

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 3 - General

Schedule 1: Changes to the calculation of maintenance

This schedule amends Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991, and concerns changes to the calculation of maintenance.

The table below summarises the changes

	<i>Old Scheme Child Support (Northern Ireland) Order 1991</i>	<i>New Scheme Child Support, Pensions and Social Security Act (Northern Ireland) 2000</i>	<i>New arrangements under the Department</i>
Income to calculate maintenance	Net income	Net weekly income	Gross weekly income
Obtained from the child's parents or their employer	Obtained from the non-resident parent or their employer	Obtained from information supplied by Revenue and Customs	
Current income	Current income	Income from past periods	
Existing private arrangements	Not taken into account for private arrangements, but taken into account where Department is not empowered to act	Not taken into account for private arrangements, but taken into account where Department is not empowered to act	Certain types of private arrangements will be taken into account for calculating maintenance liability

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	<i>Old Scheme Child Support (Northern Ireland) Order 1991</i>	<i>New Scheme Child Support, Pensions and Social Security Act (Northern Ireland) 2000</i>	<i>New arrangements under the Department</i>
Basic rate levels	Not part of formula	15 % 1 child 20% 2 children 25% 3 or more children	NRPs earning between £200 and £800 per week (and the first £800 per week for NRPs earning over that amount) 12% 1 child 16% 2 children 19 % 3 or more children NRPs earning over £800 per week (rate applies in relation to any amounts over £800 per week) 9% 1 child 12% 2 children 15% 3 or more children
Flat rate maintenance	Not part of formula	£5 per week	£7 per week

Paragraph 2 replaces reference to ‘net’ weekly income with ‘gross’ wherever it occurs in Part 1 of Schedule 1 to the Child Support (Northern Ireland) Order 1991. This change means that where a calculation of liability is currently based on the net weekly income of a non-resident parent, in the future it will be based on their gross weekly income.

Paragraph 3 replaces paragraph 2 of Schedule 1, to amend the basic rate of maintenance. Basic rate is a percentage of the non-resident parent’s income and the changes will be:

- for one qualifying child – from 15% to 12%;
- for two qualifying children – from 20% to 16%; and
- for three or more qualifying children – from 25% to 19%.

Sub-paragraph (2) of paragraph 2 makes provision for a new rate for non-resident parents whose weekly income exceeds £800. The basic rate in these

circumstances will be an aggregate of an amount resulting from the percentages above for the first £800, and an amount resulting from the percentages below for earnings over £800:

- for one qualifying child – 9%;
- for two qualifying children – 12%; and
- for three or more qualifying children – 15%.

Sub-paragraph (3) amends the percentage rate for non-resident parents who have one or more relevant other children. In these circumstances before the percentages above are applied, gross weekly income shall be reduced by a certain amount. Changes to these amounts will be:

- for one relevant other child – 15% to 12 %;
- for two relevant other children – 20% to 16%; and
- for three or more relevant other children – 25% to 19%.

Paragraph 4 amends sub-paragraphs 3(3), 4(1) and 7(7) of Schedule 1. The effect of these provisions is to increase the amount of flat rate maintenance paid by non-resident parents in receipt of benefit, or earnings lower than £100 per week, from £5 to £7 per week and apply the same increase to the minimum amount of liability due under the basic or reduced rates.

Paragraph 5 inserts a new *paragraph 5A* into Schedule 1 to the Child Support (Northern Ireland) Order 1991. It also amends paragraph 1(1) of that schedule, so that paragraph 1(1) is subject the new *paragraph 5A*.

The new *paragraph 5A* will make provision for circumstances where a non-resident parent, in addition to their obligations under the statutory scheme, pays maintenance for a child or children under an existing private arrangement of a prescribed description or court order.

Currently, all children would normally need to be brought into the statutory scheme for them to be accounted for in a maintenance calculation. This change will mean that the Department will consider any children who are subject to certain types of private maintenance arrangements, when calculating a basic or reduced rate maintenance liability under the new arrangements.

Sub-paragraph (2) of new *paragraph 5A* sets the weekly rate of child maintenance for cases that fall within *paragraph 5A* at the greater of £7 per week and the amount calculated in accordance with *sub-paragraphs (3) to (5)*.

Sub-paragraphs (3) to (5) make provision for the calculation of child support maintenance where the non-resident parent is party to a qualifying private child maintenance arrangement. Liability is calculated as though all the children supported by the non-resident parent, by virtue of a qualifying maintenance arrangement, were subject to the statutory scheme.

Sub-paragraph (6) makes provision for the types of arrangement that will be 'qualifying maintenance arrangements' for the purposes of *paragraph 5A*.

Paragraphs 6 to 8 amend paragraphs 7(2), 8(2) and 9 of Schedule 1 to the Order, which allows for a reduction to basic or reduced rate where a shared care arrangement is in place. These changes will allow regulations to provide for a reduction on the basis of an agreement between the parents as to shared care. Regulations can also allow the Department to work on the basis of an assumed pattern of shared care with a corresponding reduction on an interim basis. The intention is to use this where there is an agreement to share care, but no agreement as to the pattern or amount of shared care.

Paragraph 9 amends paragraph 10 of Schedule 1 to the Child Support (Northern Ireland) Order 1991 to provide that, regulations about the manner in which gross weekly income is determined may provide that gross weekly income may be income from a past period.

This change will mean that where currently weekly income is based on information currently obtained from the non-resident parent, in the future it can be taken directly from information supplied by Revenue and Customs and based on previous income tax years.

Paragraph 10 increases the maximum amount of weekly income that will be taken into account for calculating maintenance, from £2,000 to £3,000 per week.