STATUTORY RULES OF NORTHERN IRELAND

2023 No. 189

FAMILY LAW

CHILD SUPPORT

The Child Support (Management of Payments and Arrears) (Amendment) Regulations (Northern Ireland) 2023

Made - - - - 16th November 2023

Coming into operation in accordance with regulation 1

Approved by resolution of the Assembly on 10th June 2024

The Department for Communities makes the following Regulations in exercise of the powers conferred by Articles 38E, 47(1) and 48(2) of 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 (Management of Payments and Arrears) (Amendment) Regulations (Northern Ireland) 2023 and shall come into operation on 26th February 2024.

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

2.—(1) The Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009(**c**) are amended as follows.

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

(a) omit the "or" after paragraph (g);

(b) at the end of paragraph (h) insert—

";

(i) the arrears relate to liability for child support maintenance accrued under a 2012 scheme case(**e**) where all of the following apply—

(i) a maintenance calculation(**a**) has ceased to have effect under one or more of the following provisions under the 1991 Order—

(**a**) S.I. 1991/2628 (N.I. 23). Article 38E was inserted by section 24 of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.))

(**b**) *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.))

(**c**) S.R. 2009 No. 422

(**d**) Regulation 13F was inserted by regulation 2 of S.R. 2012 No. 439; other relevant amending instruments are S.R. 2018 No. 210, S.R. 2019 Nos. 125 and 221 and S.R. 2022 No. 178

(**e**) "a 2012 scheme case" is defined in regulation 2(1) of S.R. 2009 No. 422 and was inserted by regulation 4(2) of S.R. 2019 No. 221

(aa) Article 7(5) and (6) (a person who requested a maintenance calculation requests the Department to cease acting);

(bb) Schedule 1, paragraph 16(1)(**b**) (termination of calculations),

(ii) the arrears are less than £7, and

(iii) the non-resident parent(**c**) has failed to make any payments within the 3 month period which precedes the date of the decision of the Department under Article 38E(1)(**d**) of the 1991 Order (power to write off arrears); or

(j) the arrears relate to liability for child maintenance accrued under a 2012 scheme case where all of the following apply—

(i) the Department does not have jurisdiction to make a maintenance calculation under Article 41(**e**) of the 1991 Order,

(ii) as a result of sub-paragraph (i), the Department has made a supersession decision under Article 19(1)(**f**) of the 1991 Order,

(iii) the arrears are less than £7, and

(iv) the non-resident parent has failed to make any payments within the 3 month period which precedes the date of the decision of the Department under Article 38E(1) of the 1991 Order (power to write off arrears). ".

(3) In regulation 13G (Department required to give notice), in paragraph (2), after "13F(h)," insert "13F(i), 13F(j),".

(4) In regulation 13I (notification of decision to write off), in paragraph (2), for "regulation 13J(1)(a) or (2)(a)" substitute "regulations 13F(i) or (j) or 13J(1)(a) or (2)(a)".

Sealed with the Official Seal of the Department for Communities on 16th November 2023.

(L.S.)

David Tarr
A senior officer of the Department for Communities

(**a**) "maintenance calculation" is defined in Article 2 of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) and was inserted by paragraph 12(e) of Schedule 3 to the Child Support, Pensions and Social security Act (Northern Ireland) 2000 (c.4) (N.I.) and applies differently to cases specified in Article 3 of S.R. 2003 No. 53 (c.4)

(**b**) Paragraph 16(1) of Schedule 1 to the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) applies differently to cases specified in Article 3 of S.R. 2003 No. 53. In relation to those cases, paragraph 16(1) was amended by section 1(2) and paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4)

(**c**) "non-resident parent" is defined in Article 4(2) of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) as amended by paragraph 179 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) and section 1(2)(a) and paragraph 11 of Schedule 3 to the Child Support, Pensions and Social Security Act (NI) 2000 (c.4)

(**d**) Article 38E of the Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23)) was inserted by section 24 of the Child Maintenance Act (Northern Ireland) 2008 (c.10) (N.I.)

(**e**) Article 41 was amended by paragraph 26 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10), sections 1(2)(a), 21(2) and (3), paragraph 11 of Schedule 3 and paragraph 1 of Schedule 9 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4), paragraph 128 of Schedule 1 to the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), paragraph 20(a) and (b) of Schedule 1 to the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519) and paragraph 22 of Schedule 7 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484)

(**f**) Article 19(1) was inserted by Article 41 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10) and amended by section 9(2) and paragraph 1 of Schedule 9 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4) and by section 9 of the Child Maintenance Act (Northern Ireland) 2008 subject to transitional provisions specified in S.R. 2012 No. 440 and S.R. 2013 No. 210 and savings specified in SR 2013 No. 276 and by paragraph 1 of Schedule 5 to the Child Maintenance Act (Northern Ireland) 2008 (c.10) (N.I.)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 422) to make provision for further circumstances in which the Department may extinguish liability in respect of arrears of child support maintenance where it appears to the Department that it would be unfair or otherwise inappropriate to enforce liability in respect of those arrears.

These further circumstances in which the Department may extinguish liability arise when a maintenance calculation has ceased under specific provisions of the Child Support (Northern Ireland) Order 1991, the arrears are less than £7 and the non-resident parent has failed to make any payments in the three months preceding the date on which the Department makes the decision to extinguish liability.

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.

A regulatory impact assessment has not been produced for these Regulations as they have no impact on the costs of the business. An Explanatory Memorandum has been published alongside these Regulations on www.legislation.gov.uk.

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£5.78

http://www.legislation.gov.uk/id/nisr/2023/189

ISBN 978-0-33-802335-3

