

Regulations made by the Department for Communities and laid before the Assembly under Article 48(2) of the Child Support (Northern Ireland) Order 1991 for approval of the Assembly before the expiration of six months from the date of their coming into operation

STATUTORY RULES OF NORTHERN IRELAND

2019 No. 125

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendments No. 2)
Regulations (Northern Ireland) 2019**

Made - - - -

04th July 2019

Coming into operation in accordance with regulation 1

The Department for Communities makes the following Regulations in exercise of the powers conferred by Articles 16(1), 38E, 40, 47(1) and 48(4) of, and paragraph 10 of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a), sections 5(1)(q) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(b) and section 3(1) and (2) of the Child Maintenance Act (Northern Ireland) 2008(c), and now vested in it(d).

PART 1

INTRODUCTION

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2019 and subject to paragraph (2) shall come into operation on 05th July 2019.

(2) Regulation 5 shall come into operation on 24th July 2019.

(a) S.I. 1991/2628 (N.I. 23). Article 16(1) was amended by section 12 and is amended by 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 by Schedule 5 to the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.)) (“the 2008 Act”). Article 38E was inserted by section 24 of the 2008 Act. Article 40 was substituted by section 20 of the 2000 Act

(b) 1992 c. 8 (N.I.)

(c) 2008 c. 10. Section 3(2) was amended by Article 130 of the Welfare Reform (Northern Ireland) Order 2015 (N.I. 1)

(d) See Article 8(b) of S.R. 1999 No. 481 and Section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

PART 2

AMENDMENTS RELATING TO DEDUCTIONS FROM BENEFITS

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987^(a) are amended as follows.

(2) In Schedule 8A (deductions from benefits and direct payments to third parties), omit paragraphs 7A (payments in place of payments of child support maintenance) and 7B (arrear of child support maintenance).

(3) In Schedule 8C (deductions from benefit in respect of child support maintenance and payment to persons with care)—

- (a) In paragraph 1 (interpretation), in the definition of “maintenance”, for “paragraph 3” substitute “paragraph 3(1)”.
- (b) In paragraph 3 (arrear)—
 - (i) in sub-paragraph (1)—
 - (aa) omit the words from “Except where” to “his partner”;
 - (bb) for “£1.20” substitute “£8.40”;
 - (cc) omit “, subject to sub-paragraph (2),”;
 - (ii) after sub-paragraph (1), insert—

“(1A) No deduction may be made under sub-paragraph (1) if the beneficiary is liable to pay maintenance.”;
 - (iii) omit sub-paragraph (2).

Amendment of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations

3.—(1) The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016^(b) are amended as follows.

(2) In Schedule 5 (deductions from benefit and direct payment to third parties), omit paragraph 11.

(3) In Schedule 6 (deductions from benefit in respect of child support maintenance and payments to persons with care)—

- (a) In paragraph 1, in the definition of “maintenance”—
 - (i) for “paragraph 3” substitute “paragraph 3(1)”;
 - (ii) for “paragraph 4(1)(b)” substitute “paragraph 4(1)(a), (b)”.
- (b) In paragraph 3—
 - (i) in sub-paragraph (1)—
 - (aa) omit “Except where universal credit is awarded to the beneficiary,”;
 - (bb) for “£1.20” substitute “£8.40”;
 - (cc) omit “, subject to sub-paragraph (2),”;
 - (dd) for “or jobseeker’s allowance” substitute “, jobseeker’s allowance or universal credit”;
 - (ii) after sub-paragraph (1), insert—

(a) S.R. 1987 No. 465

(b) S.R. 2016 No. 220

- “(1A) No deduction may be made under sub-paragraph (1) if the beneficiary is liable to pay maintenance.”;
- (iii) omit sub-paragraph (2).

PART 3

WRITE OFF OF ARREARS OF CHILD MAINTENANCE SUPPORT

Amendment of the Child Support (Management of Payments and Arrears) Regulations

4.—(1) The Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009^(a) are amended as follows.

(2) In regulation 13F (circumstances in which the Department may exercise the power in Article 38E of the Order)—

- (a) omit “or” at the end of paragraph (f);
- (b) at end of paragraph (g) insert—
- “: or
- (h) the non-resident parent has been discharged under section 184 of the Bankruptcy (Scotland) Act 2016^(b) (protected trust deed: discharge of debtor) from liability for the arrears.”;

(3) In regulation 13G(2), after “13F(g)” insert—

“, 13F(h)”.

PART 4

INFORMATION

Amendment of the Child Support Information Regulations

5.—(1) The Child Support Information Regulations (Northern Ireland) 2008^(c) are amended as follows.

(2) In regulation 4(2) (information from other persons), after sub-paragraph (k), insert—

- “;
- (l) a qualifying lender (within the meaning given in Article 14(7) of the Welfare Reform and Work (Northern Ireland) Order 2016^(d));
- (m) a trustee or manager of an occupational pension scheme (within the meaning of section 1(1) of the Pensions Schemes (Northern Ireland) Act 1993^(e)).”.

(a) S.R. 2009 No. 422; Regulation 13F was inserted by regulation 2 of S.R. 2012 No. 439 and amended by regulation 4(3)(b) of S.R. 2018 No. 210

(b) 2016 asp 21

(c) S.R. 2008 No. 403

(d) S.R. 2016 No. 999 (N.I. 1)

(e) 1993 c. 49; Regulation 4 was inserted by Article 216 of Pensions (Northern Ireland) Order 2005

PART 5
MAINTENANCE CALCULATION

Amendment of the Child Support Maintenance Calculation Regulations

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

(2) In regulation 35(2) (historic income) substitute—

“(2) The amount identified as income for the purposes of paragraph (1)(a) is to be taken after any deduction for relative pension contributions made by the non-resident parent’s employer in accordance with net pay arrangements.”.

PART 6
COLLECTION FEE

Amendment of the Child Support Fees Regulations

7.—(1) The Child Support Fees Regulations (Northern Ireland) 2014(b) are amended as follows.

(2) In regulation 3(6) (collection fee), from “the payments” to the end, substitute “specifies that payments shall be made to, or through, the Department in accordance with regulation 2(b) of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992(c).”

Sealed with the Official Seal of the Department for Communities on 04th July 2019

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend child support regulations.

Regulations 2 and 3 make provisions about the recovery of child support maintenance arrears by deduction from benefits which are payable to a non-resident parent.

Regulation 2 makes amendments to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 465) to change the circumstances in which deductions from benefits may be made.

Regulation 3 makes amendments to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 220) to allow for such arrears to be recoverable from universal credit and for maintenance to be deducted from universal credit where there are earnings.

(a) S.R. 2012 No. 427
(b) S.R. 2014 No. 182
(c) S.R. 1992 No. 390

The amount which may be deducted from benefits is, in both cases, increased from £1.20 per week to £8.40 per week.

In both cases no deductions from benefits for recovery of maintenance arrears may be made if the non-resident parent in receipt of benefits is liable to pay maintenance.

Regulation 4 amends the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 422) to allow arrears of child support maintenance to be written off where the non-resident parent's estate was subject to a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act 2016 (asp 21)) but that deed has expired.

Regulation 5 makes amendments to the Child Support Information Regulations (Northern Ireland) 2008 (S.R. 2008 No. 403) to require a qualifying lender (within the meaning given in section 19(7) of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.R. 2016 No. 999 (N.I. 1)) and a trustee or manager of an occupational pension scheme (within the meaning of section 1(1) of the Pensions Schemes (Northern Ireland) Act 1993 (c. 49) to provide information to the Department in connection with the Department's functions under the Child Support (Northern Ireland) Order 1991.

Regulations 6 makes amendments to the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012 (S.R. 2012 No. 427) so that in relation to the calculation of gross weekly income of a non-resident parent, the figure notified as employment income by Her Majesty's Revenue and Customs is no longer to be that taken before any allowable deductions from earnings.

Regulation 7 makes amendments to the Child Support Fees Regulations (Northern Ireland) 2014 (S.R. 2014 No. 182) to clarify when there are considered to be arrangements for collection of the maintenance for the purposes of the payment of the collection fee to the Department.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

© Crown copyright 2019

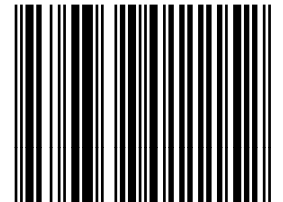
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£4.90

NI201907041006 07/2019 19585

<http://www.legislation.gov.uk/id/nisr/2019/125>

ISBN 978-0-33-801115-2



9 780338 011152