EXPLANATORY MEMORANDUM TO

THE CHILD SUPPORT (NORTHERN IRELAND RECIPROCAL ARRANGEMENTS) AMENDMENT REGULATIONS 2012

2012 No. 2380

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend the basis for deciding the territory which should administer a case where the parents live in different territories. The amendment made under this instrument would mean that the case would be owned by the territory in which the parent who lives apart from the qualifying child resides.

2.2 The amendments made by these Regulations come into force on 29 October 2012. They will impact only on those cases which are subject to the new calculation rules, once those rules are commenced. These new rules will be introduced gradually, applying initially only to certain new applications. Existing child maintenance schemes will continue to apply to other cases for the time being.

3. Matters of special interest

None.

4. Legislative Context

4.1 This instrument makes amendments to the Child Support (Northern Ireland Reciprocal Arrangements) Regulations 1993 ("the Reciprocal Arrangements Regulations"). These Reciprocal Arrangements Regulations (SI 1993/584) give legal effect to the provisions of a Memorandum of Arrangements between Great Britain and Northern Ireland. The Arrangements enable the separate statutory child maintenance schemes of Great Britain and Northern Ireland to operate for administrative purposes as a single system.

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4.2 The Child Support Act 1991 ("the 1991 Act ") and the Child Support (Northern Ireland) Order 1991 make provision for the calculation, collection and enforcement of child maintenance, which is an amount of money that the parent who does not normally live with the children concerned (the "non-resident parent") pays as a contribution to the upkeep of their children (the "qualifying children"). Child maintenance legislation is focused around the general principle that all parents take financial responsibility for all of their children.

4.3 The child support scheme under the 1991 Act was substantially amended by the Child Support, Pensions and Social Security Act 2000 ("the 2000 Act"). Some of the amendments are fully in force, whilst others have so far been brought into force for the purposes of specified cases only. This means there have been effectively two schemes.

4.4 The 1991 Act was further amended by the Child Maintenance and Other Payments Act 2008. This includes further changes to rules for the calculation of child maintenance. These arrangements effectively introduce a third scheme, and it is only to that scheme that these amendments will apply.

4.5 On the previous occasions when the Reciprocal Arrangements Regulations were amended, (see SI 1995/3261 and SI 2002/771), the amending instruments included letters sent by the Secretary of State for Work and Pensions (in 1995, the Department for Social Security) and the Minister for the Department for Social Development. (in 1995, the Department of Health and Social Services in Northern Ireland). Those letters contained their agreement to make changes to the Memorandum of Arrangements included in the Reciprocal Arrangements Regulations. This instrument continues that practice by including the letters between the two ministers in a new Schedule to the Reciprocal Arrangement Regulations.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- ***What is being done and why***

7.1 The current Memorandum of Arrangements includes a provision for administering a case where the primary carer of a qualifying child (the "person with care") and the non-resident parent live in different territories. In such cases the case will be dealt with by the territory in which the person with care resides.

7.2 This instrument would change the arrangement so that, for cases subject to new scheme calculation rules, such a case would be dealt with by the territory in which a non-resident parent resides. This reflects the fact that most case activity, in particular in relation to matters concerning payment of child support, involve contact with, and action by, the non–resident parent.

7.3 Where a non-resident parent is not habitually resident in the United Kingdom but is treated as such under the legislation due to his employment status, the non-resident parent will be treated as if residing in Great Britain. This means that the case will be administered in Great Britain and the rules applicable in Great Britain will apply

7.4 There are very few cases where parents live in different territories. Where a case is administratively owned has no impact on the amount of child maintenance payable, since both territories have the same calculation rules.

- ***Consolidation***

7.5 The law relating to child support is available on the internet at http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-child-support/ and is generally updated twice-yearly.

8. Consultation

8.1 There has been no consultation on this amendment which is effectively an administrative change. Both territories have identical new calculation rules, so that where the case is dealt with has no bearing on the amount of child support payable.

9. Guidance

9.1 A need for guidance does not arise. Relevant cases will automatically be routed to the correct territory by their computer systems once the address of the non-resident parent has been confirmed.

10. Impact

10.1 There is no impact on business or on charities or voluntary bodies.

10.2 The impact on the public sector is low and is limited to the Child Maintenance Service and the Department for Social Development.

10.3 An Impact Assessment has not been published for this instrument.

11. Regulating Small Business

The legislation does not apply to small businesses.

12. Monitoring & Review

The impact of this amendment will be assessed as part of the general ongoing review of the new calculation rules.

13. Contact

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