

2015 No. 116

FAMILY LAW

CHILD SUPPORT

**The Child Support (Modification, Miscellaneous and
Consequential Amendments) Regulations (Northern Ireland)
2015**

Made - - - - - *3rd March 2015*

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 28ZD(1), 34(1)(b), 38B(3), 45D(2)(c), 47(1) and (2)(i), and 48(4) of, and paragraph 5(1) and (2) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a), and now vested in it(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Modification, Miscellaneous and Consequential Amendments) Regulations (Northern Ireland) 2015.

(2) Subject to paragraph (3), these Regulations come into operation on 23rd March 2015.

(3) Regulation 3 comes into operation on the date on which section 1 of the Childcare Payments Act 2014(c) comes into operation for all purposes.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

2.—(1) The Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(d) are amended as follows.

(2) In regulation 16(e) (revision of decisions)—

(a) in paragraph (1)(a) omit “within one month of the date of notification of the decision or within such longer time as may be allowed by regulation 17”; and

(a) S.I. 1991/2628 (N.I. 23); Article 28ZD was inserted by Article 44 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); Article 38B was inserted by Article 16 of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and Article 45D was inserted by section 31 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.))

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

(c) 2014 c. 28

(d) S.R. 1992 No. 340

(e) Regulation 16 was substituted by regulation 2(12) of S.R. 1999 No. 167

(b) after “Article 18 of the Order” insert—

“either—

- (i) within one month of the date of notification of the decision;
- (ii) within one month of the date on which notice of the correction is given under regulation 51A(3) (correction of accidental errors); or
- (iii) within such longer time as may be allowed by regulation 17;”.

(3) After regulation 51 (authorisation of representative) add—

“Correction of accidental errors

51A.—(1) An accidental error in a decision of the Department made under the Order, or in any record of such a decision, may be corrected by the Department at any time.

(2) Such a correction is to be treated as part of that decision or of that record.

(3) The Department must give written notice of the correction as soon as practicable to the persons to whom notice of the decision was required to be given.

(4) In calculating the time within which an application may be made under regulation 16(1)(a) (revision of decisions) for a decision to be revised, no account is to be taken of any day falling before the day on which notice of the correction was given.”.

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

3. After paragraph 47F of Schedule 2 to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(a) (amounts to be disregarded when calculating or estimating N and M) insert—

“**47G.** Any top-up payment made under the Childcare Payments Act 2014 (“top-up payment” is to be read in accordance with section 1 of that Act).”.

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

4. In regulations 10A(1)(a)(b) (reimbursement of a repayment of overpaid child maintenance) and 10B(c) (repayment of a reimbursement of a voluntary payment) of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992(d), after “income support” insert “, income-related employment and support allowance”.

Amendment of the Child Support (Collection and Enforcement) Regulations

5. Schedule 1 to the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(e) (liability order prescribed form) is amended as follows.

- (a) for “are due from the defendant” substitute “have become payable by the liable person (the defendant)”;
- (b) for “are outstanding” substitute “have not been paid”;
- (c) for “collected by virtue of” substitute “that the Department has arranged to collect under”.

(a) S.R. 1992 No. 341; paragraph 47F was inserted by regulation 3(7)(d) of S.R. 2003 No. 469 and amended by paragraph 2(5)(b) of Schedule 4 to S.R. 2005 No. 536

(b) Regulation 10A was inserted by regulation 5(3) of S.R. 1995 No. 475 and amended by regulation 22(c) of S.R. 1996 No. 289 and regulation 27(3) of S.R. 2003 No. 191

(c) Regulation 10B was inserted by regulation 2(12) of S.R. 2001 No. 15 and amended by regulation 27(3) of S.R. 2003 No. 191

(d) S.R. 1992 No. 342

(e) S.R. 1992 No. 390; Schedule 1 is amended by regulation 3(20) of S.R. 2001 No. 15 and was amended by regulation 2(9) of S.R. 2014 No. 193

Modification 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(a) are modified, in relation to a case in which liability to pay child support maintenance is calculated in accordance with Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991 as substituted by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(b) before its amendment by paragraph 2 of Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008(c), as if they had been amended as follows.

(2) In regulation 3A(1)(d) (revision of child support decisions), for sub-paragraph (a) substitute—

“(a) if the Department receives an application for the revision of a decision under either Article 18 or Article 28G of the Child Support Order(e)—

- (i) within one month of the date of notification of the decision;
- (ii) within one month of the date on which notice of the correction is given under regulation 9B(3) (correction of accidental errors in child support decisions); or
- (iii) within such longer time as may be allowed under regulation 4;”.

(3) After regulation 9A(f) (correction of accidental errors) insert—

“Correction of accidental errors in Child Support Decisions

9B.—(1) An accidental error in a decision of the Department made under the Child Support Order, or in any record of such a decision, may be corrected by the Department at any time.

(2) Such a correction is to be treated as part of that decision or of that record.

(3) The Department must give written notice of the correction as soon as practicable to the persons to whom notice of that decision was required to be given.

(4) In calculating the time within which an application may be made under regulation 3A(1)(a) (revision of child support decisions) for a decision to be revised, no account is to be taken of any day falling before the day on which notice of the correction was given.”.

Amendment of the Child Support Information Regulations

7. After regulation 14 of the Child Support Information Regulations (Northern Ireland) 2008(g) (employment to which Article 46 of the Order applies) add—

“Disclosure of information to credit reference agencies

14A.—(1) The information prescribed for the purposes of Article 45D(2)(c) of the Order (disclosure of information to credit reference agencies) is, in relation to the person referred to in Article 45D(2)(b) of the Order—

- (a) the person’s name, last known or notified address and date of birth;
- (b) the reference number used by the Department to identify the person’s case;
- (c) the date on which any liability order in force against the person was made;

(a) S.R. 1999 No. 162; relevant amending regulations are S.R. 2002 No. 189

(b) (c. 4 (N.I.))

(c) (c. 10 (N.I.))

(d) Regulation 3A was inserted by regulation 2(4) of S.R. 2001 No. 23 and was amended by regulation 6(2)(a) of S.R. 2002 No. 164 and is amended by regulation 6(3) of S.R. 2012 No. 438

(e) Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 and is amended by section 8 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Article 28G was inserted by Article 3 of the Child Support (Northern Ireland) Order 1995 (1995/2702 (N.I. 13)) and is substituted by section 7 of Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(f) Regulation 9A was inserted by regulation 2(4) of S.R. 2002 No. 189

(g) S.R. 2008 No. 403; regulation 14 is amended by regulation 9 of S.R. 2009 No. 133

- (d) the amount in respect of which that liability order was made;
- (e) the address stated in that liability order, if different from the person's last known or notified address;
- (f) that the amount referred to in sub-paragraph (d) has been paid and date on which that amount was paid.
- (g) that a liability order made against the person has been set aside or quashed.

(2) The Department must send a written notice by post to the person's last known or notified address at least twenty-one days prior to supplying the information in paragraph (1)(a) to (e) to a credit reference agency.

(3) The requirement in paragraph (2) does not apply where the person cannot be traced.

(4) The written notice must state that the Department intends to supply information in relation to the non-resident parent to a credit reference agency.”.

Amendment of the Child Support Maintenance Calculation Regulations

8.—(1) The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(a) are amended as follows.

(2) In regulation 14(1) (grounds for revision), for sub-paragraph (a) substitute—

“(a) if the Department receives an application for the revision of a decision under either Article 18 or Article 28G of the Child Support Order—

- (i) within 30 days after the date of notification of the decision;
- (ii) within 30 days after the date on which notice of the correction is given under regulation 27A(3) (correction of accidental errors); or
- (iii) within such longer time as may be allowed under regulation 15;”.

(3) After Chapter 5 (notification of decisions) add—

“Chapter 5A
Accidental errors

Correction of accidental errors

27A.—(1) An accidental error in a decision of the Department made under the Child Support Order, or in any record of such a decision, may be corrected by the Department at any time.

(2) Such a correction is to be treated as part of that decision or of that record.

(3) The Department must give written notice of the correction as soon as practicable to the persons to whom notice of the decision was required to be given.

(4) In calculating the time within which an application may be made under regulation 14(1)(a) (grounds for revision) for a decision to be revised, no account is to be taken of any day falling before the day on which notice of the correction was given.”.

Sealed with the Official Seal of the Department for Social Development on 3rd March 2015

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) S.R. 2012 No. 427

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify and amend Regulation 6 and make miscellaneous and consequential amendments to various other Child Support Regulations.

Regulations 2, 6 and 8 amend, respectively, the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992, the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 and the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012. These Regulations relate, respectively, to the 1993 scheme for administering child support maintenance, the 2003 scheme and the 2012 scheme. A regulation is inserted into each set of Regulations which allows the Department to correct accidental errors in decisions and records of decisions made by the Department under the Child Support (Northern Ireland) Order 1991 (“the Order”). The corrected decision or record will be treated as part of the original decision or record. Notice of the corrected decision or record must be given as soon as is practicable to those persons who were required to be notified of the original decision. Paragraph (4) of each regulation means that the period within which such a person may make an application for revision begins on the day the notice of the correction is given. Paragraph (2) of each of regulations 2, 6 and 8 make a consequential amendment to the revision provision in each set of regulations.

Regulation 3 amends Schedule 2 to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992, which applies to the 1993 scheme of child support. The amendment is consequential on the Childcare Payments Act 2014 and means that a top-up payment made under that Act will not be taken into account when calculating a parent’s income for the purposes of assessing the amount of child support maintenance payable.

Regulation 4 amends regulations 10A(1)(a) and 10B of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992. Regulation 10A(1)(a) allows the Department to pursue reimbursements of repayments of overpaid child maintenance. Regulation 10B allows the Department to pursue reimbursements of repayments of voluntary payments. If a person liable to make payments of child support (the “liable person”) has made an overpayment or voluntary payment of child maintenance, and the Department has made a payment by way of reimbursement of this overpayment or voluntary payment to the liable person, the Department may require the person who received that payment to repay the whole or a part of the payment. Regulations 10A(1)(a) and 10B are both amended so that the Department may not require a person who received such a payment to repay it where that person was in receipt of income-related employment and support allowance when the overpayment or voluntary payment occurred or when the reimbursement was made.

Regulation 5 makes technical amendments to Schedule 1 to the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992.

Regulation 7 inserts a new regulation into the Child Support Information Regulations (Northern Ireland) 2008 which prescribes information for the purposes of Article 45D(2)(c) of the Order. Article 45D allows the Department to disclose prescribed information relating to liable persons to credit reference agencies in certain circumstances. This new regulation prescribes the information that may be disclosed. This new regulation also makes provision for notifying the liable person that the Department intends to disclose information to a credit reference agency.

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STATUTORY RULES OF NORTHERN IRELAND

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£4.25

N6494 03/2015 456494T 19585

ISBN 978-0-337-99658-0



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