

2012 No. 2380

FAMILY LAW

CHILD SUPPORT

**The Child Support (Northern Ireland Reciprocal Arrangements)
Amendment Regulations 2012**

Made - - - - - *17th September 2012*

Laid before the House of Commons *17th September 2012*

Coming into force - - - *29th October 2012*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 87(4) and (9) of the Northern Ireland Act 1998(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Support (Northern Ireland Reciprocal Arrangements) Amendment Regulations 2012 and shall come into force on 29th October 2012.

(2) In these Regulations, “the Northern Ireland Regulations” means the Child Support (Northern Ireland Reciprocal Arrangements) Regulations 1993(b).

Amendment of the Northern Ireland Regulations

2.—(1) The Northern Ireland Regulations are amended as follows.

(2) In regulation 2(1), for “1A and 1B” substitute “1A, 1B and 1C”.

(3) After Schedule 1B (Exchange of Letters) insert Schedule 1C as set out in Schedule 1 to these Regulations.

Signed by authority of the Secretary of State for Work and Pensions.

17th September 2012

Steve Webb
Minister of State,
Department for Work and Pensions

(a) 1998 c.47.

(b) S.I.1993/584; amending instruments are S.I. 1995/3261 and 2002/771.

SCHEDULE TO BE INSERTED INTO THE NORTHERN IRELAND
REGULATIONS

“SCHEDULE 1C

Regulation 2(1)

EXCHANGE OF LETTERS AMENDING THE MEMORANDUM
OF ARRANGEMENTS RELATING TO THE PROVISION MADE
FOR CHILD SUPPORT MAINTENANCE IN THE UNITED
KINGDOM

No 1

THE PARLIAMENTARY UNDER-SECRETARY OF STATE
FOR WORK AND PENSIONS, WITH THE CONSENT OF
THE TREASURY, TO THE MINISTER FOR SOCIAL
DEVELOPMENT

9 August 2012

Sir,

I have the honour to refer to the Memorandum of Arrangements relating to the provision made for Child Support Maintenance between the Secretary of State for Social Security of the one part and the Department of Health and Social Services for Northern Ireland of the other part which came into effect on 5th April 1993, as amended in accordance with—

- (a) the Exchange of Letters from the Secretary of State for Social Security to the Department of Health and Social Services for Northern Ireland of 7th November 1995 and from the Department of Health and Social Services for Northern Ireland to the Secretary of State for Social Security of 8th November 1995; and
- (b) the Exchange of Letters from the Parliamentary Under-Secretary of State for Work and Pensions to the Minister for Social Development of 11th March 2002 and from the Minister for Social Development to the Parliamentary Under-Secretary of State for Work and Pensions of 14th March 2002,

(which Memorandum in its amended form is referred to in this letter as “the Principal Memorandum”).

I refer also to recent discussions between the Department for Work and Pensions and the Department for Social Development concerning the need to amend the Principal Memorandum so as to make further provision in relation to child support matters.

I now have the honour, with the consent of the Treasury, to propose the following amendments to the Principal Memorandum:

In Article 5—

- (a) in paragraph (1) for “and (4) substitute “, (4) and (8)”;
 - (b) in paragraph (2) for “paragraph (4)” substitute “paragraphs (4) and (8)”;
 - (c) in paragraph (3) for “paragraph (4)” substitute “paragraphs (4) and (8)”;
 - (d) in paragraph (5) for “paragraph (7)” substitute “paragraphs (7) and (8)”;
 - (e) in paragraph (6) for “paragraph (7)” substitute “paragraphs (7) and (8)”;
- and

- (f) after paragraph (7) insert the following paragraphs—
- “(8) An application for a maintenance calculation which is to be determined in accordance with the new calculation rules shall be dealt with in, and in accordance with the provision made for, the territory in which the person who is, or is treated as or alleged to be, the non-resident parent in relation to that application resides.
- (9) Where paragraph (8) applies to an application for a maintenance calculation and there is an existing case in respect of which the same person is, or is treated as or alleged to be, the non-resident parent, that case shall also be dealt with (insofar as it is not already) in, and in accordance with the provision made for, the territory in which that person resides.
- (10) For the purpose of paragraphs (8) and (9), where the person who is, or is treated as or alleged to be, the non-resident parent in relation to the application falls within section 44(2A) of the Act, or Article 41(2A) of the Order, that person shall be treated as if residing in Great Britain.
- (11) In this Article—
- “existing case” means any case where the maintenance assessment or maintenance calculation is made, or will fall to be made, otherwise than in accordance with the new calculation rules;
- “new calculation rules” means Part 1 of Schedule 1 to the Act as amended by Schedule 4 to the Child Maintenance and Other Payments Act 2008, or Part 1 of Schedule 1 to the Order as amended by Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008.
- (12) In paragraphs (9) and (10), where relevant, references to non-resident parent include references to absent parent.”

If the foregoing proposals are acceptable to you, I have the honour to propose that this letter and your reply to that effect shall constitute a Memorandum of Arrangements between us which it is proposed shall come into effect on 29th October 2012.

Signed by authority of the Secretary of State for Work and Pensions.

Maria Miller
Parliamentary Under-Secretary of State,
Department for Work and Pensions

9th August 2012

We consent

Jeremy Wright
Brooks Newmark

4th September 2012

Two of the Lords Commissioners of Her Majesty's Treasury

No 2

THE MINISTER FOR SOCIAL DEVELOPMENT, WITH THE
CONSENT OF THE DEPARTMENT OF FINANCE AND
PERSONNEL, TO THE PARLIAMENTARY UNDER-
SECRETARY OF STATE FOR WORK AND PENSIONS

10th September 2012

Madam,

I refer to your letter of 9th August 2012 which reads as follows:

I have the honour to refer to the Memorandum of Arrangements relating to the provision made for Child Support Maintenance between the Secretary of State for Social Security of the one part and the Department of Health and Social Services for Northern Ireland of the other part which came into effect on 5th April 1993, as amended in accordance with—

- (a) the Exchange of Letters from the Secretary of State for Social Security to the Department of Health and Social Services for Northern Ireland of 7th November 1995 and from the Department of Health and Social Services for Northern Ireland to the Secretary of State for Social Security of 8th November 1995; and
- (b) the Exchange of Letters from the Parliamentary Under-Secretary of State for Work and Pensions to the Minister for Social Development of 11th March 2002 and from the Minister for Social Development to the Parliamentary Under-Secretary of State for Work and Pensions of 14th March 2002,

(which Memorandum in its amended form is referred to in this letter as “the Principal Memorandum”).

I refer also to recent discussions between the Department for Work and Pensions and the Department for Social Development concerning the need to amend the Principal Memorandum so as to make further provision in relation to child support matters.

I now have the honour, with the consent of the Treasury, to propose the following amendments to the Principal Memorandum:

In Article 5—

- (a) in paragraph (1) for “and (4) substitute “, (4) and (8)”;
- (b) in paragraph (2) for “paragraph (4)” substitute “paragraphs (4) and (8)”;
- (c) in paragraph (3) for “paragraph (4)” substitute “paragraphs (4) and (8)”;
- (d) in paragraph (5) for “paragraph (7)” substitute “paragraphs (7) and (8)”;
- (e) in paragraph (6) for “paragraph (7)” substitute “paragraphs (7) and (8)”;
- and
- (f) after paragraph (7) insert the following paragraphs—

“(8) An application for a maintenance calculation which is to be determined in accordance with the new calculation rules shall be dealt with in, and in accordance with the provision made for, the territory in which the person who is, or is treated as or alleged to be, the non-resident parent in relation to that application resides.

(9) Where paragraph (8) applies to an application for a maintenance calculation and there is an existing case in respect of which the same person is, or is treated as or alleged to be, the non-resident parent, that case shall also be dealt with (insofar as it is not already) in, and in accordance with the provision made for, the territory in which that person resides.

(10) For the purpose of paragraphs (8) and (9), where the person who is, or is treated as or alleged to be, the non-resident parent in relation to the application falls within section 44(2A) of the Act, or Article 41(2A) of the Order, that person shall be treated as if residing in Great Britain.

(11) In this Article—

“existing case” means any case where the maintenance assessment or maintenance calculation is made, or will fall to be made, otherwise than in accordance with the new calculation rules;

“new calculation rules” means Part 1 of Schedule 1 to the Act as amended by Schedule 4 to the Child Maintenance and Other Payments Act 2008, or Part 1 of Schedule 1 to the Order as amended by Schedule 1 to the Child Maintenance Act (Northern Ireland) 2008.

(12) In paragraphs (9) and (10), where relevant, references to non-resident parent include references to absent parent.”

I have the honour to confirm, with the consent of the Department of Finance and Personnel, that the foregoing proposals are acceptable to the Minister for Social Development, and agree that your letter and this reply shall constitute a Memorandum of Arrangements between us which it is proposed shall come into effect on 29th October 2012.

Sealed with the Official Seal of the Department for Social Development on 10th September 2012.

Nelson McCausland
Minister for Social Development

The Department of Finance and Personnel hereby consents.

Sealed with the Official Seal of the Department of Finance and Personnel on 10th September 2012.

John McKibbin
Senior Officer of the Department of Finance and Personnel. ”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in Great Britain to amendments made to reciprocal arrangements relating to matters for which provision is made by the Child Support Act 1991, and, in Northern Ireland, by the Child Support (Northern Ireland) Order 1991. The amendments to the arrangements are related to the introduction of new rules for calculating child support maintenance, which were introduced by the Child Maintenance and Other Payments Act 2008 and the Child Maintenance Act (Northern Ireland) 2008. They make provision so that where the new calculation rules apply to a case, the case will be administered in the territory where the non-resident parent resides, and the provisions applying in that territory will apply.

The amendments are contained in the Exchange of Letters between the Parliamentary Under-Secretary of State for Work and Pensions and the Minister for Social Development set out in the Schedule to the Regulations.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.

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STATUTORY INSTRUMENTS

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