
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 438

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

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(1) (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—

- (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(2).”.

(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(3) (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)(4) (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.”

(6) In regulations 25C(1)(a) and 25G(2)(d)(5) (maximum deduction rate and review of a regular deduction order) for “net” substitute “gross”.

Commencement Information

I1 Reg. 4(3)-(6) comes into force in accordance with reg. 1(1)(c)(d)

I2 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(6) are amended in accordance with paragraphs (2) to (4).

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- (3) 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
- (4) Regulation 20 was amended by regulation 4(9) of S.R. 1995 No. 162 and regulation 3(14) of S.R. 2001 No. 15
- (5) Regulations 25C and 25G were inserted by regulation 2 of S.R. 2009 No. 286
- (6) 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

(2) In regulation 1(2) (interpretation) omit the definitions of “Maintenance Assessment Procedure Regulations” and “Maintenance Calculation Procedure Regulations”(7).

(3) In regulation 5(3)(c)(8) (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)(9) (maintenance calculations and maintenance orders – payments) omit “in accordance with regulation 25 of the Maintenance Calculation Procedure Regulations”.

Commencement Information

I3 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(10) 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”(11).

(3) Omit regulations 3A, 5A, 6A, 6B, 7B, 7C, 15A, 15B, 15C, 23 and 24(12).

(4) In regulation 4(13) (late application for a revision)—

(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(14)).

(5) In regulation 30(15) (appeals against decisions which has been replaced or revised) omit “replaced or” in each place where it occurs.

(6) In regulation 31(2)(16) (time within which appeals are to be brought) for “, 3A(1) or regulation 16(1)(a) of the Child Support (Maintenance Assessment Procedure) Regulations

(7) 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

(8) Regulation 5(3) is amended by regulation 3(2), (3) and (6) of S.R. 2001 No. 16

(9) Regulation 8A is inserted by regulation 4 of S.R. 2005 No. 125

(10) 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

(11) 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

(12) 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

(13) Regulation 4 is amended by regulation 2(5) of S.R. 2001 No. 23 and regulation 7(3) of S.R. 2005 No. 46

(14) S.R. 2001 No. 23

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

(16) Regulation 31(2) was amended by regulation 7(8) of S.R. 2005 No. 46

(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(17) (effective dates for supersession of child support decisions).

Commencement Information

I4 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(18) 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”(19), 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

I5 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(20) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation)—

- (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;”; and

- (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—

(17) Schedule 2D is inserted by regulation 6(9) of S.R. 2009 No. 133

(18) S.R. 2001 No. 21; relevant amending Regulations are S.R. 2008 No. 404

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

(20) S.R. 2008 No. 403, to which there are amendments not relevant to these Regulations

“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⁽²¹⁾ (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⁽²²⁾.

⁽²¹⁾ Part 1 of Schedule 1 is substituted by Schedule 1 to the Child Support, Pensions and Social Act (Northern Ireland) 2000

⁽²²⁾ 2004 c. 12

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, PART 3. (See end of Document for details)*

(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

I6 Reg. 8 comes into force in accordance with reg. 1(1)(c)(d)

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, PART 3.