

These notes refer to the Child Maintenance Act (Northern Ireland) 2008 (c.10) which received Royal Assent on 2 July 2008

Child Maintenance Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Child Support etc.

Miscellaneous

Section 29: Recovery of arrears from deceased's estate

Section 29 inserts a new *Article 40A* into the Child Support (Northern Ireland) Order 1991, which gives the Department powers to make regulations to enable arrears of child support maintenance to be recovered from the estate of a deceased non-resident parent.

Paragraph (2) of new *Article 40A* sets out that regulations made under *paragraph (1)* may provide for:

- the arrears to be paid by the executor or administrator of a deceased non-resident parent out of the non-resident parent's estate, to the Department;
- how the amount of the arrears to be paid out of the estate is determined; and
- the procedure by which claims for arrears against the deceased non-resident parent's estate are made.

Paragraph (3) states that regulations may also provide for the executor or administrator to institute, continue or withdraw any proceedings. The regulations could, for example, enable the personal representative to exercise a right of appeal that the deceased might have had.

This change will enable the recovery of arrears of child support maintenance from the estate of a deceased non-resident parent where it is appropriate to do so. It is intended that arrears of child support maintenance will be treated in the same way as civil debt, and will be paid before the estate is distributed to the beneficiaries.

Personal representatives will be required to deduct the arrears from the assets of the deceased. They will also have rights to appeal and dispute the arrears demand. Regulations will also make provision for the procedure to be followed

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in determining the amount of any arrears and for resolving any dispute that arises in relation to a claim against a deceased non-resident parent's estate.