

2012 No. 374

FAMILY LAW

CHILD SUPPORT

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

Made - - - - *5th October 2012*

Coming into operation - *29th October 2012*

The Department for Social Development, being the Department having responsibility for social security, in exercise of the powers conferred by section 87(5) and (10) of the Northern Ireland Act 1998(a), makes the following Regulations.

Citation and commencement

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

Amendment of the Child Support (Great Britain Reciprocal Arrangements) Regulations

2.—(1) The Child Support (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1993(b) are amended in accordance with paragraphs (2) and (3).

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

(3) After Schedule 1B(d) (exchange of letters) insert the Schedule set out in the Schedule to these Regulations.

Sealed with the Official Seal of the Department for Social Development on 5th October 2012

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) 1998 c.47

(b) S.R. 1993 No. 117; relevant amending regulations are S.R. 1995 No. 475 and S.R. 2002 No. 121

(c) Regulation 2(1) was amended by regulation 8(2) of S.R. 1995 No. 475 and regulation 2(2)(a) of S.R. 2002 No. 121

(d) Schedule 1B was inserted by regulation 2(3) of S.R. 2002 No. 121

“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

9th 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)”;

- (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)”;
- (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 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.

(L.S.)

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.

(L.S.)

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 Northern Ireland to amendments to reciprocal arrangements relating to matters for which provision is made by the Child Support (Northern Ireland) Order 1991 and, in Great Britain by the Child Support Act 1991. The amendments to the arrangements relate to the introduction of new rules for calculating child support maintenance, introduced by the Child Maintenance Act (Northern Ireland) 2008 and the Child Maintenance and Other Payments Act 2008, and make provision so that where the new 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, contained in an Exchange of Letters between the Parliamentary Under-Secretary of State for Work and Pensions and the Minister for Social Development, are set out in the Schedule to the Regulations.

STATUTORY RULES OF NORTHERN IRELAND

2012 No. 374

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£4.00

N5587 10/2012 425587T 19585

ISBN 978-0-337-98918-6



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