
EXPLANATORY NOTE

(This note is not part of the Regulations)

The powers exercised to make these Regulations are contained in the Child Support (Northern Ireland) Order 1991 (“the Order”). Most of the powers exercised have been inserted into the Order by the Child Maintenance Act (Northern Ireland) 2008 (“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 (Collection and Enforcement) Regulations (Northern Ireland) 1992 (“the Collection and Enforcement Regulations”) by inserting new Parts IIIA to IIID into those Regulations. These Parts provide for regular deduction orders made under Article 32A of the Order, and lump sum deduction orders made under Articles 32E and 32F of the Order. Article 32A was inserted into the Order by section 14 of the 2008 Act, and Articles 32E and 32F were inserted by section 15 of the 2008 Act. Specifically, Regulation 2 inserts thirty new regulations, 25A to 25AD, to the Collection and Enforcement Regulations. The following paragraphs briefly outline the function of each of the new regulations.

Regulation 25A sets out definitions and makes provision for the service of regular deduction and lump sum deduction orders, and the sending of notifications, evidence and the application of these Regulations to an old scheme case and a new scheme case.

Regulation 25B provides the additional matters which must be specified in a regular deduction order.

Regulation 25C provides the maximum deduction rate under a regular deduction order.

Regulation 25D specifies the minimum amount which may be deducted under a regular deduction order.

Regulation 25E makes provision for the matters which have to be notified by a deposit-taker to the Department giving the time limits within which the deposit-taker is required to comply. The information which is required to be notified includes whether the account specified in the order does not exist, whether the account contains less than the minimum amount and, where requested, information relating to other accounts held by the liable person with the deposit-taker.

Regulation 25F provides that the Department must notify the deposit-taker where a regular deduction order is varied, lapsed, revived or ceases to have effect.

Regulation 25G makes provision for the circumstances in which a regular deduction order may be reviewed and, where it is reviewed, the decision which may result from that review.

Regulation 25H makes provision for the priority of orders.

Regulations 25I to 25K provide for the circumstances in which a regular deduction order may be varied, is to lapse or may be revived. An order may be varied in circumstances which may lead to a change in the amount to be deducted under the order. The Department may also vary the deduction

period. An order is to lapse either where the Department has agreed an alternative method of payment or where there is an insufficient amount standing to the credit of the account specified in the regular deduction order on a specified number of deduction dates. An order may be revived where the liable person has failed to comply with the alternative method of payment agreed by the Department, or it has reason to believe that there is a sufficient amount standing to the credit of the account specified in the order to make a regular deduction.

Regulation 25L makes provision setting out the circumstances in which the Department must discharge a regular deduction order, which includes where the account specified in the order has been closed, the amount due under the maintenance calculation has been paid and no further payment is due, and the amount to be deducted has been extinguished on review. It also includes provision for a lapsed order to be discharged after the expiry of specified periods of time.

Regulation 25M makes provision for representations to be made in respect of the proposal specified in the interim lump sum deduction order made under Article 32E(1) of the Order within fourteen days for the deposit-taker and the liable person from the date a copy of that order was served.

Regulation 25N provides the circumstances in which something that would otherwise be a breach of Articles 32G(1) and 32H(2)(b) of the Order, with the consent of the Department can be done. It sets out the matters which must be taken into account when the Department is deciding whether to give consent. Further provision is made for the circumstances in which those Articles are to be disapplied until the deposit-taker receives notification from the Department.

Regulation 25O makes provision for the information which has to be provided by a deposit-taker to the Department giving the time limits within which the deposit-taker is required to comply. The information which is required to be notified includes whether the account specified in the order does not exist, cannot be traced or has been closed, and where requested, information relating to other accounts held by the liable person is required to be provided by the deposit-taker to the Department in specified circumstances.

Regulation 25P makes provision for the priority of orders.

Regulation 25Q specifies the minimum amount which may be deducted under a lump sum deduction order.

Regulations 25R to 25T provide for the circumstances in which a lump sum deduction order may be varied, is to lapse or may be revived. An order may be varied in circumstances which lead to a reduction in the amount to be deducted under the order. An order is to lapse either where the amount in the account specified in the order is nil, the amount in the account specified in the order is reduced to nil where the Department has consented to the disapplication of Articles 32G(1) and 32H(2)(b) of the Order or the Department has agreed an alternative method of payment. The circumstances in which an order may be revived include where an amount has been paid into the account specified in the order, or where the liable person has failed to comply with the alternative method of payment agreed by the Department.

Regulation 25U makes provision setting out the circumstances in which the Department must discharge a lump sum deduction order, including where the account specified in the order has been closed, the amount of arrears specified in the order has been paid in the required manner and the Department has decided not to make an order under Article 32F of the Order having considered representations.

Regulation 25V prescribes the time at which an order made under Article 32E of the Order ceases to be in force.

Regulation 25W prescribes the circumstances which arise for the purposes of the meaning of “the relevant time” as defined in Article 32H(6) of the Order.

Regulations 25X and 25Y prescribe accounts in respect of which a regular or lump sum deduction order may not be made and the circumstances in which amounts standing to the credit of an account are to be disregarded, respectively.

Regulation 25Z specifies the amount which a deposit-taker may deduct towards its administrative costs before making any payment to the Department.

Regulation 25AA specifies the time at which, and the method by which, payment is to be made by the deposit-taker to the Department.

Regulation 25AB makes provision for appeals to a court of summary jurisdiction against the making of a regular deduction order, any decision on the review of a regular deduction order, the withholding of consent to the disapplication of Articles 32G(1) and 32H(2)(b) of the Order by the Department and the making of a lump sum deduction order. The time limit for making an appeal is specified. A court may affirm or set aside any order or decision of the Department, but a variation of the amount of the order may only be carried out by the Department. The court may also make an order for costs. Once a liable person has appealed a final deduction order, the deposit-taker or the Department can take no further action until the appeal is decided.

Regulation 25AC designates regulations 25E(1) to (5), 25I(4), 25O(1) to (5), 25R(3) and 25AA(1) for the purposes of Articles 32D(1)(b) and 32K(1)(b) of the Order. Failure to comply with the requirements of those regulations is an offence in accordance with those Articles.

Regulation 25AD provides that the Department must set out the consequences of a failure to comply with a regular or lump sum deduction order or a requirement to provide information in accordance with regulation 25E or 25O including details of the offences provided for by Articles 32D and 32K of the Order.

Regulation 3 amends paragraph 4(2)(h) of Schedule 1 to the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001 to clarify that expenses incurred by district council members in the performance of their duties are not to be taken into account as earnings.

An assessment of the impact of these Regulations on the private and voluntary sectors has been made. Copies of this impact assessment are available in both Houses of Parliament, and may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 7F Caxton House, Tothill Street, London SW1H 9NA, or from the Department for Work and Pensions' website: <http://www.dwp.gov.uk/resourcecentre/ria.asp>.

Changes to legislation:

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