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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 438**

**The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012**

**PART 1**

**General**

**Citation, commencement and interpretation**

**1.—(1)** These Regulations may be cited as the Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012 and shall come into operation as follows—

- (a) this regulation and regulation 10, on 10th December 2012;
- (b) regulations 2, 3 and 9(1), on the day on which section 26 of the Act comes into operation;
- (c) subject to sub-paragraph (d), regulations 4 to 8, 9(2) and 11, in relation to a particular case, on the day on which paragraph 2 of Schedule 1 to the Act comes into operation in relation to that type of case;
- (d) regulations 4(3) to (6) and 11, in relation to an arrears-only case, on 10th December 2012, subject to the savings in regulation 10(1).

(2) In these Regulations—

“the Act” means the Child Maintenance Act (Northern Ireland) 2008;

[<sup>F1</sup>“arrears of child support maintenance” means any payment of child support maintenance—

- (a) which has become due in relation to a maintenance assessment, or a maintenance calculation made under 2003 scheme rules, and not paid; and
- (b) in respect of which the Department is arranging collection under Article 29 of the Child Support (Northern Ireland) Order 1991;]

“arrears-only case” means a case in which—

- (a) there are arrears of child support maintenance; and
- (b) there is—
  - (i) no maintenance assessment, or maintenance calculation made under the 2003 scheme rules, still in force; and
  - (ii) no application for a maintenance assessment, or a maintenance calculation falling to be made under the 2003 scheme rules, still to be determined;

“the Collection and Enforcement Regulations” mean the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(1).

*Changes to legislation: There are currently no known outstanding effects for the The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012. (See end of Document for details)*

(3) For the purposes of paragraph (2), a maintenance calculation is made (or will fall to be made) under the 2003 scheme rules if the amount of the periodical payments required to be paid in accordance with it is (or will be) determined otherwise than in accordance with Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991, as amended by Schedule 1 to the Act.

<p><b>F1</b> Words in <a href="#">reg. 1(2)</a> substituted (30.9.2013) by <a href="#">The Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 (S.R. 2013/182)</a>, regs. 1(2), <b>9</b></p> <hr style="border-top: 1px dotted #000;"/> <p><b>Commencement Information</b></p> <p><b>I1</b> Reg. 1 in operation at 10.12.2012, see <a href="#">reg. 1(1)(a)</a></p>
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## PART 2

### Meaning of Child

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

**F2**2. ....

<p><b>F2</b> <a href="#">Reg. 3</a> revoked (10.12.2012) by <a href="#">The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012 (S.R. 2012/438)</a>, regs. 1(1)(c), 9(2), <b>Sch.</b></p>
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#### **Amendment of the Child Support (Maintenance Calculation Procedure) Regulations**

**F2**3. ....

<p><b>F2</b> <a href="#">Reg. 3</a> revoked (10.12.2012) by <a href="#">The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012 (S.R. 2012/438)</a>, regs. 1(1)(c), 9(2), <b>Sch.</b></p>
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## PART 3

### New Calculation Rules – Consequential and Miscellaneous Amendments

#### **Amendment of the Collection and Enforcement Regulations**

**4.—(1)** The Collection and Enforcement Regulations are amended in accordance with paragraphs (2) to (6).

(2) For regulation **4(2)** (interval of payment) substitute—

**“Payments to be scheduled over reference period**

**4.—(1)** The Department may, for the purposes of determining the frequency and amount of the payments of child support maintenance required to be made by a liable person—

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(2) Regulation 4 was amended by regulation 4(2) of [S.R. 1995 No. 162](#)

- (a) determine the total amount payable for the reference period on the assumption that the weekly rate of child support maintenance will not change over that period; and
- (b) require that amount to be paid by equal instalments over that period at intervals determined by the Department.

(2) The reference period in relation to the maintenance calculation is, subject to paragraph (3), the period of 52 weeks mentioned in Article 29(3A) of the Order beginning with—

- (a) the initial effective date (where it is the first such period in relation to the maintenance calculation); or
- (b) the review date.

(3) In this regulation “initial effective date” and “review date” have the meanings given by regulations 12 and 19 respectively of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(3).”.

(3) In regulation 8(1) (interpretation of this Part) in the definition of “normal deduction rate” for “week, month or other period” substitute “month and the equivalent of that sum for a 1, 2 and 4 week period”.

(4) For regulations 10 and 11(4) (normal deduction rate and protected earnings proportion) substitute—

#### **“Normal deduction rate**

**10.**—(1) The period by reference to which the normal deduction rate is set must be the period by reference to which the liable person is normally paid where that period is a 1, 2 or 4 weekly or monthly period.

(2) The employer must select the normal deduction rate which applies depending on the period by reference to which the liable person’s earnings are normally paid.

(3) Where the liable person is paid by reference to a period other than at a 1, 2 or 4 weekly or monthly period, the Department must discharge the deduction from earnings order in accordance with regulation 20.

#### **Protected earnings proportion**

**11.**—(1) The period by reference to which the protected earnings proportion is set must be the same as the period by reference to which the normal deduction rate is set in accordance with regulation 10(1).

(2) The protected earnings proportion in respect of any period shall be 60 per cent. of the liable person’s net earnings in respect of that period as calculated at the pay-day of the liable person by the employer.”.

(5) In regulation 20(1)(5) (discharge of deduction from earnings orders)—

- (a) omit “or” after sub-paragraph (e); and
- (b) after sub-paragraph (f) add—

“or

- (g) the circumstances in regulation 10(3) apply.”.

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(3) [S.R. 2012 No. 427](#)

(4) Regulation 10 was amended by regulation 4(6) of [S.R. 1995 No. 162](#) and regulation 3(10) of [S.R. 2001 No. 15](#) and regulation 11 was amended by regulation 4(7)(b) of [S.R. 1995 No. 162](#), regulation 5(3) of [S.R. 1996 No. 317](#), Article 11 of [S.R. 1999 No. 246 \(C. 20\)](#), regulation 3(11) of [S.R. 2001 No. 15](#), regulation 3(3) of [S.R. 2006 No. 273](#) and regulation 3(3) of [S.R. 2008 No. 409](#)

(5) Regulation 20 was amended by regulation 4(9) of [S.R. 1995 No. 162](#) and regulation 3(14) of [S.R. 2001 No. 15](#)

(6) In regulations 25C(1)(a) and 25G(2)(d)(6) (maximum deduction rate and review of a regular deduction order) for “net” substitute “gross”.

#### Commencement Information

- I2** Reg. 4(3)-(6) comes into force in accordance with reg. 1(1)(c)(d)  
**I3** Reg. 4(3)-(6) in operation at 25.11.2013 for specified purposes, see [reg. 1\(1\)\(d\)](#)

### Amendment of the Child Support (Maintenance Arrangements and Jurisdiction) Regulations

5.—(1) The Child Support (Maintenance Arrangements and Jurisdiction) Regulations (Northern Ireland) 1992(7) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) omit the definitions of “Maintenance Assessment Procedure Regulations” and “Maintenance Calculation Procedure Regulations”(8).

(3) In regulation 5(3)(c)(9) (notifications by the Department) for “regulation 8 of the Maintenance Calculations and Special Cases Regulations (Northern Ireland) 1992” substitute “regulation 49 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012”.

(4) In regulation 8A(d)(10) (maintenance calculations and maintenance orders – payments) omit “in accordance with regulation 25 of the Maintenance Calculation Procedure Regulations”.

#### Commencement Information

- I4** Reg. 5 comes into force in accordance with reg. 1(1)(c)(d)

### 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(11) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (interpretation) omit the definitions of “the Arrears, Interest and Adjustment of Maintenance Assessments Regulations”, “the Maintenance Calculation Procedure Regulations”, “the Maintenance Calculations and Special Cases Regulations”, “relevant other child”, “relevant person” and “the Variations Regulations”(12).

(3) Omit regulations 3A, 5A, 6A, 6B, 7B, 7C, 15A, 15B, 15C, 23 and 24(13).

(4) In regulation 4(14) (late application for a revision)—

- (6) Regulations 25C and 25G were inserted by regulation 2 of [S.R. 2009 No. 286](#)  
(7) [S.R. 1992 No. 466](#); relevant amending Regulations are [S.R. 1995 No. 162](#), [S.R. 2001 No. 16](#) and [S.R. 2005 No. 125](#)  
(8) The definition of “Maintenance Assessment Procedure Regulations” was inserted by regulation 7(2) of [S.R. 1995 No. 162](#) and is substituted by regulation 3(4) of [S.R. 2001 No. 16](#) and the definition of “Maintenance Calculation Procedure Regulations” is substituted by regulation 3(4) of [S.R. 2001 No. 16](#)  
(9) Regulation 5(3) is amended by regulation 3(2), (3) and (6) of [S.R. 2001 No. 16](#)  
(10) Regulation 8A is inserted by regulation 4 of [S.R. 2005 No. 125](#)  
(11) [S.R. 1999 No. 162](#); relevant amending Regulations are [S.R. 2002 No. 164](#), [S.R. 2004 No. 428](#), [S.R. 2005 No. 46](#), [S.R. 2006 No. 273](#), [S.R. 2008 Nos. 404 and 409](#), [S.R. 2009 No. 133](#) and [S.R. 2011 No. 266](#)  
(12) The definitions of “the Arrears, Interest and Adjustment of Maintenance Assessments Regulations”, “the Maintenance Calculation Procedure Regulations”, “the Maintenance Calculations and Special Cases Regulations”, “relevant person” and “the Variations Regulations” are inserted by regulation 2(2) of [S.R. 2001 No. 23](#) and the definition of “relevant other child” is inserted by regulation 3(2) of [S.R. 2011 No. 226](#)  
(13) Regulations 3A, 5A, 6A, 6B, 7B, 7C and 15A to 15C are inserted by regulation 2 of [S.R. 2001 No. 23](#); relevant amending Regulations are [S.R. 2002 No. 164](#), [S.R. 2004 No. 428](#), [S.R. 2006 No. 273](#), [S.R. 2008 Nos. 404 and 409](#), [S.R. 2009 No. 133](#) and [S.R. 2011 No. 266](#) and regulation 23 is amended by regulation 7(2) of [S.R. 2001 No. 29](#)  
(14) Regulation 4 is amended by regulation 2(5) of [S.R. 2001 No. 23](#) and regulation 7(3) of [S.R. 2005 No. 46](#)

- (a) in paragraph (1) omit “or 3A(1)(a)”;
  - (b) in paragraph (2) omit “the relevant person”;
  - (c) in paragraph (4)(c) omit “or, as the case may be, 3A”;
  - (d) in paragraph (5) omit “or, as the case may be, regulation 3A(1)(a)”;
  - (e) omit paragraph (8) (as substituted by regulation 2(5)(e) of the Social Security and Child Support (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 2001(15)).
- (5) In regulation 30(16) (appeals against decisions which has been replaced or revised) omit “replaced or” in each place where it occurs.
- (6) In regulation 31(2)(17) (time within which appeals are to be brought) for “, 3A(1) or regulation 16(1)(a) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992”, in both places where it occurs, substitute “or regulation 14 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012”.
- (7) Omit Schedule 2D(18) (effective dates for supersession of child support decisions).

**Commencement Information**

**I5** Reg. 6 comes into force in accordance with reg. 1(1)(c)(d)

**Amendment of the Child Support (Voluntary Payments) Regulations**

7.—(1) The Child Support (Voluntary Payments) Regulations (Northern Ireland) 2001(19) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 1(2) (interpretation)—
- (a) omit the definition of “the Maintenance Calculations and Special Cases Regulations”;
  - (b) in the definition of “the qualifying child’s home” omit the words from “and “home” has” to the end; and
  - (c) in the definition of “relevant person”(20), in paragraph (c) for the words from “regulation 8” to the end substitute “regulation 49 of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012”; and

(3) In regulation 2(1) (voluntary payment) in sub-paragraph (c) omit the words from “, and for this purpose” to the end.

**Commencement Information**

**I6** Reg. 7 comes into force in accordance with reg. 1(1)(c)(d)

**Amendment of the Child Support Information Regulations**

8.—(1) The Child Support Information Regulations (Northern Ireland) 2008(21) are amended in accordance with paragraphs (2) to (4).

- (2) In regulation 2 (interpretation)—

(15) [S.R. 2001 No. 23](#)

(16) Regulation 30 is amended by regulation 2(10) of [S.R. 2001 No. 23](#) and regulation 7(7) of [S.R. 2002 No. 46](#)

(17) Regulation 31(2) was amended by regulation 7(8) of [S.R. 2005 No. 46](#)

(18) Schedule 2D is inserted by regulation 6(9) of [S.R. 2009 No. 133](#)

(19) [S.R. 2001 No. 21](#); relevant amending Regulations are [S.R. 2008 No. 404](#)

(20) The definition of “relevant person” was amended by regulation 9 of [S.R. 2008 No. 404](#)

(21) [S.R. 2008 No. 403](#), to which there are amendments not relevant to these Regulations

- (a) in paragraph (1) for the definition of “Maintenance Calculation Procedure Regulations” substitute—
  - ““the Maintenance Calculation Regulations” means the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012;”;
- (b) omit paragraphs (2) and (3).
- (3) In regulation 7 (duty of persons from whom information requested) omit paragraph (3).
- (4) After regulation 9 (duty to notify change of address) insert—

**“Duty to notify increase in current income**

**9A.**—(1) In a case falling within paragraph (2) or (3), the Department may notify the non-resident parent of the requirement to notify the Department of any relevant change of circumstances in relation to that income.

- (2) A case falls within this paragraph if, in relation to a maintenance calculation in force—
  - (a) gross weekly income is determined by reference to the non-resident parent’s current income as an employee or officeholder (in accordance with regulation 37 of the Maintenance Calculation Regulations); and
  - (b) paragraph 5(b) of the Schedule 1 to the Order<sup>(22)</sup> (nil rate) does not apply.
- (3) A case falls within this paragraph if, in relation to a maintenance calculation in force—
  - (a) gross weekly income is determined by reference to the non-resident parent’s current income (in accordance with regulation 36 of the Maintenance Calculation Regulations); and
  - (b) paragraph 5(b) of Schedule 1 to the Order applies.
- (4) A notification by the Department under paragraph (1) must be in writing.
- (5) Where a relevant change of circumstances occurs after the non-resident parent has been notified of a requirement under paragraph (1) the non-resident parent must notify the Department of that change—
  - (a) within fourteen days beginning with and including the day on which the change occurs; or
  - (b) within such other period as the Department has specified in its notification.
- (6) For the purposes of a case falling within paragraph (2), a relevant change of circumstances occurs where—
  - (a) the non-resident parent—
    - (i) commences a new employment or office, or
    - (ii) in relation to an existing employment or office, commences a new rate of remuneration or a new working pattern,
 

and could reasonably be expected to know that would result in an increased liability under the maintenance calculation in force if reported to the Department; or
  - (b) the non-resident parent receives from their employment or office the following number of consecutive payments, each of which (if it were taken as a weekly average) exceeds the gross weekly income taken into account in the maintenance calculation in force by 25 per cent. or more—
    - (i) five payments, in the case of a non-resident parent paid weekly,
    - (ii) three payments, in the case of a non-resident parent paid fortnightly,

(iii) two payments, in the case of a non-resident parent paid four weekly or monthly.

(7) The payments referred to in paragraph (6)(b) are the gross remuneration from the employment or office in question less any pension contributions deducted under net pay arrangements.

(8) In paragraph (7) “net pay arrangements” means arrangements for relief in respect of pension contributions under section 193 of the Finance Act 2004<sup>(23)</sup>.

(9) For the purposes of a case falling within paragraph (3), a relevant change of circumstances occurs where the non-resident parent’s income increases to a gross weekly income of £5 or more.

(10) For the purposes of paragraph (9), gross weekly income is to be calculated in accordance with regulation 44(2) of the Maintenance Calculation Regulations.”.

(5) In regulation 13(1)(d) (disclosure of information to other persons) for “regulation 23 of “the Maintenance Calculation Procedure Regulations” substitute “regulation 25 of the Maintenance Calculation Regulations (notification of a maintenance calculation)”.

**Commencement Information**

**I7** Reg. 8 comes into force in accordance with reg. 1(1)(c)(d)

## PART 4

### Revocations, Savings and Transitional Provision

#### Revocations

**9.**—(1) Regulations 2(4)(a) and (e) and 4(2) and (6) of the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2009<sup>(24)</sup> are revoked.

(2) The provisions specified in column (1) of the Schedule are revoked to the extent specified in column (3).

**Commencement Information**

**I8** Reg. 9(1) in operation at 10.12.2012 for specified purposes, see [reg. 1\(1\)\(b\)](#)

**I9** Reg. 9(2) comes into force in accordance with reg. 1(1)(b)(c)

#### Savings – arrears-only case

**10.**—(1) Regulations 8, 10, 11 and 20 of the Collection and Enforcement Regulations continue to apply in relation to an arrears-only case, as they were in operation immediately before the amendments made by regulation 4(3) to (6) come into operation, until notice is given to the non-resident parent by the Department that the provisions of the Regulations (as amended by regulation 4(3) to (6)) apply to that case.

(2) Any notice given under paragraph (1) must be in writing and sent by ordinary post to the non-resident parent’s last known or notified address and will be treated as having been given on the second day following the day on which it is posted.

<sup>(23)</sup> 2004 c. 12

<sup>(24)</sup> S.R. 2009 No. 363

(3) For the purposes of this regulation any reference to a non-resident parent includes reference to an absent parent.

#### Commencement Information

**I10** Reg. 10 in operation at 10.12.2012, see [reg. 1\(1\)\(a\)](#)

#### Transitional provisions

**11.**—(1) Where, in any case, a deduction from earnings order was made before the date on which the Collection and Enforcement Regulations, as amended by regulation 4(3) to (6) apply in relation to that case, this regulation shall apply in respect of that order.

(2) Where the deduction from earnings order still has effect immediately before regulation 4(3) to (6) comes into operation in relation to that case—

- (a) the order continues to take effect for the purposes of any deductions which are required to be made under the order until it is discharged or lapses;
- (b) the Collection and Enforcement Regulations, as they were in operation before the amendments made by regulation 4(3) to (6) came into operation, continue to apply in relation to the order until it is discharged or lapses; and

[<sup>F3</sup>(c) the order is to be treated as discharged, if it has not otherwise lapsed or been discharged, either—

- (i) in a case where there are old scheme arrears, on the date on which the old scheme arrears have been transferred to the computer system on which cases where child support maintenance calculated under the new scheme rules are administered by the Department, or
- (ii) in a case where there are no old scheme arrears, on the date on which the first deduction from earnings order made under the Collection and Enforcement Regulations as amended by regulation 4(3) to (6) takes effect.]

[<sup>F4</sup>(3) In this regulation—

“calculated under the new scheme rules” means calculated in accordance with Part 1 of Schedule 1 to the Child Support Order (Northern Ireland) 1991 as amended by paragraph 2 of Schedule 1 to the Act;

“old scheme arrears” means the amount of child support maintenance calculated other than that in accordance with the new scheme rules which is overdue and which remains outstanding.]

**F3** Reg. 11(2)(c) substituted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Child Support \(Deduction from Earnings Orders, Amendment and Modification and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/390\)](#), regs. 1(1), [4\(2\)](#)

**F4** Reg. 11(3) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Child Support \(Deduction from Earnings Orders, Amendment and Modification and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/390\)](#), regs. 1(1), [4\(3\)](#)

#### Commencement Information

**I11** Reg. 11 comes into force in accordance with reg. 1(1)(c)(d)

**I12** Reg. 11 in operation at 10.12.2012 for specified purposes, see [reg. 1\(1\)\(c\)\(d\)](#)



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**Changes to legislation:** *There are currently no known outstanding effects for the The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012. (See end of Document for details)*

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Sealed with the Official Seal of the Department for Social Development on 6th December 2012

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social  
Development

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2012.