

2011 No. 226

FAMILY LAW

CHILD SUPPORT

**The Child Support and Social Security (Miscellaneous
Amendments) Regulations (Northern Ireland) 2011**

Made - - - -

17th June 2011

Coming into operation -

4th July 2011

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 18(1), 19(3) and (5), 47(1), and 48(4) of, and paragraph 11(1) of Schedule 1 to, the Child Support (Northern Ireland) Order 1991(a), and now vested in it(b).

Citation and commencement

1. These Regulations may be cited as the Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2011 and shall come into operation on 4th July 2011.

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations

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

(2) In regulation 16(6)(d) (revision of decisions) substitute—

“(6) Paragraph (1) shall not apply in respect of a material change of circumstances which—

(a) occurred since the date on which the decision was made; or

(b) is expected, according to information or evidence which the Department has, to occur.”.

(3) In regulation 20(5)(e) (circumstances in which a decision may not be superseded)—

(a) omit “or” after sub-paragraph (b); and

(a) S.I. 1991/2628 (N.I. 23); Article 18 was substituted by Article 40 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraph (1) is amended by section 8(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)); Article 19 was substituted by Article 41 of the Social Security (Northern Ireland) Order 1998; paragraph 11(1) of Part II of Schedule 1 is amended by section 1(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

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

(c) S.R. 1992 No. 340; relevant amending Regulations are S.R. 1999 No. 167, S.R. 2000 No. 215, S.R. 2003 No. 224, S.R. 2005 No. 125, S.R. 2008 No. 404 and S.R. 2009 No. 363 and is revoked with savings by regulation 29 of S.R. 2001 No. 17

(d) Regulation 16 was substituted by regulation 2(12) of S.R. 1999 No. 167 and paragraph (6) was amended by regulation 4(3) of S.R. 2000 No. 215

(e) Regulation 20 was substituted by regulation 2(12) of S.R. 1999 No. 167

- (b) after sub-paragraph (c) add—
- “or
- (d) a decision is superseded and in relation to that superseding decision a maintenance assessment is made to which paragraph 15 of Part II of Schedule 1 to the Order(a) applies.”.
- (4) In regulation 22(b) (date from which a superseding decision takes effect)—
- (a) for paragraph (2) substitute—
- “(2) Where a superseding decision is made in a case to which regulation 19(2)(a) applies and—
- (a) the absent parent begins or ceases to receive a benefit mentioned in Schedule 4 to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(c) (case where child support maintenance is not to be payable); or
- (b) the absent parent or person with care begins or ceases to be a person who receives a benefit referred to in paragraph 5(4) of Schedule 1 to the Order(d) (assessable income),
- the decision takes effect from the first day of the maintenance period in which the change occurred.”;
- (b) for paragraph (19)(e) substitute—
- “(19) Where a superseding decision is made in a case to which regulation 19(2)(a) or (3) applies and the material circumstance is—
- (a) a qualifying child dies or ceases to be a qualifying child; or
- (b) a relevant child dies or ceases to be a relevant child,
- the decision shall take effect as from the first day of the maintenance period in which the change occurred.”;
- (c) after paragraph (21A), insert—
- “(21B) Where—
- (a) a superseding decision is made in a case to which regulation 19(3)(f) applies; and
- (b) in relation to that decision, a maintenance assessment is made to which paragraph 15 of Part II of Schedule 1 to the Order(g) applies,
- the effective date of the assessment or assessments is the first day of the maintenance period in which the change of circumstances to which the assessment relates occurred or is expected to occur and where it occurred before the date of the application for the supersession and was notified after that date, the first day of the maintenance period in which that application was made.”; and
- (d) after paragraph (22) add—

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- (a) Paragraph 15 was amended by paragraph 32(4) of Schedule 6, to the Social Security (Northern Ireland) Order 1998 and is amended by section 1(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
- (b) Regulation 22 was substituted by regulation 2(12) of S.R. 1999 No. 167 and amended by regulation 4(5) of S.R. 2000 No. 215, regulation 5(3) of S.R. 2003 No. 224, regulation 2(5) of S.R. 2005 No. 125, regulation 2(6) of S.R. 2008 No. 404 and regulation 2(3) of S.R. 2009 No. 363
- (c) S.R. 1992 No. 341
- (d) Paragraph 5(4) was amended by paragraph 4(7) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and paragraph 2(8) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and is amended by Schedule 1 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
- (e) Paragraph 19 was added by regulation 4(5)(b) of S.R. 2000 No. 215
- (f) Regulation 19 was substituted by regulation 2(12) of S.R. 1999 No. 167 and paragraph (3) was amended by regulation 4(4) of S.R. 2000 No. 215 and regulation 2(4) of S.R. 2005 No. 125
- (g) Paragraph 15 was amended by paragraph 32(4) of Schedule 6, to the Social Security (Northern Ireland) Order 1998 and is amended by section 1(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

“(23) The reference in paragraph (2) to when an absent parent begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be.

(24) In paragraph (19), “relevant child” has the same meaning as in regulation 1(2) of the Maintenance Assessments and Special Cases Regulations.”.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

3.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(a) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “relevant credit”(b) insert—

““relevant other child” is to be interpreted by reference to paragraph 10C(2) of Schedule 1 to the Child Support Order;”.

(3) In regulation 6B(4)(c) (circumstances in which a child support decision may not be superseded)—

(a) omit “or” after sub-paragraph (c); and

(b) after sub-paragraph (e) add—

“or

(f) a decision is superseded and in relation to that superseding decision a maintenance calculation is made to which paragraph 15 of Part II of Schedule 1 to the Child Support Order(d) applies.”.

(4) In Schedule 2D(e) (effective dates for supersession of child support decisions)—

(a) in paragraph 3 (decision backdated to when change occurred)—

(i) after sub-paragraph (a) insert—

“(aa) a relevant other child dies or ceases to be a relevant other child;”.

(ii) omit “or” after sub-paragraph (c), and

(iii) after sub-paragraph (d) add—

“or

(e) the non-resident parent begins or ceases to receive a benefit mentioned in regulation 4(1) of the Maintenance Calculations and Special Cases Regulations (flat rate) or begins or ceases to be a person who receives, or whose partner receives, a benefit referred to in regulation 4(2)(f) of those Regulations”;

(b) after paragraph 3 insert—

“**3A.** In paragraph 3, the reference to the day on which a person begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be.”;

(c) omit paragraph 4 (non-resident parent or partner on or off benefit); and

(d) in paragraph 8 (series of changes waiting to be actioned) for “the date of that application” substitute “the beginning of the maintenance period in which that application was made”.

(a) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2001 No. 23 and S.R. 2009 No. 133

(b) The definition of “relevant credit” was inserted by regulation 6(2)(e) of S.R. 2000 No. 215

(c) Regulation 6B was inserted by regulation 2(7) of S.R. 2001 No. 23 and paragraph (4) was amended by regulation 6(4) of S.R. 2009 No. 133

(d) Paragraph 15 was amended by paragraph 32(4) of Schedule 6, to the Social Security (Northern Ireland) Order 1998 and is amended by section 1(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(e) Schedule 2D was inserted by Schedule 1 to S.R. 2009 No. 133

(f) Regulation 4(2) was amended by regulation 33(3) of S.R. 2003 No. 191 and regulation 26(3)(b) of S.R. 2008 No. 286

Revocations

4. The following provisions are hereby revoked—

- (a) regulation 4(3) and (5)(b) of the Social Security and Child Support (Miscellaneous Amendments) Regulations 2000^(a); and
- (b) regulation 6(4)(b)(i) of the Child Support and Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009^(b).

Scaled with the Official Seal of the Department for Social Development on 17th June 2011

(L.S.)

Heather Cousins
A senior officer of the Department for Social Development

(a) S.R. 2000 No. 215
(b) S.R. 2009 No. 133

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 (“Maintenance Assessment Procedure Regulations”) and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”).

Regulation 2 amends the Maintenance Assessment Procedure Regulations. This regulation substitutes regulation 16(6) of those Regulations to limit the disapplication of paragraph (1) to a material change of circumstances. Regulation 20 of those Regulations is amended in the same manner as regulation 6B of the Decisions and Appeals Regulations. Regulation 22 is amended to substitute a new effective date for paragraph (2) (absent parent and parent with care on or off benefit), substitutes paragraph (19) of that regulation with an effective date which applies to relevant other children as well as qualifying children, inserts a new effective date into that regulation for the purposes of decisions made to which paragraph 15 of Part II of Schedule 1 of the Child Support (Northern Ireland) Order 1991 (“the Order”) applies, makes provision which supplements the substituted effective date in paragraph (2) and inserts a definition for the purposes of new paragraph (19) of regulation 22.

Regulation 3 amends the Decisions and Appeals Regulations. This regulation inserts a new definition into regulation 1(2) of those Regulations and provides that regulation 6B of those Regulations does not apply where a decision is made to which paragraph 15 of Part II of Schedule 1 to the Order applies, prescribes two new categories of case to which the effective date in paragraph 3 of Schedule 2D to those Regulations applies (one for relevant other children and the other for the non-resident parent or partner on or off benefit), inserts a new paragraph 3A in Schedule 2D which supplements the new on or off benefit category of case in paragraph 3, consequentially omits paragraph 4 and makes a minor amendment to paragraph 8 of that Schedule.

Regulation 4 makes consequential revocations.

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