



2000 CHAPTER 4

PART I
CHILD SUPPORT

Miscellaneous

Voluntary payments

19.—(1) After Article 28I of the Child Support Order there shall be inserted—

“Voluntary payments

Voluntary payments

28J.—(1) This Article applies where—

- (a) a person has applied for a maintenance calculation under Article 7(1), or is treated as having applied for one by virtue of Article 9;
 - (b) the Department has neither made a decision under Article 13 or 14 on the application, nor decided not to make a maintenance calculation; and
 - (c) the non-resident parent makes a voluntary payment.
- (2) A “voluntary payment” is a payment—
- (a) on account of child support maintenance which the non-resident parent expects to become liable to pay following the determination of the application (whether or not the amount of the payment is based on any estimate of his potential liability which the Department has agreed to give); and

- (b) made before the maintenance calculation has been notified to the non-resident parent or (as the case may be) before the Department has notified the non-resident parent that it has decided not to make a maintenance calculation.
- (3) In such circumstances and to such extent as may be prescribed—
 - (a) the voluntary payment may be set off against arrears of child support maintenance which accrued by virtue of the maintenance calculation taking effect on a date earlier than that on which it was notified to the non-resident parent;
 - (b) the amount payable under a maintenance calculation may be adjusted to take account of the voluntary payment.
- (4) A voluntary payment shall be made to the Department unless it agrees, on such conditions as it may specify, that that payment may be made to the person with care, or to or through another person.
- (5) The Department may by regulations make provision as to voluntary payments, and the regulations may in particular—
 - (a) prescribe what payments or descriptions of payment are, or are not, to count as voluntary payments;
 - (b) prescribe the extent to which and circumstances in which a payment, or a payment of a prescribed description, counts.”.
- (2) Article 38B of the Child Support Order (repayment of overpaid child support maintenance) shall be amended as follows.
- (3) After paragraph (1) there shall be inserted—
 - “(1A) This Article also applies where the non-resident parent has made a voluntary payment and it appears to the Department—
 - (a) that he is not liable to pay child support maintenance; or
 - (b) that he is liable, but some or all of the payment amounts to an overpayment,and, in a case falling within sub-paragraph (b), it also appears to the Department that paragraph (1)(a) or (b) applies.”.
- (4) For paragraph (7) there shall be substituted—
 - “(7) For the purposes of this Article—
 - (a) a payment made by a person under a maintenance calculation which was not validly made; and
 - (b) a voluntary payment made in the circumstances set out in paragraph (1A)(a),shall be treated as overpayments of child support maintenance made by a non-resident parent.”.