



2000 CHAPTER 4

PART I  
CHILD SUPPORT

*Financial penalties*

**Financial penalties**

17.—(1) In Article 38 of the Child Support Order (arrears of child support maintenance), paragraphs (3) to (5) shall cease to have effect.

(2) For Article 38A of the Child Support Order (arrears: alternative to interest payments) there shall be substituted—

**“Penalty payments**

38A.—(1) The Department may by regulations make provision for the payment to it by non-resident parents who are in arrears with payments of child support maintenance of penalty payments determined in accordance with the regulations.

(2) The amount of a penalty payment in respect of any week may not exceed 25 per cent. of the amount of child support maintenance payable for that week, but otherwise is to be determined by the Department.

(3) The liability of a non-resident parent to make a penalty payment does not affect his liability to pay the arrears of child support maintenance concerned.

(4) Regulations under paragraph (1) may, in particular, make provision—

- (a) as to the time at which a penalty payment shall be payable;
- (b) for the Department to waive a penalty payment, or part of it.

- (5) The provisions of this Order with respect to—
- (a) the collection of child support maintenance;
  - (b) the enforcement of an obligation to pay child support maintenance,
- apply equally (with any necessary modifications) to penalty payments payable by virtue of regulations under this Article.
- (6) The Department shall pay penalty payments received by it into the Consolidated Fund.”.

### **Reduced benefit decisions**

**18.** For Article 43 of the Child Support Order (failure to comply with obligations imposed by Article 9) there shall be substituted—

#### **“Reduced benefit decisions**

**43.—**(1) This Article applies where any person (“the parent”)—

- (a) has made a request under Article 9(5);
- (b) fails to comply with any regulation made under Article 9(7); or
- (c) having been treated as having applied for a maintenance calculation under Article 9, refuses to take a scientific test (within the meaning of Article 27A).

(2) The Department may serve written notice on the parent requiring that parent, before the end of a specified period—

- (a) in a paragraph (1)(a) case, to give the Department that parent’s reasons for making the request;
- (b) in a paragraph (1)(b) case, to give the Department that parent’s reasons for failing to do so; or
- (c) in a paragraph (1)(c) case, to give the Department that parent’s reasons for the refusal.

(3) When the specified period has expired, the Department shall consider whether, having regard to any reasons given by the parent, there are reasonable grounds for believing that—

- (a) in a paragraph (1)(a) case, if the Department were to do what is mentioned in Article 9(3);
- (b) in a paragraph (1)(b) case, if that parent were to be required to comply; or
- (c) in a paragraph (1)(c) case, if that parent took the scientific test,

there would be a risk of that parent, or of any children living with that parent, suffering harm or undue distress as a result of the Department’s taking such action, or that parent complying or taking the test.

(4) If the Department considers that there are such reasonable grounds, it shall—

- (a) take no further action under this Article in relation to the request, the failure or the refusal in question; and
- (b) notify the parent, in writing, accordingly.

(5) If the Department considers that there are no such reasonable grounds, it may, except in prescribed circumstances, make a reduced benefit decision with respect to the parent.

(6) In a paragraph (1)(a) case, the Department may from time to time serve written notice on the parent requiring that parent, before the end of a specified period—

- (a) to state whether the request under Article 9(5) still stands; and
- (b) if so, to give the Department that parent's reasons for maintaining the request,

and paragraphs (3) to (5) have effect in relation to such a notice and any response to it as they have effect in relation to a notice under paragraph (2) (a) and any response to it.

(7) Where the Department makes a reduced benefit decision it shall send a copy of it to the parent.

(8) A reduced benefit decision shall take effect on such date as may be specified in the decision.

(9) Reasons given in response to a notice under paragraph (2) or (6) need not be given in writing unless the Department directs in any case that they shall.

(10) In this Article—

“comply” means to comply with the requirement or with the regulation in question;

“reduced benefit decision” means a decision that the amount payable by way of any relevant benefit to, or in respect of, the parent concerned be reduced by such amount, and for such period, as may be prescribed;

“relevant benefit” means income support or an income-based jobseeker's allowance or any other benefit of a kind prescribed for the purposes of Article 9; and

“specified”, in relation to a notice served under this Article, means specified in the notice; and the period to be specified is to be determined in accordance with regulations made by the Department.”.