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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 133**

**FAMILY LAW**

**CHILD SUPPORT**

**The Child Support and Social Security (Miscellaneous  
Amendments) Regulations (Northern Ireland) 2009**

*Made - - - - 25th March 2009*

*Coming into operation in accordance with regulation 1*

*Approved by resolution of the Assembly on 1st June 2009*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 3(1)(c), 16(1), 19(3) and (5), 28J(3), 46(1A) and (1C)(b), 47(1) and (2)(a), (b) and (f) and 48(2) of, and paragraphs 5(a), 5(1) and (2), 6(4) and 9(d) of Schedule 1, and paragraphs 4(1) and 5(1) of Schedule 4B to, the Child Support (Northern Ireland) Order 1991(1), and now vested in it(2), and section 38(2) of the Child Maintenance Act (Northern Ireland) 2008(3).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009 and, subject to paragraph (2), shall come into operation on 6th April 2009.

(2) Regulation 6(3), (4)(a) and (b)(iii), (5), (8) and (9) shall come into operation, for the purposes of any type of case which is not one in relation to which 3rd March 2003 is the day appointed for the coming into operation of sections 8, 9 and 10 of the Child Support, Pensions and Social Security Act

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(1) *S.I. 1991/2628(N.I. 23)*. Article 16(1) was amended by section 12 of, and paragraph 16 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 c. 4 (N.I.) (“the 2000 Act”) and Schedule 5 to the Child Maintenance Act (Northern Ireland) 2008 c. 10 (N.I.) (“the 2008 Act”). Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) (“the 1998 Order”). Article 28J was inserted by the 2008 Act. Article 47(2)(b) was amended by paragraph 31(b) of Schedule 6 to the 1998 Order and is substituted by paragraph 27(b) of Schedule 3 to the 2000 Act for certain cases only. Article 48(2), in so far as it relates to cases for which the amendments in the 2000 Act have not been commenced, was amended by paragraph 13 of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) (“the 1995 Order”) and Schedule 5 to the 2008 Act. In so far as it relates to cases for which the amendments in the 2000 Act have been commenced, it was amended by Schedule 5 to the 2008 Act. Paragraph 5(a) of Schedule 1 is part of that Schedule so substituted by section 1(3) of, and Schedule 1 to, the 2000 Act and is operative for certain cases only. Paragraphs 5(1) and (2), 6(4) and 9(d) of Schedule 1 are of that part of Schedule 1 which has not been substituted by section 1(3) of the 2000 Act. Schedule 4B was inserted by Article 3(3) of, and Schedule 2 to, the 1995 Order, and paragraph 5(1) of that Schedule is the authority for the amendments in regulation 5 of these Regulations. Schedule 4B was substituted by section 6 of, and Schedule 2 to, the 2000 Act for certain cases only, and paragraph 4(1) of Schedule 4B as so substituted is the authority used for the amendments in regulation 8 of these Regulations

(2) *See* Article 8(b) of S.R. 1999 No. 481

(3) *2008 c. 10 (N.I.)*

**Status:** Point in time view as at 10/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009. (See end of Document for details)

(Northern Ireland) 2000(4), on the day on which those provisions come into operation in relation to that type of case.

**Commencement Information**

**I1** Reg. 1 in operation at 6.4.2009, see [reg. 1\(1\)](#)

**Amendment of the Child Support (Maintenance Assessment Procedure) Regulations**

**F12.** .....

**Textual Amendments**

**F1** [Reg. 2](#) revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), [Sch.](#); S.R. 2012/440, art. 2(1)(b)

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

**F23.** .....

**Textual Amendments**

**F2** [Reg. 3](#) revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), [Sch.](#); S.R. 2012/440, art. 2(1)(b)

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

**F34.** .....

**Textual Amendments**

**F3** [Reg. 4](#) revoked (25.1.2010) by [The Child Support \(Management of Payments and Arrears\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/422\)](#), reg. 1, [Sch.](#)

**Amendment of the Child Support Departure Direction and Consequential Amendments Regulations**

**F45.** .....

**Textual Amendments**

- F4** Reg. 5 revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), **Sch.**; S.R. 2012/440, art. 2(1)(b)

**Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations**

6.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999<sup>(5)</sup> are amended as follows.

- F<sup>5</sup>(2) .....
- F<sup>5</sup>(3) .....
- F<sup>5</sup>(4) .....
- F<sup>5</sup>(5) .....
- F<sup>5</sup>(6) .....

(7) Omit regulation 15D<sup>(6)</sup> (procedure in relation to the adjustment of the amount payable under a maintenance calculation).

- F<sup>6</sup>(8) .....
- F<sup>7</sup>(9) .....

**Textual Amendments**

- F5** Reg. 6(2)-(6) revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), **Sch.**; S.R. 2012/440, art. 2(1)(b)
- F6** Reg. 6(8) revoked (25.1.2010) by [The Child Support \(Management of Payments and Arrears\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/422\)](#), reg. 1, **Sch.**
- F7** Reg. 6(9) revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), **Sch.**; S.R. 2012/440, art. 2(1)(b)

**Commencement Information**

- I2** Reg. 6(1)(2)(4)(b)(i)(ii)(6)(7) in operation at 6.4.2009, see **reg. 1(1)**
- I3** Reg. 6(3)(4)(a)(b)(iii)(5)(8)(9) comes into operation in accordance with reg. 1(2)

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

- F<sup>8</sup>7. ....

(5) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2001 No. 23, S.R. 2002 No. 164, S.R. 2003 Nos. 84 and 224, S.R. 2004 No. 428 and S.R. 2008 Nos. 286 and 404  
(6) Regulation 15D was inserted by regulation 2(9) of S.R. 2001 No. 23

**Status:** Point in time view as at 10/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009. (See end of Document for details)

**Textual Amendments**

**F8** Reg. 7 revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), **Sch.**; S.R. 2012/440, art. 2(1)(b)

**Amendment of the Child Support (Variations) Regulations**

**F9** 8. ....

**Textual Amendments**

**F9** Reg. 8 revoked (coming into operation in accordance with reg. 1(1)(c) of the amending Rule) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/438\)](#), reg. 1(1)(c), **Sch.**; S.R. 2012/440, art. 2(1)(b)

**Amendment of the Child Support Information Regulations**

**9.** In regulation 14 of the Child Support Information Regulations (Northern Ireland) 2008(7) (employment to which Article 46 of the Order applies), for the words from “Article 46” to “that Article” substitute “For the purposes of Article 46(1C) of the Order, the following kinds of employment are prescribed as kinds of employment to which Article 46(1B) of the Order applies”.

**Commencement Information**

**I4** Reg. 9 in operation at 6.4.2009, see [reg. 1\(1\)](#)

**Revocations**

**10.** The statutory provisions specified in Schedule 2 are revoked to the extent specified there.

**Commencement Information**

**I5** Reg. 10 in operation at 6.4.2009, see [reg. 1\(1\)](#)

Sealed with the Official Seal of the Department for Social Development on 25th March 2009

(L.S.)

*John O'Neill*  
A senior officer of the Department for Social  
Development

**Status:** Point in time view as at 10/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the *The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009*. (See end of Document for details)

## SCHEDULE 1

Regulation 6(9)

### Commencement Information

**I6** Sch. 1 comes into operation in accordance with reg. 1(2)

## “SCHEDULE 2D

Regulation 7B

### Effective dates for supersession of Child Support Decisions

1. This Schedule sets out the exceptions to the general rule in Article 19(4) of the Child Support Order (that is the rule that a supersession decision takes effect from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which an application for a supersession is made).

#### **Expected change**

2. Where the ground for the supersession decision is that a relevant change of circumstances is expected to occur or that a ground for a variation is expected to occur, the decision takes effect from the beginning of the maintenance period in which that change or that ground is expected to occur.

#### **Decision backdated to when the change occurred**

3. Where the ground for the supersession decision is that a relevant change of circumstances of the following kind has occurred, the decision takes effect from the beginning of the maintenance period in which the change occurred—

- (a) a qualifying child dies or ceases to be a qualifying child;
- (b) the person with care ceases to be a person with care in relation to a qualifying child;
- (c) the person with care, the non-resident parent or a qualifying child ceases to be habitually resident in the United Kingdom; or
- (d) paragraph 4(2) of Schedule 1 to the Child Support Order begins or ceases to apply.

#### **Non-resident parent or partner on or off benefit**

4. Where a supersession decision is made by the Department acting on its own initiative on the basis of information or evidence which was also the basis of a decision made by it under Articles 9, 10 or 11 of the Order, the decision takes effect from the beginning of the maintenance period in which that information is brought to the attention of the Department.

#### **New qualifying child**

5. Paragraphs 6 and 7 apply where the ground for the supersession is that there is a new qualifying child in relation to the non-resident parent.

6. Where there is a new qualifying child in relation to the same person with care—

- (a) if the application is made by the non-resident parent, the decision takes effect from the beginning of the maintenance period in which the application is made; and
- (b) if the application is made by the person with care the decision takes effect from the beginning of the maintenance period in which notification of the application is given to the non-resident parent.

**Status:** Point in time view as at 10/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009. (See end of Document for details)

7. Where there is a new qualifying child in relation to a different person with care and an application for a maintenance calculation has been made under Article 7 of the Child Support Order, the decision takes effect from the beginning of the maintenance period in which notification of the calculation is given to the non-resident parent.

#### **Series of changes waiting to be actioned**

8. Where a decision is superseded on application and, in relation to that decision, a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Order applies, the effective date of the calculation or calculations is the beginning of the maintenance period in which the change of circumstances to which the calculation relates occurred or is expected to occur and where it occurred before the date of the application for the supersession and was notified after that date, the date of that application.

#### **Own initiative decision**

9. Unless paragraph 4 applies, where a decision is superseded in a case where the Department is required to give notice under regulation 7C, the decision takes effect from the first day of the maintenance period which includes the date which is 28 days after the date on which the Department has given notice (oral or written) to the relevant persons under that regulation.

#### **Supersession of tribunal decision made pending outcome of a related appeal**

10. Where, in accordance with Article 28ZB(5) of the Child Support Order, the Department makes a decision superseding the decision of the appeal tribunal or the Child Support Commissioner, the superseding decision takes effect from the beginning of the maintenance period following the date on which the decision of the appeal tribunal or, as the case may be, the Child Support Commissioner would have taken effect had it been decided in accordance with the determination of the Child Support Commissioner or the court in the appeal referred to in Article 28ZB(1)(b) of the Child Support Order.

#### **Supersession of tribunal decision made in error due to misrepresentation etc.**

11. Where—

- (a) a decision made by the appeal tribunal or the Child Support Commissioner is superseded on the ground that it was erroneous due to misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the Department is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

the superseding decision takes effect from the date on which the decision of the appeal tribunal or, as the case may be, the Child Support Commissioner took, or was to take, effect.

#### **Supersession of look alike case where law reinterpreted by the Child Support Commissioner or a court**

12. Any decision made under Article 19 of the Child Support Order in consequence of a determination which is a relevant determination for the purposes of Article 28ZC of that Order takes effect from the date of the relevant determination.”

**Status:** Point in time view as at 10/12/2012.**Changes to legislation:** There are currently no known outstanding effects for the The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009. (See end of Document for details)

## SCHEDULE 2

Regulation 10

## Revocations

**Commencement Information****I7** Sch. 2 in operation at 6.4.2009, see **reg. 1(1)**

<i>Citation</i>	<i>S.R. Number</i>	<i>Extent of revocation</i>
The Social Security and Child Support (Jobseeker's Allowance)(Consequential Amendments) Regulations (Northern Ireland) 1996	<a href="#">S.R. 1996 No. 289</a>	Regulation 20(11)
The Child Support (Collection and Enforcement and Miscellaneous Amendments) Regulations (Northern Ireland) 2001	<a href="#">S.R. 2001 No. 15</a>	Regulation 2(10)(c)(i)
The Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2002	<a href="#">S.R. 2002 No. 164</a>	Regulation 6(4)(a)
The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2003	<a href="#">S.R. 2003 No. 84</a>	Regulation 7
The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003	<a href="#">S.R. 2003 No. 191</a>	Regulation 33(4)
The Social Security and Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2003	<a href="#">S.R. 2003 No. 224</a>	Regulation 3(5) and (7)
The Social Security (Hospital In-Patients and Miscellaneous	<a href="#">S.R. 2003 No. 261</a>	Regulation 6

<i>Citation</i>	<i>S.R. Number</i>	<i>Extent of revocation</i>
Amendments) Regulations (Northern Ireland) 2003		
The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2005	<a href="#">S.R. 2005 No. 125</a>	Regulation 6(3)
The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008	<a href="#">S.R. 2008 No. 286</a>	Regulation 22(6)
The Child Support (Consequential Provisions) Regulations (Northern Ireland) 2008	<a href="#">S.R. 2008 No. 404</a>	Regulation 4(3)(b)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The powers exercised to make these Regulations are those contained in the Child Support (Northern Ireland) Order 1991 (“the Order”) and the Child Maintenance Act (Northern Ireland) 2008 (“the 2008 Act”). Some of the powers exercised from the Order have been inserted by the 2008 Act. Some of the powers are conferred by provisions of the Order prior to the amendments made to it by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (“the 2000 Act”), some of which amendments are not fully in operation, and relate to the child support scheme which was in operation prior to 3 March 2003, and which remains in operation for the purposes of certain cases (“the old scheme”). Other powers are conferred by provisions of the Order as amended by the 2000 Act, which relate to the child support scheme provided for by those amendments, which came into operation for the purposes of specified categories of cases on 3 March 2003 (*see* the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 9) Order (Northern Ireland) 2003) (“the new scheme”).

Regulation 2 amends the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 by including, in Schedule 1 of those Regulations, a reference to income-related employment and support allowance, which was introduced by Part 1 of the Welfare Reform Act (Northern Ireland) 2007. The definition of the now obsolete Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992 is also removed from regulation 1.

**Status:** Point in time view as at 10/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the *The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009*. (See end of Document for details)

Regulation 3 amends the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992 (“the Maintenance Assessments and Special Cases Regulations”) and makes the following amendments to old scheme cases.

Paragraph (2) inserts definitions for “pensionable age” and “qualifying age for state pension credit” into regulation 1.

Paragraphs (3) and (4) amend regulations 9 and 18, replacing the references to age 60 with references to the qualifying age for state pension credit. The Pensions (Northern Ireland) Order 1995 allows for the eventual equalisation of state pension age between men and women. The amendments to regulations 9 and 18 reflect that equalisation.

Paragraph (5) inserts a new paragraph, 15A, into Schedule 2. This new paragraph prescribes, for the purpose of disregarding amounts when calculating parents’ net income, any payment of Return to Work Credit under section 1 of the Employment and Training Act (Northern Ireland) 1950.

Regulation 4 amends the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992. This amendment is necessary as a consequence to the amendment to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”). See the relevant paragraph outlining that amendment below.

Regulation 5 amends the Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996 (“the Departure Direction Regulations”). The regulation substitutes regulation 24 of the Departure Direction Regulations to extend the ground in that regulation for a departure direction for diversion of income to a case where the non-applicant has the ability to control the amount of income which is taken into account as assessable income received from employment or self-employment and dividends from shares, and the Department is satisfied that this is income which would otherwise fall to be taken into account under the Maintenance Assessments and Special Cases Regulations. The amendment affects the old scheme and mirrors the amendment made in regulation 8 of these Regulations (see below) for the new scheme.

Regulation 6 amends the Decisions and Appeals Regulations. The amendment consolidates and simplifies certain provisions in the Decisions and Appeals Regulations relating to revision and supersession of child support decisions. To that end, regulation 6A has been substituted, and a new Schedule, Schedule 2D, replaces regulation 7B, which sets out the exceptions to the general rule in Article 19 of the Order as to the date from which a supersession decision takes effect. Provisions regarding adjustment of amounts payable under a maintenance calculation in relation to voluntary payments and overpayments of child support maintenance have been amended so that Articles 18 and 19 of the Order no longer apply, but the right of appeal is retained.

Regulation 7 amends the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001, (“the Maintenance Calculations and Special Cases Regulations”) by removing from the categories of persons liable for the nil rate of child support maintenance those persons who have been hospital in-patients for 52 weeks or more. This is a result of the revocation of the Social Security (Hospital In-Patients) Regulations 1975 on 10 April 2006 by the Social Security (Hospital In-Patients) Regulations 2005, from which date the benefits of hospital in-patients are no longer down-rated. As a consequence of this change, such persons are no longer subject to the nil rate of child support maintenance.

Regulation 8 amends regulation 19(4) of the Child Support (Variations) Regulations (Northern Ireland) 2001 (“the Variations Regulations”). The amendment extends the ground for a variation for diversion of income to a case where the non-resident parent has the ability to control the amount of income which is taken into account as net weekly income received from employment or self-employment, and the Department is satisfied that this is income which would otherwise fall to be taken into account under the Maintenance Calculations and Special Cases Regulations, or under regulation 19(1A) of the Variations Regulations. A new paragraph, (4A), is inserted after regulation 19(4) to make clear the meaning of net weekly income. These amendments affect the

new scheme and mirror the amendment made in regulation 5 of these Regulations (see above) for the old scheme.

Regulation 9 amends the Child Support Information Regulations (Northern Ireland) 2008. It prescribes the kinds of employment to which the offence for unauthorised disclosure of Article 46(1B) of the Order applies.

**Status:**

Point in time view as at 10/12/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009.