

1992 No. 467 (C. 20)

FAMILY LAW

CHILD SUPPORT

The Child Support (1991 Order)(Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992

Made - - - - 2nd November 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 1(2) to (5) of the Child Support (Northern Ireland) Order 1991(a) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(b) and of all other powers enabling it in that behalf, hereby makes the following order:

Citation

1. This order may be cited as the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992.

Day appointed for the coming into operation of certain provisions of the Child Support (Northern Ireland) Order 1991

2. Subject to the following provisions of this order, the day appointed for the coming into operation of all the provisions of the Child Support (Northern Ireland) Order 1991, in so far as they are not already in operation, except Articles 21(3), 30(2), 34(2) and 51(2), is 5th April 1993.

Transitional provisions

3. The transitional provisions set out in the Schedule shall have effect.

(a) S.I. 1991/2628 (N.I. 23)
(b) 1974 c. 28

Sealed with the Official Seal of the Department of Health and Social Services on 7th August 1992.



A.N. Burns
Assistant Secretary

SCHEDULE

Article 3



PART II

MODIFICATION OF MAINTENANCE ASSESSMENT IN CERTAIN CASES

5. In this Part—

“the Order” means the Child Support (Northern Ireland) Order 1991;

“formula amount” means the amount of child support maintenance that would, but for the provisions of this Part, be payable under an original assessment, or any fresh assessment made during the period specified in paragraph 7 ►² by virtue of a revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision. ◀

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992(a);

“modified amount” means an amount which is £20 greater than the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(a);

“original assessment” means a maintenance assessment made in respect of a qualifying child where no previous such assessment has been made or, where the assessment is made in respect of more than one child, where no previous such assessment has been made in respect of any of those children.

6.—(1) Subject to sub-paragraph (2), the provisions of this Part apply to cases where—

(a) on 4th April 1993 ►³, and at all times thereafter until the date when a maintenance assessment is made under the Order, ◀ there is in force, in respect of all the qualifying children in respect of whom an application for a maintenance assessment is made under the Order and the absent parent concerned, one or more—

(i) maintenance orders;

(ii) orders under section 151 of the Army Act 1955(b) (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act

(a) S.R. 1992 No. 340
(b) 1955 c. 18

1955(a) (deductions from pay for maintenance of wife or child) or arrangements corresponding to such an order and made under Article 1(b) or 3 of the Naval and Marine Pay and Pensions (Deductions for Maintenance) Order 1959(b), or

- (iii) maintenance agreements (being agreements which are made or evidenced in writing);
- (b) the absent parent is responsible for maintaining a child or children residing with him other than the child or children in respect of whom the application is made;
- (c) the formula amount is not more than £60, and
- (d) the formula amount exceeds the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in sub-paragraph (a) by more than £20 a week.

(2) Nothing in this Part applies to ►⁴ a Category A interim maintenance assessment within the meaning of regulation 8(1B) of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 ◀ made under Article 14 of the Order.

7. In a case to which this Part applies, the amount payable under an original assessment, or any fresh assessment made ►⁵ by virtue of a revision under Article 18 of the Order or a decision under Article 19 of the Order superseding an earlier decision ◀, during the period of one year beginning with the date on which the original assessment takes effect or, if shorter, until any of the conditions mentioned in paragraph 6(1) is no longer satisfied, shall, instead of being the formula amount, be the modified amount.

8. For the purpose of determining the aggregate weekly amount payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(a) any payments in kind and any payments made to a third party on behalf of or for the benefit of the qualifying child or qualifying children or the person with care shall be disregarded.

9. If, in making a maintenance assessment, ►⁶ the Department ◀ has applied the provisions of this Part, regulation 10(2) of the Maintenance Assessment Procedure Regulations shall have effect as if there was added at the end—

“(g)the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in paragraph 6(1)(a) of the Schedule to the Child Support (1991 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 1992 (modification of maintenance assessment in certain cases).”.

10. The first review of an original assessment under Article 18 of the Order (periodical reviews) shall be conducted on the basis that the amount payable under the assessment immediately before the review takes place was the formula amount.

11.—(1) The provisions of sub-paragraphs (2) and (3) shall apply where ►⁷ a decision is made under Article 19 of the Order which supersedes an earlier decision

(a) 1955 c. 19

(b) This Order in Council is not a statutory instrument but copies may be obtained from the Ministry of Defence, Naval Pay (Pensions and Conditions of Service) Branch, Old Admiralty Buildings, Spring Gardens, London SW1A 2BE

on the ground that there has been a material change of circumstances since the decision took effect ◀ at any time when the amount payable under that assessment is the modified amount.

(2) Where ▶⁸ the Department determines that, were a fresh assessment to be made by virtue of a decision under Article 19 of the Order superseding an earlier decision ◀, the amount payable under it (disregarding the provisions of this Part) (in this paragraph called “the reviewed formula amount”) would be–

- (a) more than the formula amount, the amount of child support maintenance payable shall be the modified amount plus the difference between the formula amount and the reviewed formula amount;
- (b) less than the formula amount but more than the modified amount, the amount of child support maintenance payable shall be the modified amount;
- (c) less than the modified amount, the amount of child support maintenance payable shall be the reviewed formula amount.

(3) ▶⁹ The Department ◀ shall, in determining the reviewed formula amount, apply the provisions of regulations ▶¹⁰ 20 and 21 ◀ of the Maintenance Assessment Procedure Regulations.

EXPLANATORY NOTE

(This note is not part of the Order.)

This order brings into operation on 5th April 1993 all the provisions of the Child Support (Northern Ireland) Order 1991 (“the Order”) which are not already in operation, or not fully in operation, except for Articles 21(3) (which relates to the giving of notice to prescribed persons before making a fresh maintenance assessment), 30(2) (which relates to the Department of Health and Social Services arranging for the collection of certain payments for the benefit of a child even though it is not arranging for the collection of child support maintenance for that child), 34(2) (which relates to the definition of “relevant information”) and 51(2) (which provides for paragraph 1(1) of Schedule 3 to the Order to have effect in a modified form until Schedule 1 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 (S.I. 1991/1712 (N.I. 17)) comes into operation. That Schedule is already in operation.). However, Article 3 and the Schedule contain transitional provisions which delay the full operation of Article 7 of the Order until 7th April 1997 and varies in some cases the way in which the amount of child support maintenance payable during the first year of an assessment is calculated.

NOTE AS TO EARLIER COMMENCEMENT ORDER

(This note is not part of the Order.)

[This note contains a list of provisions commenced by previous commencement orders and is not reproduced here as the commencement dates of all Articles of the Child Support 1991 Order can be found in Annex 2 of the Order.]

References

- 1 Revoked by Article 12(7) of the Child Support (NI) Order 1995 (S.I. 1995/2702 (N.I. 13)) as from 16 November 1995
- 2 Substituted by Article 12(a) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999
- 3 Inserted by Article 2(3)(a) of S.R. 1993 No. 174 (C. 9) as from 2 April 1993
- 4 Substituted by Article 2(3)(b) of S.R. 1993 No. 174 (C. 9) as from 2 April 1993
- 5 Substituted by Article 12(a) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999
- 6 Substituted by Article 12(b) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999
- 7 Substituted by Article 12(c)(i) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999
- 8 Substituted by Article 12(c)(ii) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999
- 9 Substituted by Article 12(c)(iii) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999
- 10 Substituted by Article 12(c)(iii) of S.R. 1999 No. 246 (C. 20) as from 1 June 1999