

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

2018 No. 210

FAMILY LAW

CHILD SUPPORT

**The Child Support (Miscellaneous Amendments)
Regulations (Northern Ireland) 2018**

Made - - - - 11th December 2018

Coming into operation in accordance with regulation 1

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 16(1) and (3), 32A(4)(a) and (b), 32C(1) and (2)(h), (k), (l), (n), (o) and (p), 32D(1)(b), 32E(2)(a) and (b), 32F(1)(b), 32I, 32J(1) and (2)(d), (e) and (i), 32K(1)(b), 37(11), 38E, 47(1) and (2)(i), 48(4) and paragraph 4(1) of Schedule 4B to the Child Support (Northern Ireland) Order 1991(1), and now vested in it(2).

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 and subject to paragraph (2) shall come into operation on 13th December 2018.

(2) Regulation 3 shall come into operation on 20th December 2018.

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- (1) *S.I. 1991/2628 (N.I. 23)*. Article 16(1) was amended by section 12 of, and 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 16(3) was amended by paragraph 14(b) of Schedule 6 and Schedule 7 to the Social Security (Northern Ireland) Order 1998 ((S.I. 1998/1506 (N.I. 10)). Articles 32A, 32C and 32D were inserted by section 14 and Articles 32E, 32F, 32I, 32J and 32K were inserted by section 15 of the 2008 Act. Article 38E was inserted by section 24 of the 2008 Act. Schedule 4B was inserted by Article 3(3) and Schedule 2 to the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13)) and is substituted by section 6 of and Schedule 2 to the 2000 Act
- (2) *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 THE GROUNDS FOR VARIATION OF A MAINTENANCE CALCULATION

Amendment of the Child Support Maintenance Calculation Regulations

2.—(1) The Child Support Maintenance Calculation Regulations (Northern Ireland) 2012⁽³⁾ are amended as follows.

(2) After regulation 68 (non-resident parent with unearned income) insert—

“Assets exceeding a prescribed value

68A.—(1) Where this paragraph applies, the other cases prescribed under paragraph 4(1) of Schedule 4B to the Child Support Order are cases where the Department is satisfied that there is an asset in which the non-resident parent has a legal or beneficial interest and the value of that interest exceeds the prescribed value.

(2) In this regulation “asset” means—

- (a) money, whether in cash or on deposit, including any money which is due to a non-resident parent where the Department is satisfied that requiring payment of the monies to the non-resident parent immediately would be reasonable;
- (b) gold, silver or platinum bullion bars or coins;
- (c) a virtual currency which is capable of being exchanged for money;
- (d) land or rights in or over land;
- (e) shares within the meaning of section 540 of the Companies Act 2006⁽⁴⁾;
- (f) stock or shares within the meaning of section 2 of the Judgements Enforcement (Northern Ireland) Order 1981⁽⁵⁾;
- (g) gilt edged securities within the meaning of paragraphs 1 and 1A of Part 1 of Schedule 9 to the Taxation of Chargeable Gains Act 1992⁽⁶⁾; or
- (h) a chose in action which has not been enforced on the date of an application for a variation under regulation 55 and where the Department is satisfied that such enforcement would be reasonable.

(3) In this regulation “asset” includes any asset which is subject to a trust where the non-resident parent is a beneficiary.

(4) Paragraph (1) does not apply in the case of any asset which—

- (a) has been received by the non-resident parent as compensation for personal injury suffered by the non-resident parent;
- (b) is being used in the course of the non-resident parent’s trade or business;
- (c) the Department is satisfied could have been purchased from the gross weekly income of the non-resident parent which has been taken into account for the purposes of a maintenance calculation;
- (d) will need to be sold in order to meet any additional maintenance payment required as a result of a variation under paragraph 4(1) of Schedule 4B to the Child Support

(3) S.R. 2012 No. 427

(4) 2006 c.46

(5) S.I. 1981/226 (N.I. 6)

(6) 1992 c.12. Paragraph 1A of Part 1 of Schedule 9 was inserted by paragraph 8 of Schedule 40 to the Finance Act 1996 (1996 c.8)

Order where the Department is satisfied that the sale of that asset would cause hardship to a child of the non-resident parent, or would otherwise be unreasonable having taken into account all relevant circumstances; or

(e) is a legal or beneficial interest in land where the land in question is the primary residence of the non-resident parent or any child of the non-resident parent.

(5) The “prescribed value” is £31,250.

(6) In the case of an asset which is subject to a mortgage or charge, the value of that asset will be its value after a deduction is made for any amount owing under the mortgage or charge.

(7) The Department shall calculate the weekly value of an asset by applying the statutory rate of interest to the value of the asset and dividing by 52.

(8) For the purposes of this regulation—

“statutory rate of interest” means interest at the statutory rate prescribed for a judgment debt⁽⁷⁾;

“virtual currency” means a digital representation of value which is not issued by a central bank or a public authority; and is accepted by natural or legal persons as a means of payment; and can be transferred, stored or traded electronically.”.

PART 3

AMENDMENTS RELATING TO DEDUCTIONS FROM JOINT AND BUSINESS ACCOUNTS

Amendment of the Child Support (Collection and Enforcement) Regulations

3.—(1) The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992⁽⁸⁾ are amended as follows.

(2) In regulations 25A⁽⁹⁾ (interpretation of Parts IIIA to IIID)—

(a) In paragraph (1)—

(i) before the definition of “assessable income” insert—

““another account-holder” means an account-holder other than the liable person in a case where a regular deduction order or a lump sum deduction order is proposed or made in respect of a joint account;”;

(ii) after the definition of “gross weekly income”⁽¹⁰⁾ insert—

““joint account” includes an account used by a partnership⁽¹¹⁾ of which the liable person is a partner;”;

(b) in paragraph (3)(b), after “liable person” insert “or (where the order is made in respect of a joint account) another account-holder”; and

(c) in paragraph (4), for “or a liable person” substitute “, a liable person or another account-holder”.

(3) After regulation 25A insert—

⁽⁷⁾ The statutory rate of interest is prescribed by Rule 9 of Order 42 to the Rules of the Court of Judicature (NI) 1980

⁽⁸⁾ S.R. 1992 No. 390

⁽⁹⁾ Regulation 25A was inserted by regulation 2 of S.R. 2009 No. 286

⁽¹⁰⁾ The definition “gross weekly income” was inserted by regulation 4(2)(b) of S.R. 2013 No. 182

⁽¹¹⁾ Partnership is defined in section 1 of the Partnership Act 1890 (c. 39)

“Regular deduction order in respect of a joint account

25A1.—(1) Before making a regular deduction order in respect of a joint account the Department shall serve a notice containing the information set out in paragraph (2) and the further information set out in paragraph (3) or (4) (as appropriate).

(2) The information to each account-holder is—

- (a) that the Department is proposing to make an order in respect of the account;
- (b) the name of the liable person;
- (c) the number and sort code of the account;
- (d) that the order would be made to secure the payment of child support maintenance payable by the liable person;
- (e) the dates on which the Department is proposing to make deductions under the order;
- (f) that each account-holder has an opportunity to make representations to the Department about the matters in sub-paragraphs (a) and (e);
- (g) that the order is likely to be made in the terms set out in the notice if representations are not made; and
- (h) the period for making representations.

(3) The further information to the liable person is—

- (a) the amounts that the Department is proposing to deduct under the order in respect of each of arrears of child support maintenance payable under the calculation and amounts of child support maintenance which will become payable under the calculation;
- (b) that the liable person has an opportunity to make representations to the Department about the matters in sub-paragraph (a);
- (c) that the order is likely to be made in the terms set out in the notice if representations are not made; and
- (d) the period for making representations.

(4) The further information to another account-holder is—

- (a) the amounts that the Department is proposing to deduct under the order; and
- (b) that another account-holder has an opportunity to make representations to the Department about the matters in sub-paragraph (a);
- (c) that the order is likely to be made in the terms set out in the notice if representations are not made; and
- (d) the period for making representations.

(5) The period for making representations to the Department in respect of the matters referred to in paragraphs (2)(a), (e) and (3)(a) or (4)(a) is—

- (a) 14 days, beginning with the day on which the account-holder receives the notice; or
- (b) such longer period as the Department considers reasonable in the circumstances of the case.

(6) A regular deduction order may not be made before the period for making representations has expired and the Department has considered any representations in respect of the matters referred to in paragraphs (2)(a), (e) and (3)(a) or (4)(a) made to the Department during that period.”.

(4) In regulation 25E (notification by the deposit-taker to the Department)—

- (a) in paragraph (1) omit “in writing”; and

- (b) after paragraph (5) insert—
 - “(5A) The deposit-taker at which a regular deduction order is directed must within 7 days of changing the name of an account-holder, beginning with the day on which the deposit-taker changes that name, notify the Department of the old name of the account-holder and the new name of that account-holder, if the order—
 - (a) is made in respect of a joint account; and
 - (b) remains in force at any time within that 7 day period.”.
- (5) In regulation 25G (review of a regular deduction order)—
 - (a) for paragraph (1) substitute—
 - “(1) The following persons may apply to the Department for a review of a regular deduction order—
 - (a) a deposit-taker at which the order is directed;
 - (b) the liable person against whom the order is made; or
 - (c) another account-holder (in the case of an order made in respect of a joint account).”;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (a) for “the liable person or the deposit-taker” substitute “the liable person, the deposit-taker or another account-holder (in the case of an order made in respect of a joint account)”;
 - (ii) at the beginning of sub-paragraph (b) insert “the applicant is the liable person and”;
 - (iii) after sub-paragraph (e) omit “or”;
 - (iv) after sub-paragraph (f) insert—
 - “;
 - (g) for a joint account, another account-holder satisfies the Department that the amount contributed by the liable person to the account specified in the order—
 - (i) has decreased; or
 - (ii) will decrease within a period of 3 months of the date on which the account-holder applied for a review of the order; or
 - (h) for a joint account, another account-holder who did not make representations within the period for making representations under regulation 25A1(5), 25IA(3) or 25KA(3) both—
 - (i) satisfies the Department that that account-holder had reasonable excuse for not making representations within that period; and
 - (ii) applies for a review of the order within 3 months of the expiry of the period for making representations under regulation 25A1(5), 25IA(3) or 25KA(3).”.
- (6) In regulation 25I (variation of a regular deduction order)—
 - (a) for paragraph (1) substitute—
 - “(1) Subject to regulation 25IA, the Department may vary a regular deduction order by changing the amount to be deducted in the circumstances set out in paragraph (2).”;
 - and
 - (b) in paragraph (2)—
 - (i) after sub-paragraph (d) omit “or”;

(ii) after sub-paragraph (e) insert—

“; or

(ee) where the order is made in respect of a joint account, the amount contributed to the account by the liable person has changed or the Department has reason to believe that it will change within 3 months of the date on which the order is made or varied.”;

(c) at the end of paragraph (3), insert “or the deduction dates”; and

(d) after paragraph (4) insert—

“(5) Paragraphs (2) and (4) of this regulation also apply to a regular deduction order made in respect of a joint account.”.

(7) After regulation 25I insert—

“Variation of a regular deduction order in respect of a joint account

25IA.—(1) Before varying a regular deduction order made in respect of a joint account—

(a) to increase the amounts deducted; or

(b) to vary the deduction dates,

the Department shall serve on each account-holder a notice containing the information set out in paragraph (2).

(2) The information is—

(a) that listed in regulation 25A1(2)(b), (c), (e), (g), (h) and (3)(a) or (4)(a) (as appropriate);

(b) that the Department is proposing to vary the order in respect of the joint account;

(c) an explanation as to why the Department is proposing to vary the order; and

(d) that the account-holder has an opportunity to make representations about the matters in sub-paragraph (b) and regulation 25A1(2)(e), (3)(a) and (4)(a) (as appropriate).

(3) The period for making representations to the Department in respect of the matters referred to in paragraph (2)(b) and regulation 25A1(2)(e) and (3)(a) or (4)(a) (as appropriate) is—

(a) 14 days, beginning with the day on which the account-holder receives the notice; or

(b) such longer period as the Department considers reasonable in the circumstances of the case.

(4) The regular deduction order may not be varied before the period for making representations has expired and the Department has considered any representations in respect of the matters referred to in paragraph (2)(b) and regulation 25A1(2)(e) and (3)(a) or (4)(a) (as appropriate) made to the Department during that period.”.

(8) In regulation 25J (lapse of a regular deduction order)—

(a) In paragraph (2)—

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

(ii) after sub-paragraph (b) insert—

“; or

(c) the Department—

(i) is satisfied that the liable person has ceased making contributions to the account; or

- (ii) has reason to believe that the liable person will cease making contributions to the account in the next deduction period.”; and
- (b) after paragraph (4) insert—
 - “(5) This regulation applies to a regular deduction order whether or not made in respect of a joint account, except for paragraph (2)(c) which applies to a regular deduction order made in respect of a joint account only.”.
- (9) In regulation 25K (revival of a regular deduction order) in paragraph (1)—
 - (a) after sub-paragraph (a) omit “or”; and
 - (b) after sub-paragraph (b) insert—
 - “; or
 - (c) following the lapse of an order under regulation 25J(2)(c) the liable person has started making contributions to the account again.”.
- (10) After regulation 25K insert—

“Revival of a regular deduction order proposed in respect of a joint account

25KA.—(1) Before reviving a regular deduction order made in respect of a joint account, the Department shall serve on each account-holder a notice containing the information set out in paragraph (2).

- (2) The information is—
 - (a) that listed in regulation 25A1(2)(b), (c), (e), (g), (h) and (3)(a) or (4)(a) (as appropriate);
 - (b) that the Department is proposing to revive the order in respect of the account;
 - (c) an explanation as to why the Department is proposing to revive the order; and
 - (d) that the account-holder has an opportunity to make representations about the matters in sub-paragraph (b) and regulation 25A1(2)(e) and (3)(a) or (4)(a) (as appropriate).
- (3) The period for making representations to the Department in respect of the matters referred to in paragraph (2)(b) and regulation 25A1(2)(e) and (3)(a) or (4)(a) (as appropriate) is—
 - (a) 14 days, beginning with the day on which the account-holder receives the notice; or
 - (b) such longer period as the Department considers reasonable in the circumstances of the case.
- (4) A regular deduction order may not be revived before the period for making representations has expired and the Department has considered any representations in respect of the matters referred to in paragraph (2)(b) and regulation 25A1(2)(e) and (3)(a) or (4)(a) (as appropriate) made to the Department during that period.”.
- (11) In regulation 25L (discharge of a regular deduction order) in paragraph (1)—
 - (a) for sub-paragraph (f) substitute—
 - “(f) unless sub-paragraph (g) applies, a regular deduction order has lapsed under regulation 25J(2) and—
 - (i) 6 months have passed beginning with the day the lapse took effect; or
 - (ii) 6 months have passed beginning with the day the lapse took effect and during this period of time the Department has not served any notice under regulation 25KA.”;
 - (b) after sub-paragraph (g) omit “or”; and

(c) at the end of sub-paragraph (h) insert—

“; or

(i) the liable person is no longer an account-holder in relation to the account.”.

(12) For regulation 25M (period in which representations may be made) substitute—

“Period in which representations may be made

25M. Subject to regulation 25MA(3), where a lump sum deduction order has been made under Article 32E(1), the period for making representations to the Department in respect of the proposal specified in that order is 14 days, beginning with the day on which a copy of the order was served.”.

(13) After regulation 25M insert—

“Notice where an interim lump sum deduction order has been made in respect of a joint account

25MA.—(1) Where the Department serves a copy of the interim order made in respect of a joint account on each account-holder, that order must be accompanied by a notice containing the information set out in paragraph (2).

(2) The information is—

- (a) the name of the liable person;
- (b) that the Department has made the interim order in respect of the account and is proposing to make a final order in respect of that account;
- (c) that an interim order or final order which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker not to do anything that would reduce the amount standing to the credit of the account below the amount specified in the order (or, if already below that amount, that would further reduce it);
- (d) that the interim order has been made because the liable person is required to pay an amount of arrears of child support maintenance and the Department is seeking to secure the payment of some or all of that amount;
- (e) the earliest date proposed by the Department for paying the amount of arrears of child support maintenance secured under a final order;
- (f) that the account-holder has an opportunity to make representations about the proposal specified in the interim order;
- (g) that a final order is likely to be made in the terms set out in the notice if representations are not made; and
- (h) the period for making representations.

(3) The period for making representations to the Department in respect of the matters referred to in paragraph (2)(b), (d) and (e) is—

- (a) 28 days, beginning with the day on which the account-holder receives the notice; or
- (b) such longer period as the Department considers reasonable in the circumstances of the case.

(4) A final order may not be made before the period for making representations has expired and the Department has considered any representations in respect of the matters referred to in paragraph (2)(b), (d) and (e) made to the Department during that period.”.

(5) In this regulation—

“interim order” means an order under Article 32E of the Order (lump sum deductions: interim orders); and

“final order” means an order under Article 32F of the Order (lump sum deductions: final orders).”.

- (14) In regulation 25N (disapplication of Articles 32G(1) and 32H(2)(b) of the Order)—
- (a) in paragraph (1) after sub-paragraph (a) insert—
 - “(aa) another account-holder, another account-holder’s partner or a child in relation to whom another account-holder is a person with care⁽¹²⁾ is suffering hardship in meeting ordinary living expenses;”;
 - (b) in paragraph (1)(b) after “liable person” insert “or another account-holder”;
 - (c) in paragraph (1)(d) for “the liable person” substitute “either the liable person or another account-holder”; and
 - (d) in paragraphs (2) and (3)(b) after “liable person” insert “, another account-holder”.
- (15) In regulation 25O (information) after paragraph (5) insert—
- “(5A) The deposit-taker at which a lump sum deduction order is directed must within 7 days of changing the name of an account-holder, beginning with the day on which the deposit-taker changes that name, notify the Department of the old name of the account-holder and the new name of that account-holder, if the order is—
- (a) made in respect of a joint account; and
 - (b) in force at any time during that 7 day period.”.
- (16) In regulation 25U (discharge of a lump sum deduction order) in paragraph (1)—
- (a) after sub-paragraph (f) omit “or”; and
 - (b) after sub-paragraph (g) insert—
 - “; or
 - (h) the liable person is no longer an account-holder in relation to the account.”.
- (17) In regulation 25X (accounts of a prescribed description) for paragraph (3) substitute—
- “(3) Paragraph (1)(b) does not apply where a regular deduction order or a lump sum deduction order is made in respect of an account which is used by—
- (a) the liable person as a sole trader; or
 - (b) a partnership of which the liable person is a partner.”.
- (18) After regulation 25X insert—

“Deduction orders in respect of joint accounts

25XA. A regular deduction order or a lump sum deduction order may be made in respect of a joint account which is held by the liable person and one or more other persons.

Sharing information with account-holders

25XB. Where the Department serves a notice on an account-holder under regulation 25A1, 25IA, 25KA or 25MA, that notice may be accompanied by such information about the liable person as the Department considers essential to enable the account-holder to make representations in respect of the proposal specified in the notice.

(12) A “person with care” is defined in Article 4(3) of the Child Support (Northern Ireland) Order 1991 (N.I. 23).

Information provided by a deposit-taker before the making of an order

25XC.—(1) Before making a regular deduction order or a lump sum deduction order in respect of a joint account, the Department may by way of notice require a deposit-taker to provide the information set out in paragraph (3) to the Department.

(2) The information required under paragraph (1) must be provided within 14 days, beginning with the day on which the Department’s notice was served on the deposit-taker.

(3) The information is—

- (a) the name of each account-holder;
- (b) the residential address or the address for correspondence, if different, of each account-holder;
- (c) the number and sort code of the account;
- (d) the type of account;
- (e) the amount standing to the credit of the account specified in the request; and
- (f) details of any transactions on the account in the 6 month period before the Department’s notice was served on the deposit-taker.”.

(19) In regulation 25AC (offences)—

- (a) in paragraph (a) for “regulation 25E(1) to (5)” substitute “regulation 25E(1) to (5A)”;
- (b) in paragraph (c) for “regulation 25O(1) to (5)” substitute “regulation 25O(1) to (5A)”;
- (c) after paragraph (d) omit “and”; and
- (d) after paragraph (e) insert—
 - “; and
 - (f) regulation 25XC (information provided by a deposit-taker before the making of an order).”.

(20) After regulation 25AD (Department to warn of consequences of failing to comply with an order or to provide information) insert—

“Review

25AE.—(1) The Department must from time to time—

- (a) carry out a review of the regulatory provision contained in regulations 25A to 25AD of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must, in particular—

- (a) set out the objectives intended to be achieved by those provisions;
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The first report under this regulation must be published before the end of the period of 5 years, beginning with the date on which the Child Support (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 come into operation.

(4) Subsequent reports under this regulation must be published at intervals not exceeding 5 years.

(5) In this regulation, “regulatory provision” has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015(13).”.

PART 4

AMENDMENTS RELATING TO WRITE OFF OF ARREARS OF CHILD SUPPORT MAINTENANCE

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(14) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “old scheme case” insert—

““a 2003 scheme case” means a case in respect of which the provisions of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 have been brought into operation in accordance with Article 3 of the Child Support, Pensions and Social Security (2000 Act) (Commencement No. 9) Order (Northern Ireland) 2003(15);

“a 2012 scheme case” means a case in respect of which the provisions of the Child Maintenance (Northern Ireland) Act 2008 have been brought into operation in accordance with Article 2 of the Child Maintenance (2008 Act) (Commencement No. 10 and Transitional Provisions) Order (Northern Ireland) 2012(16), Article 2 of the Child Maintenance (2008 Act) (Commencement No. 11 and Transitional Provisions) Order (Northern Ireland) 2013(17) or Article 2 of the Child Maintenance (2008 Act) (Commencement No. 12 and Savings Provisions) Order (Northern Ireland) 2013(18);”;

(b) after the definition of “the AIAMA Regulations” insert—

““Child Maintenance Service system” means the computer system used by the Child Maintenance Service which administers a 2012 scheme case or arrears from an old scheme case or 2003 scheme case;

“Child Support Agency system” means the computer system used by the Child Maintenance Service which administers an old scheme case or 2003 scheme case;”.

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

(a) after paragraph (c) omit “or”;

(b) after paragraph (d) insert—

“;

(e) the arrears relate to liability for child support maintenance accrued under an old or 2003 scheme case and the non-resident parent has failed to make any payments of child support maintenance within the 3 month period

(13) 2015 c. 26.

(14) S.R. 2009 No. 422

(15) S.R. 2003 No. 53 (c. 4)

(16) S.R. 2012 No. 440 (c. 45)

(17) S.R. 2013 No. 201 (c. 13)

(18) S.R. 2013 No. 276 (c. 18)

which precedes the date of the written notice sent by the Department under regulation 13G(1), or, where the arrears fall within regulations 13J(1)(a), (b) or (d), within the 3 month period which precedes the date of the decision of the Department under section 38E(1) of the Order;

- (f) the arrears relate to liability for child support maintenance accrued under an old or 2003 scheme case which has transferred from the Child Support Agency system to the Child Maintenance Service system and the non-resident parent has failed to make any payments of child support maintenance within the 3 month period which precedes the date of the written notice sent by the Department under regulation 13G(1), or, where the arrears fall within regulations 13J(2)(a) or (b), within the 3 month period which precedes the date of the decision of the Department under section 38E(1) of the Order; or
 - (g) the arrears relate to sequestrated debt in Scotland for an old, 2003 or 2012 scheme case once the trustee administering the sequestration has confirmed that the period of sequestration has ended.”.
- (4) In regulation 13G (Department required to give notice)—
- (a) after paragraph (1) insert—
 - “(1A) Where the arrears fall within regulation 13(J)(1)(c) or (e) or (2)(c) the requirement under paragraph (1) to send written notice to the non-resident parent only applies where the Department receives written representations within the period of 60 days beginning with the date the notice is received by the person with care.”;
 - (b) in paragraph (2) after “died” insert “or the arrears fall within regulations 13F(g), 13J(1)(a), 13J(1)(b), 13J(1)(d), 13J(2)(a) or 13J(2)(b)”;
 - (c) in paragraph (3)(b)—
 - (i) after “arrears” where it first appears insert “except where the arrears fall within regulation 13J(1)(c)”;
 - (ii) after “relate” insert “except where the arrears fall within regulation 13J(1)(c) or (e) or (2)(c)”;
 - (d) at the beginning of paragraph (3)(d) insert “subject to paragraph 3(da)” and at the end of paragraph (3)(d) omit “and”;
 - (e) after paragraph (3)(d) insert—
 - “(da) where the arrears fall within regulation 13J(1)(c) or (e) or (2)(c)—
 - (i) advise the person with care that they may make written representations as to whether the liability in respect of the arrears should be extinguished, and that any such representations must be sent by post to the Department within the period of 60 days beginning with the date the notice is received;
 - (ii) where a notice is sent to the non-resident parent in accordance with paragraph (1A), advise the non-resident parent that they may make written representations which must be sent by post to the Department within the period of 21 days beginning with the date the notice is received; and”;
 - (f) in paragraph (4), for “If” substitute “Subject to paragraph (4A), if”;
 - (g) after paragraph (4) insert—
 - “(4A) Where any of the conditions of write off mentioned in regulation 13J(1)(c) or (e) or (2)(c) apply, if no written representations are received by the Department within the

period of 60 days beginning with the date the notice is received by the person with care, the Department may make the decision to extinguish the arrears.”.

(5) In regulation 13H (Department to take account of the parties’ views), after “13G(3)(d)” insert “or within the 60 day period referred to in regulation 13G(3)(da)(i) or within the 21 day period referred to in regulation 13G(3)(da)(ii)”.

(6) In regulation 13I(2) (Notification of decision to write off), after “died” insert “or where the arrears fall within regulation 13J(1)(a) or (2)(a) or where the arrears fall within regulation 13J(1)(c) or (e) or (2)(c) and the Department has not received written representations by post from the person with care within the 60 day period referred to in regulation 13G(3)(da).”.

(7) After regulation 13I (notification of decision to write off) insert—

“Conditions of write off

13J.—(1) The arrears mentioned above are—

- (a) the arrears are less than £65;
- (b) the effective date of the maintenance assessment or maintenance calculation was on or before 1st November 2008 and the arrears are £1,000 or less;
- (c) the effective date of the maintenance assessment or maintenance calculation was on or before 1st November 2008 and the arrears are over £1,000;
- (d) the effective date of the maintenance calculation was after 1st November 2008 and the arrears are £500 or less; or
- (e) the effective date of the maintenance calculation was after 1st November 2008 and the arrears are over £500.

(2) The arrears mentioned above are—

- (a) the arrears are less than £65; or
- (b) the arrears are £500 or less; or
- (c) the arrears are over £500.”.

Sealed with the Official Seal of the Department for Communities on 11th December 2018

Anne McCleary
A senior officer of the Department for
Communities

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend child support regulations.

Regulation 2 inserts a new regulation 68A into the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012. The new regulation makes provision for specified assets to be calculated as having a weekly value which is taken into account in order to vary a maintenance calculation. The weekly value of the asset is treated as additional income of the non-resident parent. Virtual currencies which are capable of being traded for conventional currencies are assets for the purposes of the new regulation. Not all virtual currencies are capable of being traded in this way. Some are closed currencies which exist only within virtual communities, and have no link to real economies.

Regulation 3 makes amendments to the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992 and provides for the application of regular deduction orders and lump sum deduction orders to joint accounts. Such provision also extends the application of lump sum deduction orders to sole trader accounts and applies both orders to partnership accounts. In each of these cases, the person against whom one of these orders may be made will be an account-holder of the relevant account.

Regulation 4 makes amendments to the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009. It provides additional circumstances in which the Department may exercise the power to write off arrears in section 38E of the Child Support (Northern Ireland) Order 1991.