14(4) or, as the case may be, regulation 15(4);

(ii) at the time the reduced benefit decision is given, relevant benefit is payable at one of the rates indicated in regulation 15(4) or, as the case may be, regulation 16(4), and these Regulations provide for relevant benefit payable from a later date to be reduced by virtue of the same reduced benefit decision; and

(c) a reduced benefit decision is “in force” if it is either in operation or suspended.

Period within which reasons are to be given

9. The period specified for the purposes of Article 43(2) of the Order (for the parent with care to supply reasons) is 4 weeks from the date on which the Department serves notice under that paragraph.

Circumstances in which a reduced benefit decision shall not be given

10. The Department shall not give a reduced benefit decision 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(11); or

(b) an income-based jobseeker’s allowance is paid to, or in respect of, the parent in question and the applicable amount of the claimant for an income-based jobseeker’s allowance includes one or more of the amounts set out in paragraph 20(4), (5) or (7) of Schedule 1 to the Jobseeker’s Allowance Regulations(12).

Amount of and period of reduction of relevant benefit under a reduced benefit decision

11.—(1) The reduction in the amount payable by way of a relevant benefit to, or in respect of, the parent concerned and the period of such reduction by virtue of a reduced benefit decision shall be determined in accordance with paragraphs (2) to (8).

(2) Subject to paragraph (6) and regulations 12 to 14 and 15, there shall be a reduction for a period of 156 weeks from the day specified in the reduced benefit decision under the provisions of Article 43(8) of the Order in respect of each such week equal to—

$0.4 \times B$

(10) S.R. 1996 No. 198; relevant amending rules are S.R. 1996 Nos. 288, 356, 358 and 503, S.R. 1997 Nos. 130 and 412, S.R. 1998 Nos. 2 and 81, S.R. 1999 No. 428 (C. 32) and S.R. 2000 Nos. 38, 71 and 125

(11) Amounts in Part IV of Schedule 2 were substituted by S.R. 2000 No. 38

(12) Amounts in paragraph 20 of Schedule 1 were substituted by S.R. 2000 No. 38

where

B is an amount equal to the weekly amount in relation to the week in question, specified in column (2) of paragraph 1(1)(e) of Schedule 2 to the Income Support Regulations⁽¹³⁾.

(3) Subject to paragraph (4), a reduced benefit decision shall come into operation on the first day of the second benefit week following the date of the reduced benefit decision.

(4) Subject to paragraph (5), where a reduced benefit decision (“the subsequent decision”) is made on a day when a reduced benefit decision (“the earlier decision”) is in force in respect of the same parent, the subsequent decision shall come into operation on the day immediately following the day on which the earlier decision ceased to be in force.

(5) Where the relevant benefit is income support and the provisions of regulation 26(2) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽¹⁴⁾ (deferment of payment of different amount of income support) apply, a reduced benefit decision shall come into operation on such later date as may be determined by the Department in accordance with those provisions.

(6) Where the benefit payable is income support or an income-based jobseeker’s allowance and there is a change in the benefit week whilst a reduced benefit decision is in operation, the period of the reduction specified in paragraph (2) shall be a period greater than 155 weeks but less than 156 weeks and ending on the last day of the last benefit week falling entirely within the period of 156 weeks specified in that paragraph.

(7) Where the weekly amount specified in column (2) of paragraph 1(1)(e) of Schedule 2 to the Income Support Regulations changes on a day when a reduced benefit decision is in operation, the amount of the reduction of income support or income-based jobseeker’s allowance shall be changed from the first day of the first benefit week to commence for the parent concerned on or after the day that weekly amount changes.

(8) Only one reduced benefit decision in relation to a parent concerned shall be in force at any one time.

Modification of reduction under a reduced benefit decision to preserve minimum entitlement to relevant benefit

12. Where in respect of any benefit week the amount of the relevant benefit that would be payable after it has been reduced following a reduced benefit decision would, but for this regulation, be nil or less than the minimum amount of that benefit that is payable as determined—

- (a) in the case of income support, by regulation 26(4) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987;
- (b) in the case of an income-based jobseeker’s allowance, by regulation 87A of the Jobseeker’s Allowance Regulations⁽¹⁵⁾,

the amount of that reduction shall be decreased to such extent as to raise the amount of that benefit to the minimum amount that is payable.

Suspension of a reduced benefit decision when relevant benefit ceases to be payable

13.—(1) Where relevant benefit ceases to be payable to, or in respect of, the parent concerned at a time when a reduced benefit decision is in operation, that reduced benefit decision shall, subject to paragraph (2), be suspended for a period of 52 weeks from the date the relevant benefit ceased to be payable.

⁽¹³⁾ Amounts in paragraph 1(1)(e) of Schedule 2 were substituted by S.R. 2000 No. 38

⁽¹⁴⁾ S.R. 1987 No. 465; relevant amending rules are S.R. 1988 No. 141, S.R. 1989 No. 40 and S.R. 1999 No. 472 (C. 36)

⁽¹⁵⁾ S.R. 1996 No. 198; regulation 87A was inserted by regulation 21 of S.R. 1996 No. 358

(2) Where a reduced benefit decision has been suspended for a period of 52 weeks and no relevant benefit is payable at the end of that period, it shall cease to be in force.

(3) Where a reduced benefit decision is suspended and relevant benefit again becomes payable to, or in respect of, the parent concerned, the amount payable by way of that benefit shall, subject to regulations 14 and 15, be reduced in accordance with that reduced benefit decision for the balance of the reduction period.

(4) The amount or, as the case may be, the amounts of that reduction to be made during the balance of the reduction period shall be determined in accordance with regulation 11(2).

(5) No reduction in the amount of benefit under paragraph (3) shall be made before the expiry of a period of 14 days from service of the notice specified in paragraph (6), and the provisions of regulation 11(3) shall apply as to the date the reduced benefit decision again comes into operation.

(6) Where relevant benefit again becomes payable to, or in respect of, a parent with respect to whom a reduced benefit decision is suspended, that parent shall be notified in writing by the Department that the amount of relevant benefit paid to, or in respect of, that parent will again be reduced, in accordance with the provisions of paragraph (3), if that parent falls within Article 43(1) of the Order.

Suspension of a reduced benefit decision when a modified applicable amount is payable (income support)

14.—(1) Where a reduced benefit decision is given or is in operation at a time when income support is payable to, or in respect of, the parent concerned but that parent's applicable amount falls to be calculated under the provisions mentioned in paragraph (4), that decision shall be suspended for so long as the applicable amount falls to be calculated under the provisions mentioned in that paragraph, or 52 weeks, whichever period is the shorter.

(2) Where a reduced benefit decision is given or is in operation at a time when income support is payable to, or in respect of, the parent concerned, but that parent's applicable amount includes a residential allowance under regulation 17 of, and paragraph 2A of Schedule 2 to, the Income Support Regulations⁽¹⁶⁾ (applicable amounts for persons in residential care and nursing homes), that decision shall be suspended for as long as the applicable amount includes a residential allowance under that regulation and Schedule 2, or 52 weeks, whichever period is the shorter.

(3) Where a case falls within paragraph (1) or (2) and a reduced benefit decision has been suspended for 52 weeks, it shall cease to be in force.

(4) The provisions of paragraph (1) shall apply where the applicable amount in relation to the parent concerned falls to be calculated under—

- (a) regulation 19 of, and Schedule 4 to, the Income Support Regulations (applicable amounts for persons in residential care and nursing homes)⁽¹⁷⁾;
- (b) regulation 21 of, and paragraphs 1 to 3 of Schedule 7 to, the Income Support Regulations (patients)⁽¹⁸⁾;

⁽¹⁶⁾ Regulation 17 was amended by S.R. 1988 Nos. 193 and 318, S.R. 1989 Nos. 139 and 395, S.R. 1993 Nos. 149 and 393 and S.R. 1996 No. 199. Paragraph 2A was inserted by regulation 2(6) of S.R. 1993 No. 149 and amended by S.R. 1993 Nos. 165, 235 and 373, S.R. 1994 No. 65, S.R. 1997 No. 412 and S.R. 2000 No. 38

⁽¹⁷⁾ Regulation 19 was amended by S.R. 1988 Nos. 146, 193, 274 and 318, S.R. 1989 No. 395, S.R. 1991 No. 170, S.R. 1993 Nos. 149 and 373, S.R. 1994 Nos. 65, 77 and 327, S.R. 1996 Nos. 93 and 199. Schedule 4 was amended by S.R. 1988 Nos. 146, 318 and 431, S.R. 1989 No. 395, S.R. 1993 Nos. 149 and 373, S.R. 1996 No. 93, S.R. 1997 No. 412, S.R. 1998 No. 2 and S.R. 2000 No. 38

⁽¹⁸⁾ Regulation 21 was amended by S.R. 1991 Nos. 170 and 345, S.R. 1992 No. 403, S.R. 1993 Nos. 149 and 165, S.R. 1994 Nos. 65, 77, and 266, S.R. 1995 No. 86, S.R. 1996 Nos. 199, 375, 405, 449 and 489, S.R. 1998 No. 81, S.R. 2000 Nos. 38, 71 and 125

- (c) regulation 21 of, and paragraphs 10B, 10C and 13 of Schedule 7 to, the Income Support Regulations (persons in residential accommodation)(19).

Suspension of a reduced benefit decision when a modified applicable amount is payable (income-based jobseeker's allowance)

15.—(1) Where a reduced benefit decision is given or is in operation at a time when an income-based jobseeker's allowance is payable to, or in respect of, the parent concerned but that parent's applicable amount falls to be calculated under the provisions mentioned in paragraph (4), that reduced benefit decision shall be suspended for so long as the applicable amount falls to be calculated under those provisions, or 52 weeks, whichever is the shorter.

(2) Where a reduced benefit decision is given or is in operation at a time when an income-based jobseeker's allowance is payable to, or in respect of, the parent concerned but that parent's applicable amount includes a residential allowance under regulation 83(c) of, and paragraph 3 of Schedule 1 to, the Jobseeker's Allowance Regulations (persons in residential care or nursing homes)(20), that reduced benefit decision shall be suspended for so long as the applicable amount includes such a residential allowance, or 52 weeks, whichever is the shorter.

(3) Where a case falls within paragraph (1) or (2) and a reduced benefit decision has been suspended for 52 weeks, it shall cease to be in force.

(4) The provisions of paragraph (1) shall apply where the applicable amount in relation to the parent concerned falls to be calculated under—

- (a) regulation 85 of, and paragraph 1 or 2 of Schedule 4 to, the Jobseeker's Allowance Regulations (patients)(21);
- (b) regulation 85 of, and paragraphs 8, 9 or 15 of Schedule 4 to, the Jobseeker's Allowance Regulations (persons in residential accommodation)(22); or
- (c) regulation 86 of, and Schedule 3 to, the Jobseeker's Allowance Regulations (applicable amounts for persons in residential care and nursing homes)(23).

Termination of a reduced benefit decision

16. A reduced benefit decision shall cease to be in force—

- (a) where the parent concerned—
 - (i) withdraws that parent's request under Article 9(5) of the Order;
 - (ii) complies with that parent's obligation under Article 9(7) of the Order, or
 - (iii) consents to take a scientific test (within the meaning of Article 27A of the Order)(24));
- (b) where following written notice under Article 43(6)(b) of the Order, the parent concerned responds to such notice and the Department considers there are reasonable grounds; or
- (c) subject to regulation 13, where relevant benefit ceases to be payable to, or in respect of, the parent concerned.

(19) Paragraph 10B was inserted by S.R. 1988 No. 146 and amended by S.R. 1988 No. 318, S.R. 1989 No. 139, S.R. 1990 No. 131, S.R. 1993 No. 149 and S.R. 2000 No. 38. Paragraph 10C was inserted by S.R. 1988 No. 431 and amended by S.R. 1990 No. 131, S.R. 1993 No. 149, S.R. 1996 No. 288 and S.R. 2000 No. 38

(20) Paragraph 3 was amended by S.R. 1997 No. 412 and S.R. 2000 No. 38

(21) Regulation 85 was amended by S.R. 1996 Nos. 356 and 503, S.R. 1997 No. 130, S.R. 1998 No. 81, S.R. 2000 Nos. 71 and 125 and paragraphs 1 and 2 of Schedule 4 were amended by S.R. 2000 No. 38

(22) Paragraphs 8 and 9 were amended by S.R. 2000 No. 38

(23) Schedule 3 was amended by S.R. 1998 No. 2, S.R. 1999 No. 428 (C.32) and S.R. 2000 No. 38

(24) Article 27A was inserted by Article 14 of the Child Support (Northern Ireland) Order 1995 and is amended by paragraph 18 of Schedule 3 to, and paragraph 5 of Schedule 8 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

Reduced benefit decisions where there is an additional qualifying child

17.—(1) Where a reduced benefit decision is in operation, or would be in operation but for the provisions of regulations 14 and 15, and the Department gives a further reduced benefit decision with respect to the same parent concerned in relation to an additional qualifying child of whom that parent is a parent with care, the earlier reduced benefit decision shall cease to be in force.

(2) Where a further reduced benefit decision comes into operation in a case falling within paragraph (1), the provisions of regulation 11 shall apply to it.

(3) Where—

- (a) a reduced benefit decision (“the earlier decision”) has ceased to be in force by virtue of regulation 13(2); and
- (b) the Department gives a further reduced benefit decision (“the further decision”) with respect to the same parent concerned where that parent falls within Article 43(1) of the Order,

as long as the further decision remains in force, no additional reduced benefit decision shall be brought into force with respect to that parent in relation to one or more children to whom the earlier decision was given.

(4) Where a case falls within paragraph (1) or (3) and the further decision, but for the provisions of this paragraph, would cease to be in force by virtue of the provisions of regulation 16, but the earlier decision would not have ceased to be in force by virtue of the provisions of regulation 16, the further reduced benefit decision shall remain in force for a period calculated in accordance with regulation 11.

(5) In this regulation “additional qualifying child” means a qualifying child of whom the parent concerned is a parent with care and who was either not such a qualifying child at the time the earlier decision was given or had not been born at the time the earlier decision was given.

Suspension and termination of a reduced benefit decision where the sole qualifying child ceases to be a child or where the parent concerned ceases to be a person with care

18.—(1) Where a reduced benefit decision is in operation and—

- (a) there is, in relation to that decision, only one qualifying child, and that child ceases to be a child within the meaning of the Order; or
- (b) the parent concerned ceases to be a person with care,

the decision shall be suspended from the last day of the benefit week during the course of which the child ceases to be a child within the meaning of the Order, or the parent concerned ceases to be a person with care, as the case may be.

(2) Where, under the provisions of paragraph (1), a decision has been suspended for a period of 52 weeks and no relevant benefit is payable at that time, it shall cease to be in force.

(3) If during the period specified in paragraph (2) the former child again becomes a child within the meaning of the Order or the parent concerned again becomes a person with care and relevant benefit is payable to, or in respect of, that parent, a reduction in the amount of that benefit shall be made in accordance with the provisions of regulation 13(3) to (6).

Notice of termination of a reduced benefit decision

19. Where a reduced benefit decision ceases to be in force under the provisions of regulation 16, 17 or 18 the Department shall serve notice of this on the parent concerned and shall specify the date on which the reduced benefit decision ceases to be in force.

Rounding provisions

20. Where any calculation made under this Part results in a fraction of a penny, that fraction shall be treated as a penny if it exceeds one half and shall otherwise be disregarded.

Part V

Miscellaneous Provisions

Persons who are not persons with care

21.—(1) For the purposes of the Order the following categories of person shall not be persons with care—

- (a) an authority;
- (b) a person with whom a child who is looked after by an authority is placed by that authority under the provisions of the Children Order, except where that person is a parent of such a child and the authority allow the child to live with that parent under Article 27(5) of that Order.

(2) In paragraph (1)—

“an authority” has the same meaning as in Article 2 of the Children Order;

“a child who is looked after by an authority” has the same meaning as in Article 27(5) of the Children Order.

Authorisation of representative

22.—(1) A person may authorise a representative, whether or not legally qualified, to receive notices and other documents on his behalf and to act on his behalf in relation to the making of applications and the supply of information under any provisions of the Order or these Regulations.

(2) Where a person has authorised a representative for the purposes of paragraph (1) who is not legally qualified, he shall confirm that authorisation in writing to the Department.

Part VI

Notifications Following Certain Decisions

Notification of a maintenance calculation

23.—(1) A notification of a maintenance calculation made under Article 13 or 14(2) of the Order⁽²⁵⁾ (interim maintenance decision) shall set out, in relation to the maintenance calculation in question—

- (a) the effective date of the maintenance calculation;
- (b) where relevant, the non-resident parent’s net weekly income;
- (c) the number of qualifying children;
- (d) the number of relevant other children;
- (e) the weekly rate;

(25) Articles 13 and 14 are substituted respectively by sections 1(1) and 4 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

- (f) the amounts calculated in accordance with Part I of Schedule 1 to the Order and, where there has been agreement to a variation or a variation has otherwise been taken into account, the Child Support (Variations) Regulations (Northern Ireland) 2001⁽²⁶⁾;
- (g) where the weekly rate is adjusted by apportionment or shared care, or both, the amount calculated in accordance with paragraph 6, 7 or 8, as the case may be, of Part I of Schedule 1 to the Order; and
- (h) where the amount of child support maintenance which the non-resident parent is liable to pay is decreased in accordance with regulation 9 or 11 of the Maintenance Calculations and Special Cases Regulations (care provided in part by an authority and non-resident parent liable to pay maintenance under a maintenance order), the adjustment calculated in accordance with that regulation.

(2) A notification of a maintenance calculation made under Article 14(1) of the Order (default maintenance decision) shall set out the effective date of the maintenance calculation, the default rate, the number of qualifying children on which the rate is based, whether any apportionment has been applied under regulation 7 and shall state the nature of the information required to enable a decision under Article 13 of the Order to be made by way of Article 18 of the Order.

(3) Except where a person gives written permission to the Department that the information in relation to him, mentioned in sub-paragraphs (a) and (b), may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the officer concerned who is exercising functions of the Department under the Order) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

(4) Where a decision as to a maintenance calculation is made under Article 13 or 14 of the Order, a notification under paragraph (1) or (2) shall include information as to the provisions of Articles 18, 19 and 22 of the Order⁽²⁷⁾.

Part VII

Effective Dates of Maintenance Calculations

Effective dates of maintenance calculations

24.—(1) Subject to regulations 25 to 28, where no maintenance calculation is in force with respect to the person with care or the non-resident parent, the effective date of a maintenance calculation following an application made under Article 7 of the Order⁽²⁸⁾, or treated as made under Article 9(3) of the Order⁽²⁹⁾, as the case may be, shall be the date determined in accordance with paragraphs (2) to (4).

(2) Where the application for a maintenance calculation is made under Article 7 of the Order by a non-resident parent, the effective date of the maintenance calculation shall be the date that an effective application is made or treated as made under regulation 3.

(3) Where the application for a maintenance calculation is—

⁽²⁶⁾ S.R. 2001 No. 20

⁽²⁷⁾ Article 22 is substituted by section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

⁽²⁸⁾ Article 7 was amended by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and section 2 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

⁽²⁹⁾ Article 9 is substituted by section 3 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

- (a) made under Article 7 of the Order by a person with care; or
- (b) treated as made under Article 9(3) of the Order,

the effective date of the maintenance calculation shall be the date of notification to the non-resident parent.

(4) For the purposes of this regulation, where the Department is satisfied that a non-resident parent has intentionally avoided receipt of a notice of a maintenance application it may determine the date of notification to the non-resident parent as the date on which the notification would have been given to him but for such avoidance.

(5) Where in relation to a decision made under Article 13 of the Order a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Order⁽³⁰⁾ applies, the effective date of the calculation shall be the beginning of the maintenance period in which the change of circumstance to which the calculation relates occurred or is expected to occur.

Effective dates of maintenance calculations — maintenance order and application under Article 7

25.—(1) This regulation applies, subject to regulation 27, where—

- (a) no maintenance calculation is in force with respect to the person with care or the non-resident parent;
- (b) an application for a maintenance calculation is made under Article 7 of the Order; and
- (c) there is a maintenance order in force, made on or after the date prescribed for the purposes of Article 7(10)(a) of the Order⁽³¹⁾, in relation to the person with care and the non-resident parent and that order has been in force for at least one year prior to the date the application for a maintenance calculation is made.

(2) The effective date of the maintenance calculation shall be 2 months and 2 days after the application is made.

Effective dates of maintenance calculations — maintenance order and application under Article 9

26.—(1) This regulation applies, subject to regulation 27, where—

- (a) the circumstances set out in regulation 25(1)(a) apply;
- (b) an application for a maintenance calculation is treated as made under Article 9(3) of the Order; and
- (c) there is a maintenance order in force in relation to the person with care and the non-resident parent.

(2) The effective date of the maintenance calculation shall be 2 days after the maintenance calculation is made.

Effective dates of maintenance calculations — maintenance order ceases

27. Where—

- (a) a maintenance calculation is made; and
- (b) there was a maintenance order in force in relation to the person with care and the non-resident parent which ceased to have effect after the date on which the application for

⁽³⁰⁾ Paragraph 15 was amended by paragraph 32(4) of Schedule 6 to the Social Security (Northern Ireland) Order 1998

⁽³¹⁾ Paragraph (10) was inserted by Article 12(1) of the Child Support (Northern Ireland) Order 1995 and sub-paragraph (a) is amended by section 2(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

the maintenance calculation was made but before the effective date provided for in regulation 24 or 25 as the case may be,

the effective date of the maintenance calculation shall be the day following that on which the maintenance order ceased to have effect.

Effective dates of maintenance calculations in specified cases

28. Where an application for a maintenance calculation is made under Article 7 of the Order, or treated as made under Article 9(3) of the Order—

- (a) except where the parent with care has made a request under Article 9(5) of the Order, where in the period of 8 weeks immediately preceding the date the application is made, or treated as made under regulation 3, there has been in force a maintenance calculation in respect of the same non-resident parent and child but a different person with care, the effective date of the maintenance calculation made in respect of the application shall be the day following the day on which the previous maintenance calculation ceased to have effect;
- (b) where a maintenance calculation (“the existing calculation”) is in force with respect to the person who is the person with care in relation to the application but who is the non-resident parent in relation to the existing calculation, the effective date of the calculation shall be a date not later than 7 days after the date of notification to the non-resident parent which is the day on which a maintenance period in respect of the existing calculation begins.

Part VIII

Revocation, Savings and Transitional Provisions

Revocation and savings

29.—(1) Subject to paragraph (2), the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(**32**) shall be revoked with respect to a particular case with effect from the date that these Regulations come into operation with respect to that type of case (“the commencement date”).

(2) Subject to regulation 30(2), where before the commencement date in respect of a particular case—

- (a) an application was made and not determined for—
 - (i) a maintenance assessment;
 - (ii) a departure direction, or
 - (iii) a revision or supersession of a decision;
- (b) the Department had begun but not completed a revision or supersession of a decision on its own initiative;
- (c) any time limit provided for in Regulations for making an application for a revision or a departure direction had not expired; or
- (d) any appeal was made but not decided or any time limit for making an appeal had not expired,

the provisions of the Maintenance Assessment Procedure Regulations shall continue to apply for the purposes of—

- (aa) the decision on the application referred to in sub-paragraph (a);

- (bb) the revision or supersession referred to in sub-paragraph (b);
- (cc) the ability to apply for the revision or the departure direction referred to in sub-paragraph (c) and the decision whether to revise or to give a departure direction following any such application;
- (dd) any appeal outstanding or made during the time limit referred to in sub-paragraph (d); or
- (ee) any revision, supersession, appeal or application for a departure direction in relation to a decision, ability to apply or appeal referred to in sub-paragraphs (aa) to (dd).

(3) Where immediately before the commencement date in respect of a particular case an interim maintenance assessment was in force, the provisions of the Maintenance Assessment Procedure Regulations shall continue to apply for the purposes of the decision under Article 19 of the Order to make a maintenance assessment calculated in accordance with Part I of Schedule 1 to the Order before its amendment by the Act and any revision, supersession or appeal in relation to that decision.

(4) Where after the commencement date a maintenance assessment is revised, cancelled or ceases to have effect from a date which is prior to the commencement date, the Maintenance Assessment Procedure Regulations shall apply for the purposes of that cancellation or cessation.

(5) Where under regulation 28(1) of the Child Support (Transitional Provisions) Regulations (Northern Ireland) 2001⁽³³⁾ an application for a maintenance calculation is treated as an application for a maintenance assessment, the provisions of the Maintenance Assessment Procedure Regulations shall continue to apply for the purposes of the determination of the application and any revision, supersession or appeal in relation to any such assessment made.

(6) For the purposes of this regulation—

- (a) “departure direction,” “maintenance assessment” and “interim maintenance assessment” have the same meaning as in Article 2(2) of the Order⁽³⁴⁾ before its amendment by the Act;
- (b) “revision or supersession” means a revision or supersession of a decision under Article 18 or 19 of the Order⁽³⁵⁾ before their amendment by the Act.

(7) For the purposes of this regulation and regulation 30 “Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992.

Transitional provision — effective dates and reduced benefit decisions

30.—(1) Where a maintenance assessment is in force with respect to a non-resident parent or a parent with care and an application for a maintenance calculation is made to which regulation 28 applies, that regulation shall apply as if references to a maintenance calculation in force were to a maintenance assessment in force.

(2) Where—

- (a) the application for a maintenance assessment was made before the date prescribed for the purposes of Article 7(10)(a) of the Order; and
- (b) the effective date of the maintenance assessment, if it were a maintenance assessment to which the Maintenance Assessment Procedure Regulations applied (“the assessment effective date”) would be later than the effective date provided for in these Regulations,

the application shall be treated as an application for a maintenance calculation and the effective date of that maintenance calculation shall be the assessment effective date.

⁽³³⁾ S.R. 2001 No. 19

⁽³⁴⁾ The definition of “departure direction” was inserted by paragraph 2 of Schedule 3 to the Child Support (Northern Ireland) Order 1995

⁽³⁵⁾ Articles 18 and 19 were substituted respectively by Articles 40 and 41 of the Social Security (Northern Ireland) Order 1998

(3) Paragraphs (4) to (7) shall apply where, on or before the commencement date, Article 9 of the former Order(36) applied to the parent with care.

(4) Where a maintenance assessment was made with an effective date, applying the Maintenance Assessment Procedure Regulations, or the Maintenance Arrangements and Jurisdiction Regulations, which is before the prescribed date and on or after the commencement date the parent with care notifies the Department that, that parent is withdrawing that parent’s authorisation under Article 9(1) of the former Order, these Regulations shall apply as if the notification were a request not to act under Article 9(5) of the Order.

(5) Where a maintenance assessment was not made because Article 9(2) of the former Order applied, these Regulations shall apply as if Article 9(5) of the Order applied.

(6) Where a maintenance assessment was not made, Article 9(2) of the former Order did not apply and a reduced benefit direction was given under Article 43(5) of the former Order(37), these Regulations shall apply as if the reduced benefit direction were a reduced benefit decision made under Article 43(5) of the Order, from the same date and with the same effect as the reduced benefit direction.

(7) Where a maintenance assessment was not made, the parent with care failed to comply with a requirement imposed on that parent with care under Article 9(1) of the former Order and the Department was in the process of serving a notice or considering reasons given by the parent with care under Article 43(2) or (3) of the former Order, these Regulations shall apply as if the Department was in the process of serving a notice or considering reasons under Article 43(2) or (3) of the Order.

(8) For the purposes of this regulation—

“commencement date” means with respect to a particular case the date these Regulations come into operation with respect to that type of case;

“former Order” means the Order before its amendment by the Act;

“Maintenance Arrangements and Jurisdiction Regulations” means the Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(38);

“maintenance assessment” has the meaning given in the former Order; and

“prescribed date” means the date prescribed for the purposes of Article 7(10)(a) of the Order.

(9) In the application of the Maintenance Assessment Procedure Regulations for the purposes of paragraph (4) where, on or after the prescribed date, no maintenance enquiry form, as defined in those Regulations, is given or sent to the absent parent, the Regulations shall be applied as if references in regulation 29 of those Regulations (effective dates of maintenance assessments)(39)—

(a) to the date when the maintenance enquiry form was given or sent to the absent parent were to the date of notification to the non-resident parent;

(b) to the return by the absent parent of the maintenance enquiry form containing his name, address and written confirmation that he is the parent of the child or children in respect of whom the application was made were to the provision of this information by the non-resident parent.

(10) In the application of the Maintenance Arrangements and Jurisdiction Regulations for the purposes of paragraph (4), where, on or after the prescribed date no maintenance enquiry form, as defined in the Maintenance Assessment Procedure Regulations, is given or sent to the absent parent, regulation 3(7) of the Maintenance Arrangements and Jurisdiction Regulations (relationship

(36) Article 9 was amended by paragraph 4(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), Schedule 6 to the Tax Credits Act 1999 (c. 10) and Schedule 7 to the Social Security (Northern Ireland) Order 1998

(37) Article 43(5) was amended by paragraph 10 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 and paragraph 28(3) of Schedule 6 to the Social Security (Northern Ireland) Order 1998

(38) S.R. 1992 No. 466

(39) Regulation 29 was amended by regulation 4(5) of S.R. 1995 No. 19, regulation 8(10) of S.R. 1995 No. 162, regulation 3(18) of S.R. 1995 No. 475 and regulation 2(13) of S.R. 1999 No. 167

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between maintenance assessments and certain court orders)(40) shall be applied as if the reference to the date when the maintenance enquiry form was given or sent were a reference to the date of notification to the non-resident parent.

Sealed with the Official Seal of the Department for Social Development on 23rd January 2001.

L.S.

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