

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 2: Maintenance calculations: transfer of cases to new rules

This schedule provides for arrangements to be made with regard to existing cases moving onto the new calculation rules. The Department may require the parties to choose whether to remain in the statutory scheme under the new calculations rules. If they do not, then liability stops accruing under the scheme.

Paragraph 1 sets out that the Department may require clients on both existing schemes, to choose whether to remain in the statutory scheme.

Paragraph 2 enables the Department, by regulations, to make provision about the power referred to in *paragraph 1*. The regulations may include, for example, provision about timing, stages and in which order cases will be transferred.

Paragraph 3 provides regulation-making powers to the Department in relation to how the parties exercise their right to choose whether or not to stay in the statutory scheme, and how they apply to stay within the statutory scheme.

Paragraph 4 stipulates that where either of the two parents chooses to remain in the statutory scheme, the case will remain in the statutory scheme, even if the other parent wishes to opt out.

Paragraph 5 sets out the effect of the Department requiring the parties to exercise a choice under *paragraph 1*. If a calculation (or assessment under the old scheme) is in force, then maintenance will stop accruing from a date specified in regulations. If there is an outstanding application for maintenance calculation or assessment, it may be made only in respect of the period up to that date.

Paragraph 6 provides regulation-making powers to the Department in relation to a person's decision not to leave the statutory scheme. These regulations may include provision about how an application to stay in the statutory scheme is determined, how the Child Support (Northern Ireland) Order 1991 in relation to a maintenance calculation is to apply to such an application, and

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whether any adjustment is required to the resulting calculation. They may also include provision for treating an existing application as withdrawn where no maintenance calculation or assessment has been made.

Paragraph 7 sets out definitions for the purposes of moving of cases to the new calculation rules.