
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 20

The Child Support (Variations)
Regulations (Northern Ireland) 2001

Part II

Application and Determination Procedure

Prescribed circumstances

7.—(1) This regulation applies where an application for a variation is made under Article 28G of the Order and—

- (a) the application is made by a relevant person and a circumstance set out in paragraph (2) applies at the relevant date;
- (b) the application is made by a non-resident parent and a circumstance set out in paragraph (3) or (4) applies at the relevant date;
- (c) the application is made by a person with care, on a ground in paragraph 4 of Schedule 4B to the Order (additional cases) and a circumstance set out in paragraph (5) applies at the relevant date; or
- (d) the application is made by a non-resident parent on a ground in paragraph 2 of Schedule 4B to the Order (special expenses) and a circumstance set out in paragraph (6) applies at the relevant date.

(2) The circumstances for the purposes of this paragraph are that—

- (a) a default maintenance decision is in force with respect to the non-resident parent;
- (b) the non-resident parent is liable to pay the flat rate of child support maintenance owing to the application of paragraph 4(1)(c) of Schedule 1 to the Order, or would be so liable but is liable to pay less than that amount, or nil, owing to the application of paragraph 8 of Schedule 1 to the Order, or the Transitional Regulations; or
- (c) the non-resident parent is liable to pay child support maintenance at a flat rate of a prescribed amount owing to the application of paragraph 4(2) of Schedule 1 to the Order, or would be so liable but is liable to pay less than that amount, or nil, owing to the application of paragraph 8 of Schedule 1 to the Order, or the Transitional Regulations.

(3) The circumstances for the purposes of this paragraph are that the non-resident parent is liable to pay child support maintenance —

- (a) at the nil rate owing to the application of paragraph 5 of Schedule 1 to the Order;
- (b) at a flat rate owing to the application of paragraph 4(1)(a) of Schedule 1 to the Order, including where the net weekly income of the non-resident parent which is taken into account for the purposes of a maintenance calculation in force in respect of him is £100 per week or less owing to a variation being taken into account or to the application of regulation 18, 19 or 21 of the Transitional Regulations (reduction for relevant departure direction or relevant property transfer); or

- (c) at a flat rate owing to the application of paragraph 4(1)(b) of Schedule 1 to the Order, or would be so liable but is liable to pay less than that amount, or nil, owing to the application of paragraph 8 of Schedule 1 to the Order, or the Transitional Regulations.
- (4) The circumstances for the purposes of this paragraph are that the non-resident parent is liable to pay an amount of child support maintenance at a rate—
- (a) of £5 per week or such other amount as may be prescribed owing to the application of paragraph 7(7) of Schedule 1 to the Order (shared care); or
 - (b) equivalent to the flat rate provided for in, or prescribed for the purposes of, paragraph 4(1)(b) of Schedule 1 to the Order owing to the application of—
 - (i) regulation 27(5);
 - (ii) regulation 9 of the Maintenance Calculations and Special Cases Regulations (care provided in part by an authority), or
 - (iii) regulation 23(5) of the Transitional Regulations (effect of relevant departure direction on conversion calculation—general).
- (5) The circumstances for the purposes of this paragraph are that—
- (a) the amount of the net weekly income of the non-resident parent to which the Department had regard when making the maintenance calculation was the capped amount; or
 - (b) the non-resident parent or a partner of his is in receipt of working families' tax credit (as defined in section 127 of the Contributions and Benefits Act(1)) or disabled person's tax credit (as defined in section 128 of that Act(2)) and for this purpose “partner” has the same meaning as in paragraph 10C(4) of Schedule 1 to the Order.
- (6) The circumstances for the purposes of this paragraph are that the amount of the net weekly income of the non-resident parent to which the Department would have regard after deducting the amount of the special expenses would exceed the capped amount.
- (7) For the purposes of paragraph (1), the “relevant date” means the date from which, if the variation were agreed, the decision under Article 18 or 19 of the Order, as the case may be, would take effect.

(1) Section 127 was amended by paragraph 16 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I.1995/2705 (N.I. 15)) and section 1(2) of, and paragraph 4 of Schedule 1 to, the Tax Credits Act 1999 (c. 10)

(2) Section 128 was amended by Article 12(2) of, and paragraph 32 of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), paragraph 17 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 and section 1(2) and 14(4) of, and paragraph 4(h) of Schedule 1 to, the Tax Credits Act 1999