
STATUTORY INSTRUMENTS

1991 No. 2628 (N.I. 23)

The Child Support (Northern Ireland) Order 1991

- - - - - 19th November 1991

Modifications etc. (not altering text)

C1 functions transf. SR 1999/481

Introductory

Title and commencement **N.I.**

1.—(1) This Order may be cited as the Child Support (Northern Ireland) Order 1991.

(2) This Order shall come into operation on such day or days as may be appointed by order made by the Lord Chancellor or the Head of the Department or by both of them acting jointly.

(3) An order under paragraph (2) may make such supplemental, incidental or transitional provision as appears to the person making the order to be necessary or expedient in connection with the provisions brought into operation by the order, including such adaptations or modifications of—

- (a) the provisions so brought into operation;
- (b) any provisions of this Order then in operation; or
- (c) any provision of any other statutory provision,

as appear to him to be necessary or expedient.

(4) Different provision may be made by virtue of paragraph (3) with respect to different periods.

(5) Any provision made by virtue of paragraph (3) may, in particular, include provision for—

- (a) the enforcement of a [^{F1}maintenance assessment] [^{F2}maintenance calculation] (including the collection of sums payable under the [^{F3}assessment] [^{F4}calculation]) as if the [^{F5}assessment] [^{F4}calculation] were a court order of a prescribed kind;
- (b) the registration of maintenance [^{F6}assessments] [^{F7}calculations] with the appropriate court in connection with any provision of a kind mentioned in sub-paragraph (a);
- (c) the variation, on application made to a court, of the provisions of a [^{F8}maintenance assessment] [^{F9}maintenance calculation] relating to the method of making payments fixed by the [^{F10}assessment] [^{F11}calculation] or the intervals at which such payments are to be made;

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- (d) a [^{F12}maintenance assessment] [^{F13}maintenance calculation], or an order of a prescribed kind relating to one or more children, to be deemed, in prescribed circumstances, to have been validly made for all purposes or for such purposes as may be prescribed.

Subordinate Legislation Made

- P1** Art. 1(2) partly exercised: 18.6.1992 appointed for specified provisions by S.R. 1992/278, art. 2, **Sch.**; 1.9.1992 appointed for specified provisions by S.R. 1992/347, **art. 2**; 5.4.1993 appointed for specified provisions by S.R. 1992/467, **art. 2**, (with transitional provisions in art. 3, Sch.)
- F1** Words in art. 1(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F2** Words in art. 1(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F3** Word in art. 1(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F4** Word in art. 1(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F5** Word in art. 1(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F6** Word in art. 1(5)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F7** Word in art. 1(5)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F8** Words in art. 1(5)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F9** Words in art. 1(5)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F10** Word in art. 1(5)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F11** Word in art. 1(5)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F12** Words in art. 1(5)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F13** Words in art. 1(5)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Interpretation **N.I.**

2.—(1) The Interpretation Act (Northern Ireland) 1954^{F14} shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“^{F15}absent parent] ^{F16}non-resident parent]” has the meaning given in Article 4(2);

Definition rep. by 1998 NI 10

^{F17}“appeal tribunal” means an appeal tribunal constituted under Chapter 1 of the Social Security (Northern Ireland) Order 1998;]

^{F18}“application for a ^{F19}departure direction] ^{F20}variation]” means an application under Article 28A^{F21} or 28G;]

^{F22}“assessable income” has the meaning given in paragraph 5 of Schedule 1;

“benefit Acts” means the^{F18} Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security Administration (Northern Ireland) Act 1992]

“child benefit” has the same meaning as in the Child Benefit (Northern Ireland) Order 1975^{F23};

Definitions rep. by 1998 NI 10

“Child Support Commissioner” means a Child Support Commissioner for Northern Ireland appointed under section 23 of the Child Support Act 1991^{F24};

“child support maintenance” has the meaning given in Article 4(6);

Definition rep. by 1998 NI 10

^{F25}^{F26}“current assessment”, in relation to an application for a departure direction, means (subject to any regulations made under paragraph 10 of Schedule 4A) the maintenance assessment with respect to which the application is made;]

“deduction from earnings order” has the meaning given in Article 31(2);

^{F27}“default maintenance decision” has the meaning given in Article 14;]

“the Department” means the Department of Health and Social Services;

^{F28}^{F29}“departure direction” has the meaning given in Article 28A;]

“disability living allowance” has the same meaning as in the Social Security (Northern Ireland) Act 1975^{F30};

Definition rep. by 2002 c. 21

“income support” has the same meaning as in the benefit Acts;

^{F31}“income-based jobseeker's allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;]

“interim maintenance ^{F32}assessment] ^{F33}decision]” has the meaning given in Article 14;

“liability order” has the meaning given in Article 33(2);

“maintenance agreement” has the meaning given in Article 11(1);

^{F34}“maintenance assessment” means an assessment of maintenance made under this Order and, except in prescribed circumstances, includes an interim maintenance assessment;]

^{F35}“maintenance calculation” means a calculation of maintenance made under this Order and, except in prescribed circumstances, includes a default maintenance decision and an interim maintenance decision;]

“maintenance order” has the meaning given in Article 10(11);

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^{F36}“maintenance requirement” means the amount calculated in accordance with paragraph 1 of Schedule 1;

“parent”, in relation to any child, means any person who is in law the mother or father of the child and, in the case of an illegitimate child, includes the father;

[^{F18}“parent with care” means a person who is, in relation to a child, both a parent and a person with care;]

“parental responsibility”, [^{F37} has the same meaning as in the Children (Northern Ireland) Order 1995];

“person with care” has the meaning given in Article 4(3);

“prescribed”, except in Article 12(5), means prescribed by regulations made by the Department;

“qualifying child” has the meaning given in Article 4(1);

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954^{F38}.

[^{F39}“voluntary payment” has the meaning given in Article 28J.]

F14 1954 c. 33 (NI)

F15 Words in Order substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 68(2)** Sch. 3 para. 11; S.R. 2003/53, art. 3(1), **Sch.**

F16 Words in Order substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 68(2)** Sch. 3 para. 11; S.R. 2003/53, art. 3(1), **Sch.**

F17 1998 NI 10

F18 1995 NI 13

F19 Word in [art. 2\(2\)](#) in definition of "application for a departure direction" substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 68(2)** Sch. 3 para. 12(a); S.R. 2003/53, art. 3(1), **Sch.**

F20 Word in [art. 2\(2\)](#) in definition of "application for a departure direction" substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 68(2)** Sch. 3 para. 12(a); S.R. 2003/53, art. 3(1), **Sch.**

F21 Words in [art. 2\(2\)](#) in definition of "application for a departure direction" inserted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 68(2)** Sch. 3 para. 12(a); S.R. 2003/53, art. 3(1), **Sch.**

F22 [Art. 2\(2\)](#): definition of "assessable income" repealed (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 67, 68(2)**, Sch. 3 para. 12(b), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**

F23 1975 NI 16

F24 1991 c. 48

F25 1995 NI 13

F26 [Art. 2\(2\)](#): definition of "current assessment" repealed (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 67, 68(2)**, Sch. 3 para. 12(b), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**

F27 [Art. 2\(2\)](#): definition of "default maintenance decision" inserted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 25, 68(2)** Sch. 3 para. 12(c); S.R. 2003/53, art. 3(1), **Sch.**

F28 1995 NI 13

- F29** Art. 2(2): definition of "departure direction" repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 12(b), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F30** 1975 c. 15
- F31** 1995 NI 15
- F32** Word in art. 2(2) in definition of "interim maintenance assessment" substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2) Sch. 3 para. 12(d); S.R. 2003/53, art. 3(1), **Sch.**
- F33** Word in art. 2(2) in definition of "interim maintenance assessment" substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2) Sch. 3 para. 12(d); S.R. 2003/53, art. 3(1), **Sch.**
- F34** Art. 2(2): definition of "maintenance calculation" substituted (3.3.2003 for certain purposes otherwise prosp.) for definition of "maintenance assessment" by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2) Sch. 3 para. 12(e); S.R. 2003/53, art. 3(1), **Sch.**
- F35** Art. 2(2): definition of "maintenance calculation" substituted (3.3.2003 for certain purposes otherwise prosp.) for definition of "maintenance assessment" by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2) Sch. 3 para. 12(e); S.R. 2003/53, art. 3(1), **Sch.**
- F36** Art. 2(2): definition of "maintenance requirement" repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 12(b), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F37** 1995 NI 2
- F38** 1954 c. 33 (NI)
- F39** Art. 2(2): definition of "voluntary payment" added (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2) Sch. 3 para. 12(f); S.R. 2003/53, art. 3(1), **Sch.**

Meaning of "child" **N.I.**

- 3**^{F40}.—(1) For the purposes of this Order a person is a child if—
- (a) he is under the age of 16;
 - (b) he is under the age of 19 and receiving full-time education (which is not advanced education)—
 - (i) by attendance at a recognised educational establishment; or
 - (ii) elsewhere, if the education is recognised by the Department; or
 - (c) he does not fall within sub-paragraph (a) or (b) but—
 - (i) he is under the age of 18, and
 - (ii) prescribed conditions are satisfied with respect to him.
- (2) A person is not a child for the purposes of this Order if he—
- (a) is or has been married^{F41} or a civil partner];
 - (b) has celebrated a marriage^{F41}, or been a party to a civil partnership,] which is void; or
 - (c) has celebrated a marriage in respect of which a decree of nullity has been granted^{F41} or has been a party to a civil partnership in respect of which a nullity order has been made].
- (3) In this Article—
- “advanced education” means education of a prescribed description; and
- “recognised educational establishment” means an establishment recognised by the Department for the purposes of this Article as being, or as comparable to, a university, college or school.

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(4) Where a person has reached the age of 16, the Department may recognise education provided for him otherwise than at a recognised educational establishment only if the Department is satisfied that education was being so provided for him immediately before he reached the age of 16.

(5) The Department may provide that in prescribed circumstances education is or is not to be treated for the purposes of this Article as being full-time.

(6) In determining whether a person falls within paragraph (1)(b), no account shall be taken of such interruptions in his education as may be prescribed.

(7) The Department may by regulations provide that a person who ceases to fall within paragraph (1) shall be treated as continuing to fall within that paragraph for a prescribed period.

(8) No person shall be treated as continuing to fall within paragraph (1) by virtue of regulations made under paragraph (7) after the end of the week in which he reaches the age of 19.

F40 Mod. SR 2001/17

F41 2004 c.33

Meaning of certain other terms used in this Order **N.I.**

4^{F42}.—(1) A child is a “qualifying child” if—

- (a) one of his parents is, in relation to him, [^{F43}an absent parent] [^{F44}a non-resident parent]; or
- (b) both of his parents are, in relation to him, [^{F45}absent parents] [^{F46}non-resident parent’s].

(2) The parent of any child is an “absent parent”, in relation to him, if—

- (a) that parent is not living in the same household with the child; and
- (b) the child has his home with a person who is, in relation to him, a person with care.

(3) A person is a “person with care”, in relation to any child, if he is a person—

- (a) with whom the child has his home;
- (b) who usually provides day to day care for the child (whether exclusively or in conjunction with any other person); and
- (c) who does not fall within a prescribed category of person.

(4) The Department shall not, under paragraph (3)(c), prescribe as a category—

- (a) parents;
- (b) guardians;
- (c) persons^{F47} in whose favour residence orders under Article 8 of the Children (Northern Ireland) Order 1995 are in force].

(5) For the purposes of this Order there may be more than one person with care in relation to the same qualifying child.

(6) Periodical payments which are required to be paid in accordance with a [^{F48}maintenance assessment] [^{F49}maintenance calculation] are referred to in this Order as “child support maintenance”.

(7) Expressions are defined in this Article only for the purposes of this Order.

F42 Mod. SR 2001/18

F43 Words in art. 4(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

- F44** Words in art. 4(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F45** Words in art. 4(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F46** Words in art. 4(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F47** 1995 NI 2
- F48** Words in art. 4(6) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F49** Words in art. 4(6) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

The basic principles

The duty to maintain N.I.

5.—(1) For the purposes of this Order, each parent of a qualifying child is responsible for maintaining him.

(2) For the purposes of this Order, [^{F50}an absent parent] [^{F51}a non-resident parent] shall be taken to have met his responsibility to maintain any qualifying child of his by making periodical payments of maintenance with respect to the child of such amount, and at such intervals, as may be determined in accordance with the provisions of this Order.

(3) Where a [^{F52}maintenance assessment] [^{F53}maintenance calculation] made under this Order requires the making of periodical payments, it shall be the duty of the [^{F54}absent parent] [^{F55}non-resident parent] with respect to whom the [^{F56}assessment] [^{F57}calculation] was made to make those payments.

- F50** Words in art. 5(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F51** Words in art. 5(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F52** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F53** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F54** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F55** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

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- F56** Word in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F57** Word in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

Welfare of children: the general principle **N.I.**

6. Where in any case which falls to be dealt with under this Order, the Department^{F58} . . . is considering the exercise of any discretionary power conferred by this Order, the Department^{F58} . . . shall have regard to the welfare of any child likely to be affected by its^{F58} . . . decision.

F58 1998 NI 10

Child support maintenance **N.I.**

7.—(1) A person who is, in relation to any qualifying child or any qualifying children, either the person with care or the [^{F59}absent parent] [^{F60}non-resident parent] may apply to the Department for a [^{F61}maintenance assessment] [^{F62}maintenance calculation] to be made under this Order with respect to that child, or any of those children.

(2) Where a [^{F63}maintenance assessment] [^{F64}maintenance calculation] has been made in response to an application under this Article the Department may, if the persons with care or [^{F65}absent parent] [^{F66}non-resident parent] with respect to whom the [^{F67}assessment] [^{F68}calculation] was made applies to it under this paragraph, arrange for—

- (a) the collection of the child support maintenance payable in accordance with the [^{F69}assessment] [^{F70}calculation];
- (b) the enforcement of the obligation to pay child support maintenance in accordance with the [^{F71}assessment] [^{F72}calculation].

(3) Where an application under paragraph (2) for the enforcement of the obligation mentioned in paragraph (2)(b) authorises the Department to take steps to enforce that obligation whenever it considers it necessary to do so, the Department may act accordingly.

(4) A person who applies to the Department under this Article shall, so far as that person reasonably can, comply with such regulations as may be made by the Department with a view to the Department^{F73} . . . being provided with the information which is required to enable—

- (a) the [^{F74}absent parent] [^{F75}non-resident parent] to be [^{F76} identified or] traced (where that is necessary);
- (b) the amount of child support maintenance payable by the [^{F77}absent parent] [^{F78}non-resident parent] to be [^{F79}assessed] [^{F80}calculated]; and
- (c) that amount to be recovered from the [^{F81}absent parent] [^{F82}non-resident parent].

(5) Any person who has applied to the Department under this Article may at any time request it to cease acting under this Article.

(6) It shall be the duty of the Department to comply with any request made under paragraph (5) (but subject to any regulations made under paragraph (8)).

(7) The obligation to provide information which is imposed by paragraph (4)—

- (a) shall not apply in such circumstances as may be prescribed; and

(b) may, in such circumstances as may be prescribed, be waived by the Department.

(8) The Department may by regulations make such incidental, supplemental or transitional provision as it thinks appropriate with respect to cases in which it is requested to cease to act under this Article.

(9) No application may be made under this Article if there is in force with respect to the person with care and [^{F83}absent parent] [^{F84}non-resident parent] in question a [^{F85}maintenance assessment] [^{F86}maintenance calculation] made in response to an application [^{F87}treated as made] under Article 9.

[^{F88}(10) No application may be made at any time under this Article with respect to a qualifying child or any qualifying children if—

(a) there is in force a written maintenance agreement made before 5th April 1993, or a maintenance order [^{F89}made before a prescribed date], in respect of that child or those children and the person who is, at that time, the [^{F90}absent parent] [^{F91}non-resident parent]; or

[a maintenance order made on or after the date prescribed for the purposes of sub-^{F92}(aa) paragraph (a) is in force in respect of them, but has been so for less than the period of one year beginning with and including the date on which it was made; or]

(b) benefit is being paid to, or in respect of, a parent with care of that child or those children.

(11) In paragraph (10) “benefit” means any benefit which is mentioned in, or prescribed by regulations under, Article 9(1).]

- F59** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F60** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F61** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\), 68\(2\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F62** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\), 68\(2\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F63** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\), 68\(2\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F64** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\), 68\(2\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F65** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F66** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F67** Word in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)
- F68** Word in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)

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- F69** Word in art. 7(2)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F70** Word in art. 7(2)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F71** Word in art. 7(2)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F72** Word in art. 7(2)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F73** 1998 NI 10
- F74** Words in art. 7(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F75** Words in art. 7(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F76** Words in art. 7(4)(a) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 13(a)**; S.R. 2003/53, art. 3(1), **Sch.**
- F77** Words in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F78** Words in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F79** Word in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F80** Word in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F81** Words in art. 7(4)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F82** Words in art. 7(4)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F83** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F84** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F85** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F86** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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- F87** Words in art. 7(9) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 13(b)**; S.R. 2003/53, art. 3(1), **Sch.**
- F88** 1995 NI 13
- F89** Words in art. 7(10)(a) inserted (7.2.2003 for certain purposes and 3.3.2003 for further certain purposes and otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 2(1)(2), 68(2); S.R. 2003/53, arts. 2, 3(1), **Sch.**
- F90** Words in art. 7(10)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F91** Words in art. 7(10)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F92** Art. 7(10)(aa) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 2(3), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Child support maintenance: supplemental provisions **N.I.**

8.—(1) Where—

- (a) there is more than one person with care of a qualifying child; and
- (b) one or more, but not all, of them have parental responsibility for the child;

no application may be made for a [^{F93} maintenance assessment] [^{F94} maintenance calculation] with respect to the child by any of those persons who do not have parental responsibility for the child.

(2) Where more than one application for a [^{F95} maintenance assessment] [^{F96} maintenance calculation] is made with respect to the child concerned, only one of them may be proceeded with.

(3) The Department may by regulations make provision as to which of two or more applications for a [^{F97} maintenance assessment] [^{F98} maintenance calculation] with respect to the same child is to be proceeded with.

- F93** Words in art. 8(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F94** Words in art. 8(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F95** Words in art. 8(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F96** Words in art. 8(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F97** Words in art. 8(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F98** Words in art. 8(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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^{X1}Applications by those receiving benefit **N.I.**

^{X2F99X1F99}9.—(1) Where income support, [^{F100}an income-based jobseeker's allowance]^{F101} . . . of any other benefit of a prescribed kind is claimed by or in respect of, or paid to or in respect of the parent of a qualifying child that parent shall, if—

- (a) that parent is a person with care of the child; and
- (b) that parent is required to do so by the Department,

authorise the Department to take action under this Order to recover child support maintenance from the absent parent.

(2) The Department shall not require a person (“the parent”) to give it the authorisation mentioned in paragraph (1) if it considers that there are reasonable grounds for believing that—

- (a) if the parent were to be required to give that authorisation; or
- (b) if that parent were to give it,

there would be a risk of that parent, or of any child living with that parent, suffering harm or undue distress as a result.

(3) Paragraph (2) shall not apply if the parent requests the Department to disregard it.

(4) The authorisation mentioned in paragraph (1) shall extend to all children of the absent parent in relation to whom the parent first mentioned in paragraph (1) is a person with care.

(5) That authorisation shall be given, without unreasonable delay, by completing and returning to the Department an application—

- (a) for the making of a maintenance assessment with respect to the qualifying child or qualifying children; and
- (b) for the Department to take action under this Order to recover, on that parent's behalf, the amount of child support maintenance so assessed.

(6) Such an application shall be made on a form (“a maintenance application form”) provided by the Department.

(7) A maintenance application form shall indicate in general terms the effect of completing and returning it.

(8) Paragraph (1) has effect regardless of whether any of the benefits mentioned there is payable with respect to any qualifying child.

(9) A person who is under the duty imposed by paragraph (1) shall, so far as that person reasonably can, comply with such regulations as may be made by the Department with a view to the Department ^{F102} . . . being provided with the information which is required to enable—

- (a) the absent parent to be traced;
- (b) the amount of child support maintenance payable by the absent parent to be assessed; and
- (c) that amount to be recovered from the absent parent.

(10) The obligation to provide information which is imposed by paragraph (9)—

- (a) shall not apply in such circumstances as may be prescribed; and
- (b) may, in such circumstances as may be prescribed, be waived by the Department.

(11) A person with care who has authorised the Department under paragraph (1) but who subsequently ceases to fall within that paragraph may request the Department to cease acting under this Article.

(12) It shall be the duty of the Department to comply with any request made under paragraph (11) (but subject to any regulations made under paragraph (13)).

(13) The Department may by regulations make such incidental or transitional provision as it thinks appropriate with respect to cases in which it is requested under paragraph (11) to cease to act under this Article.

(14) The fact that a maintenance assessment is in force with respect to a person with care shall not prevent the making of a new maintenance assessment with respect to that person in response to an application under this Article.

^{X2F99X1F99}9.—^{F99X2}(1) This Article applies where income support, an income-based jobseeker's allowance or any other benefit of a prescribed kind is claimed by or in respect of, or paid to or in respect of, the parent of a qualifying child who is also a person with care of the child.

(2) In this Article, that person is referred to as the parent.

(3) The Department may—

- (a) treat the parent as having applied for a maintenance calculation with respect to the qualifying child and all other children of the non-resident parent in relation to whom the parent is also a person with care; and
- (b) take action under this Order to recover from the non-resident parent, on the parent's behalf, the child support maintenance so determined.

(4) Before doing what is mentioned in paragraph (3), the Department shall notify the parent in writing of the effect of paragraphs (3) and (5) and Article 43.

(5) The Department may not act under paragraph (3) if the parent asks it not to (a request which need not be in writing).

(6) Paragraph (1) has effect regardless of whether any of the benefits mentioned there is payable with respect to any qualifying child.

(7) Unless the parent has made a request under paragraph (5), that parent shall, so far as that parent reasonably can, comply with such regulations as may be made by the Department with a view to its being provided with the information which is required to enable—

- (a) the non-resident parent to be identified or traced;
- (b) the amount of child support maintenance payable by the non-resident parent to be calculated; and
- (c) that amount to be recovered from the non-resident parent.

(8) The obligation to provide information which is imposed by paragraph (7)—

- (a) does not apply in such circumstances as may be prescribed; and
- (b) may, in such circumstances as may be prescribed, be waived by the Department.

(9) If the parent ceases to fall within paragraph (1), that parent may ask the Department to cease acting under this Article, but until then it may continue to do so.

(10) The Department shall comply with any request under paragraph (9) (but subject to any regulations made under paragraph (11)).

(11) The Department may by regulations make such incidental or transitional provision as it thinks appropriate with respect to cases in which it is asked under paragraph (9) to cease acting under this Article.

(12) The fact that a maintenance calculation is in force with respect to a person with care does not prevent the making of a new maintenance calculation with respect to that person as a result of the Department acting under paragraph (3).]

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Editorial Information

- X1** This version shows the text of Article 9 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 3, 68\(2\)](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, [art. 4](#)
- X2** This version shows the text of Article 9 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 3, 68\(2\)](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, [art. 4](#)
- F99** [Art. 9](#) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 3, 68\(2\)](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, [art. 4](#)
- F100** 1995 NI 15
- F101** 1999 c. 10
- F102** 1998 NI 10

Role of the courts with respect to maintenance for children **N.I.**

10.—(1) This paragraph applies in any case where^[F103] the Department] would have jurisdiction to make a ^[F104] maintenance calculation] with respect to a qualifying child and ^[F105] a non-resident parent] of his on an application duly made^[F106] or treated as made] by a person entitled to apply for such ^[F107] a calculation] with respect to that child.

(2) Paragraph (1) applies even though the circumstances of the case are such that^[F103] the Department] would not make ^[F108] a calculation] if it were applied for.

(3) ^[F109] Except as provided in paragraph (3A),] in any case where paragraph (1) applies, no court shall exercise any power which it would otherwise have to make, vary or revive any maintenance order in relation to the child and ^[F110] non-resident parent] concerned.

^[F111] (3A) Unless a maintenance calculation has been made with respect to the child concerned, paragraph (3) does not prevent a court from varying a maintenance order in relation to that child and the non-resident parent concerned—

(a) if the maintenance order was made on or after the date prescribed for the purposes of Article 7(10)(a); or

(b) where the order was made before then, in any case in which Article 7(10) prevents the making of an application for a maintenance calculation with respect to or by that child.]

(4) Paragraph (3) does not prevent a court from revoking a maintenance order.

(5) The Lord Chancellor may^[F112], with the concurrence of the Lord Chief Justice,] by order provide that, in such circumstances as may be specified by the order, this Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—

(a) a written agreement (whether or not enforceable) provides for the making, or securing, by ^[F113] a non-resident parent] of the child of periodical payments to or for the benefit of the child; and

(b) the maintenance order which the court makes is, in all material respects, in the same terms as that agreement.

^[F114] (5A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (5)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]
- (6) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) a [^{F115}maintenance calculation] is in force with respect to the child;
 - [^{F116}(b) the non-resident parent’s net weekly income exceeds the figure referred to in paragraph 10(3) of Schedule 1 (as it has effect from time to time pursuant to regulations made under paragraph 10A(1)(b)); and]
 - (c) the court is satisfied that the circumstances of the case make it appropriate for the [^{F117}non-resident parent] to make or secure the making of periodical payments under a maintenance order in addition to the child support maintenance payable by him in accordance with the [^{F118}maintenance calculation].
- (7) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) the child is, will be or (if the order were to be made) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation (whether or not while in gainful employment); and
 - (b) the order is made solely for the purposes of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of the expenses incurred in connection with the provision of the instruction or training.
- (8) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) a disability living allowance is paid to or in respect of him; or
 - (b) no such allowance is paid but he is disabled,
- and the order is made solely for the purpose of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of any expenses attributable to the child's disability.
- (9) For the purposes of paragraph (8), a child is disabled if he is blind, deaf or dumb or is substantially and permanently handicapped by illness, injury, mental disorder or congenital deformity or such other disability as may be prescribed.
- (10) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if the order is made against a person with care of the child.
- (11) In this Order “maintenance order”, in relation to any child, means an order which requires the making or securing of periodical payments to or for the benefit of the child and which is made under—
- Sub#para.(a) rep. by 1995 NI 2*
- (b) Part III of the Matrimonial Causes (Northern Ireland) Order 1978^{F119};
 - (c) the Domestic Proceedings (Northern Ireland) Order 1980^{F120};
 - (d) Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989^{F121, F122} . . .
- [^{F123}(da) Schedule 15, 16 or 17 to the Civil Partnership Act 2004; or]
- [^{F122}(dd) Schedule 1 to the Children (Northern Ireland) Order 1995,^{F124} . . .]
- (e) any other prescribed statutory provision,

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and includes any order varying or reviving such an order.

- F103** 1998 NI 10
- F104** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. **1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F105** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F106** Words in art. 10(1) inserted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(a); S.R. 2003/53, art. 3(1), **Sch.**
- F107** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. **1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F108** Words in art. 10(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. **1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F109** Words in art. 10(3) inserted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(b); S.R. 2003/53, art. 3(1), **Sch.**
- F110** Words in art. 10(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F111** Art. 10(3A) substituted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(c); S.R. 2003/53, art. 3(1), **Sch.**
- F112** Words in art. 10(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 86(2); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(a)
- F113** Words in art. 10(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F114** Art. 10(5A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 86(3); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(a)
- F115** Words in art. 10(6)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. **1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F116** Art. 10(6)(b) substituted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(d); S.R. 2003/53, art. 3(1), **Sch.**
- F117** Words in art. 10(6)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F118** Words in art. 10(6)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. **1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F119** 1978 NI 15
- F120** 1980 NI 5
- F121** 1989 NI 4
- F122** 1995 NI 2
- F123** 2004 c.33
- F124** 2004 c.33

Agreements about maintenance **N.I.**

11.—(1) In this Article “maintenance agreement” means any agreement for the making, or for securing the making, of periodical payments by way of maintenance to or for the benefit of any child.

(2) Nothing in this Order shall be taken to prevent any person from entering into a maintenance agreement.

(3) ^{F125}Subject to Article 7(10)(a)] the existence of a maintenance agreement shall not prevent any party to the agreement, or any other person, from applying for a maintenance assessment with respect to any child to or for whose benefit periodical payments are to be made or secured under the agreement.

(4) Where any agreement contains a provision which purports to restrict the right of any person to apply for a maintenance assessment, that provision shall be void.

(5) Where Article 10 would prevent any court from making a maintenance order in relation to a child and an absent parent of his, no court shall exercise any power that it has to vary any agreement so as—

- (a) to insert a provision requiring that absent parent to make or secure the making of periodical payments by way of maintenance to or for the benefit of that child; or
- (b) to increase the amount payable under such a provision.

^{F125}(6) In any case in which Article 7(10) prevents the making of an application for a maintenance assessment, and—

[no application has been made for a maintenance assessment under Article 9, or
^{F126}(a)

(b) such an application has been made but no maintenance assessment has been made in response to it,]

^{F127}(a) no parent has been treated under Article 9(3) as having applied for a maintenance calculation with respect to the child; or

(b) a parent has been so treated but no maintenance calculation has been made,]

paragraph (5) shall have effect with the omission of sub-paragraph (b).]

F125 1995 NI 13

F126 Art. 11(6)(a)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 15; S.R. 2003/53, art. 3(1), Sch.

F127 Art. 11(6)(a)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 15; S.R. 2003/53, art. 3(1), Sch.

Relationship between maintenance ^{F128}assessments] ^{F129}calculations] and certain court orders and related matters **N.I.**

12.—(1) Where an order of a kind prescribed for the purposes of this paragraph is in force with respect to any qualifying child with respect to whom a ^{F130}maintenance assessment] ^{F131}maintenance calculation] is made, the order—

- (a) shall, so far as it relates to the making or securing of periodical payments, cease to have effect to such extent as may be determined in accordance with regulations made by the Department; or

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- (b) where the regulations so provide, shall, so far as it so relates, have effect subject to such modifications as may be so determined.
- (2) Where an agreement of a kind prescribed for the purposes of this paragraph is in force with respect to any qualifying child with respect to whom a [^{F132}maintenance assessment] [^{F133}maintenance calculation] is made, the agreement—
- (a) shall, so far as it relates to the making or securing of periodical payments, be unenforceable to such extent as may be determined in accordance with regulations made by the Department; or
- (b) where the regulations so provide, shall, so far as it so relates, have effect subject to such modifications as may be so determined.
- (3) Any regulations under this Article may, in particular, make such provision with respect to—
- (a) any case where any person with respect to whom an order or agreement of a kind prescribed for the purposes of paragraph (1) or (2) has effect applies to the prescribed court, before the end of the prescribed period, for the order or agreement to be varied in the light of the [^{F134}maintenance assessment] [^{F135}maintenance calculation] and of the provisions of this Order;
- (b) the recovery of any arrears under the order or agreement which fell due before the coming into force of the [^{F136}maintenance assessment] [^{F137}maintenance calculation],
- as the Department considers appropriate and may provide that, in prescribed circumstances, an application to any court which is made with respect to an order of a prescribed kind relating to the making or securing of periodical payments to or for the benefit of a child shall be treated by the court as an application for the order to be revoked.
- (4) The Department may by regulations make provision for—
- (a) notification to be given by the [^{F138} the Department] to the prescribed person in any case where [^{F138} it] considers that the making of a [^{F139}maintenance assessment] [^{F140}maintenance calculation] has affected, or is likely to affect, any order of a kind prescribed for the purposes of this paragraph;
- (b) notification to be given by the prescribed person to the Department in any case where a court makes an order which it considers has affected, or is likely to affect, a [^{F141}maintenance assessment] [^{F142}maintenance calculation].
- (5) Magistrates' courts rules may be made requiring any person who, in prescribed circumstances, makes an application to a court of summary jurisdiction for a maintenance order to furnish the court with a statement in a prescribed form, and signed by [^{F138} an officer of the Department], as to whether or not, at the time when the statement is made, there is a [^{F143}maintenance assessment] [^{F144}maintenance calculation] in force with respect to that person or the child concerned.

- (6) In paragraph (5)—

“maintenance order” means an order of a prescribed kind for the making or securing of periodical payments to or for the benefit of a child; and

“prescribed” means prescribed by the rules.

F128 Word in art. 12 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F129 Word in art. 12 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

- F130** Words in art. 12(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F131** Words in art. 12(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F132** Words in art. 12(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F133** Words in art. 12(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F134** Words in art. 12(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F135** Words in art. 12(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F136** Words in art. 12(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F137** Words in art. 12(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F138** 1998 NI 10
- F139** Words in art. 12(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F140** Words in art. 12(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F141** Words in art. 12(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F142** Words in art. 12(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F143** Words in art. 12(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F144** Words in art. 12(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Maintenance [^{F145}assessments] [^{F146}calculations]

- F145** Word in heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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F146 Word in heading substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

^{F147}**Maintenance calculations** **N.I.**

13.—(1) An application for a maintenance calculation made to the Department shall be dealt with by it in accordance with the provision made by or under this Order.

(2) The Department shall (unless it decides not to make a maintenance calculation in response to the application, or makes a decision under Article 14) determine the application by making a decision under this Article about whether any child support maintenance is payable and, if so, how much.

(3) Where—

- (a) a parent is treated under Article 9(3) as having applied for a maintenance calculation; but
- (b) the Department becomes aware before determining the application that the parent has ceased to fall within Article 9(1),

it shall, subject to paragraph (4), cease to treat that parent as having applied for a maintenance calculation.

(4) If it appears to the Department that paragraph (10) of Article 7 would not have prevented the parent with care concerned from making an application for a maintenance calculation under that Article it shall—

- (a) notify that parent of the effect of this paragraph; and
- (b) if, before the end of the period of one month beginning with and including the day on which notice was sent to the parent with care, that parent asks the Department to do so, treat that parent as having applied not under Article 9 but under Article 7.

(5) Where paragraph (3) applies but paragraph (4) does not, the Department shall notify—

- (a) the parent with care concerned; and
- (b) the non-resident parent (or alleged non-resident parent), where it appears to the Department that that person is aware that the parent with care has been treated as having applied for a maintenance calculation.

(6) The amount of child support maintenance to be fixed by a maintenance calculation shall be determined in accordance with Part I of Schedule 1 unless an application for a variation has been made and agreed.

(7) If the Department has agreed to a variation, the amount of child support maintenance to be fixed shall be determined on the basis it determines under Article 28F(4).

(8) Part II of Schedule 1 makes further provision with respect to maintenance calculations.]

F147 [Art. 13](#) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(1\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

^{F558}**Maintenance** [^{F559}**assessments**] [^{F560}**calculations**] **N.I.**

13.—(1) Any application for a [^{F561}maintenance assessment] [^{F562}maintenance calculation] made to the Department shall be [^{F563}dealt with by it] in accordance with the provision made by or under this Order.

[^{F564}(1A) Where—

- (a) an application for a [^{F565}maintenance assessment] [^{F566}maintenance calculation] is made under Article 9, but
- (b) the Department becomes aware, [^{F563} before determining the application], that the claim mentioned in paragraph (1) of that Article has been disallowed or withdrawn, the Department shall, subject of paragraph (1B), treat the application as if it had not been made.
- (1B) If it appears to the Department that paragraph (10) of Article 7 would not have prevented the parent with care concerned from making an application for a [^{F567}maintenance assessment] [^{F568}maintenance calculation] under that Article the Department shall—
- (a) notify that parent of the effect of this paragraph, and
- (b) if, before the end of the period of 28 days beginning with the day on which notice was sent to that parent, that parent asks the Department to do so, treat the application as having been made not under Article 9 but under Article 7.
- (1C) Where the application is not preserved under paragraph (1B) (and so is treated as not having been made) the Department shall notify—
- (a) the parent with care concerned; and
- (b) the [^{F569}absent parent] [^{F570}non-resident parent] (or alleged [^{F571}absent parent] [^{F572}non-resident parent]), where it appears to him that that person is aware of the application.]
- (2) The amount of child support maintenance to be fixed by any [^{F573}maintenance assessment] [^{F574}maintenance calculation] shall be determined in accordance with the provisions of Part I of Schedule 1.
- (3) Part II of Schedule 1 makes further provision with respect to maintenance [^{F575}assessments] [^{F576}calculations].

- F558** Art. 13 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(1), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F559** Word in art. 13 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F560** Word in art. 13 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F561** Words in art. 13(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F562** Words in art. 13(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F563** 1998 NI 10
- F564** 1995 NI 13
- F565** Words in art. 13(1A)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F566** Words in art. 13(1A)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F567** Words in art. 13(1B) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

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- F568** Words in art. 13(1B) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F569** Words in art. 13(1C)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F570** Words in art. 13(1C)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F571** Words in art. 13(1C)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F572** Words in art. 13(1C)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F573** Words in art. 13(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F574** Words in art. 13(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F575** Word in art. 13(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F576** Word in art. 13(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

[^{F148}Default and interim maintenance decisions **N.I.**

14.—(1) Where the Department—

- (a) is required to make a maintenance calculation; or
- (b) is proposing to make a decision under Article 18 or 19,

and it appears to the Department that it does not have sufficient information to enable it to do so, it may make a default maintenance decision.

(2) Where an application for a variation has been made under Article 28A(1) in connection with an application for a maintenance calculation (or in connection with such an application which is treated as having been made), the Department may make an interim maintenance decision.

(3) The amount of child support maintenance fixed by an interim maintenance decision shall be determined in accordance with Part I of Schedule 1.

(4) The Department may by regulations make provision as to default and interim maintenance decisions.

(5) The regulations may, in particular, make provision as to—

- (a) the procedure to be followed in making a default or an interim maintenance decision; and
- (b) a default rate of child support maintenance to apply where a default maintenance decision is made.]

F148 Art. 14 substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 4, 68\(2\); S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)

F577 **Interim maintenance** [**F578**assessments] [**F579**calculations] **N.I.**

14.—^{F580}(1) Where the Department—

- (a) is required to make a [^{F581}maintenance assessment] [^{F582}maintenance calculation]; or
- (b) is proposing to make a decision under Article 18 or 19,

and (in either case) it appears to the Department that it does not have sufficient information to enable it to do so, the Department may make an interim [^{F583}maintenance assessment] [^{F584}maintenance calculation].]

(2) The Department may by regulations make provision as to interim maintenance [^{F585}assessments] [^{F586}calculations].

(3) The regulations may, in particular, make provision as to—

- (a) the procedure to be followed in making an interim [^{F587}maintenance assessment] [^{F588}maintenance calculation]; and
- (b) the basis on which the amount of child support maintenance fixed by an interim [^{F589}assessment] [^{F590}calculation] is to be calculated.

(4) Before making any interim [^{F591}assessment] [^{F592}calculation][^{F580}the Department] shall, if it is reasonably practicable to do so, give written notice of [^{F580}its] intention to make such [^{F593}an assessment] [^{F594}a calculation] to—

- (a) the [^{F595}absent parent] [^{F596}non-resident parent] concerned; and
- (b) the person with care concerned.

(5) Where [^{F580}the Department] serves notice under paragraph (4), [^{F580}it] shall not make the proposed interim [^{F597}assessment] [^{F598}calculation] before the end of such period as may be prescribed.

F577 Art. 14 substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 4, 68\(2\); S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)

F578 Word in art. 14 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

F579 Word in art. 14 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

F580 1998 NI 10

F581 Words in art. 14(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

F582 Words in art. 14(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

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- F583** Words in art. 14(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F584** Words in art. 14(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F585** Word in art. 14(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F586** Word in art. 14(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F587** Words in art. 14(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F588** Words in art. 14(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F589** Word in art. 14(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F590** Word in art. 14(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F591** Word in art. 14(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F592** Word in art. 14(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F593** Words in art. 14(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F594** Words in art. 14(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F595** Words in art. 14(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 25**, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F596** Words in art. 14(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 25**, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F597** Word in art. 14(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F598** Word in art. 14(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Child support officers

Art. 15 rep. by 1998 NI 10

Information

Information required by the Department **N.I.**

16.—(1) The Department may make regulations requiring any information or evidence needed for the determination of any application^[F149] made or treated as made] under this Order, or any question arising in connection with such an application, ^[F150](or application treated as made), or needed for the making of any decision or in connection with the imposition of any condition or requirement under this Order,] or needed in connection with the collection or enforcement of child support or other maintenance under this Order, to be furnished—

- (a) by such persons as may be determined in accordance with regulations made by the Department; and
- (b) in accordance with the regulations.

^[F151](1A) Regulations under paragraph (1) may make provision for notifying any person who is required to furnish any information or evidence under the regulations of the possible consequences of failing to do so.]

Paras. (2), (2A) rep. by 1995 NI 13

(3) The Department may by regulations make provision authorising the disclosure by it^{F152}. . . , in such circumstances as may be prescribed, of such information held by^[F152] it] for purposes of this Order as may be prescribed.

Para. (4) rep. by 1995 NI 13

F149 Words in art. 16(1) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 16**; S.R. 2003/53, art. 3(1), **Sch.**

F150 Words in art. 16(1) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 12**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F151 1995 NI 13

F152 1998 NI 10

^[F153]Information - offences **N.I.**

16A.—(1) This Article applies to—

- (a) persons who are required to comply with regulations under Article 7(4); and
- (b) persons specified in regulations under Article 16(1)(a).

(2) Such a person is guilty of an offence if, pursuant to a request for information under or by virtue of those regulations—

- (a) he makes a statement or representation which he knows to be false; or
- (b) he provides, or knowingly causes or knowingly allows to be provided, a document or other information which he knows to be false in a material particular.

(3) Such a person is guilty of an offence if, following such a request, he fails to comply with it.

(4) It is a defence for a person charged with an offence under paragraph (3) to prove that he had a reasonable excuse for failing to comply.

(5) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Status: Point in time view as at 03/04/2006.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Child Support (Northern Ireland) Order 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

F153 2000 c. 4 (NI)

Powers of inspectors **N.I.**

17.—^{F154}(1) The Department may appoint, on such terms as it thinks fit, persons to act as inspectors under this Article.

(2) The function of inspectors shall be to acquire information which the Department needs for any of the purposes of this Order.

(3) Every inspector shall be given a certificate of his appointment.

(4) An inspector shall have power, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—

- (a) are liable to inspection under this Article; and
- (b) are premises to which it is reasonable for him to require entry in order that he may exercise his functions under this Article,

and may there make such examination and inquiry as he considers appropriate.

(4A) Premises liable to inspection under this Article are those which are not used wholly as a dwelling house and which the inspector has reasonable grounds for suspecting are—

- (a) premises at which a non-resident parent is or has been employed;
- (b) premises at which a non-resident parent carries out, or has carried out, a trade, profession, vocation or business;
- (c) premises at which there is information held by a person (“A”) whom the inspector has reasonable grounds for suspecting has information about a non-resident parent acquired in the course of A's own trade, profession, vocation or business.]

(5) An inspector exercising his powers may question any person aged 18 or over whom he finds on the premises.

(6) If required to do so by an inspector exercising his powers,^{F154} any such person] shall furnish to the inspector all such information and documents as the inspector may reasonably require.

(7) No person shall be required under this Article to answer any question or to give any evidence tending to incriminate himself or, in the case of a person who is married^{F155} or is a civil partner], his or her spouse^{F155} or civil partner].

(8) On applying for admission to any premises in the exercise of his powers, an inspector shall, if so required, produce his certificate.

(9) If any person—

- (a) intentionally delays or obstructs any inspector exercising his powers; or
- (b) without reasonable excuse, refuses or neglects to answer any question or furnish any information or to produce any document when required to do so under this Article,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this Article—

“certificate” means a certificate of appointment issued under this Article;

“inspector” means an inspector appointed under this Article;

“powers” means powers conferred by this Article;^{F154} . . .

Definition rep. by 2000 c. 4 (NI)

[^{F154}(11) In this Article, “premises” includes—

- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
- (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
- (c) places of all other descriptions whether or not occupied as land or otherwise,

and references in this Article to the occupier of premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.]

F154 2000 c. 4 (NI)

F155 2004 c.33

Reviews and appeals

[^{F156}**Revision of decisions** **N.I.**

18.—(1) Any decision [^{F157}of the Department under Article 13, 14 or 19] [^{F158}to which paragraph (1A) applies] may be revised by the Department—

- (a) either within the prescribed period or in prescribed cases or circumstances; and
- (b) either on an application made for the purpose or on the Department's own initiative,

and regulations may prescribe the procedure by which a decision of the Department may be so revised.

[
^{F159}(1A) This paragraph applies to—

- (a) a decision of the Department under Article 13, 14 or 19;
- (b) a reduced benefit decision under Article 43;
- (c) a decision of an appeal tribunal on a referral under Article 28D(1)(b).

(1B) Where the Department revises a decision under Article 14(1)—

- (a) it may (if appropriate) do so as if it were revising a decision under Article 13; and
- (b) if it does that, its decision, as revised, shall be treated as a decision under Article 13 instead of Article 14(1) (and, in particular, shall be so treated for the purposes of an appeal against it under Article 22).]

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Subject to paragraphs (4) and (5) and Article 28ZC, a revision under this Article shall take effect as from the date on which the original decision took (or was to take) effect.

(4) Regulations may provide that, in prescribed cases or circumstances, a revision under this Article shall take effect as from such other date as may be prescribed.

(5) Where a decision is revised under this Article, for the purpose of any rule as to the time allowed for bringing an appeal, the decision shall be regarded as made on the date on which it is so revised.

(6) Except in prescribed circumstances, an appeal against a decision of the Department shall lapse if the decision is revised under this Article before the appeal is determined.]

Status: Point in time view as at 03/04/2006.

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- F156** Art. 18 substituted by S.I. 1998/1506 (N.I. 10), **art. 40**; S.R. 1998/395, **art. 2** (subject to saving in art. 3(3)); and by 2000 c. 4, **s. 23** it is provided that the said art. 3(3) is revoked and that "accordingly Article 18 shall cease to have effect for all purposes"
- F157** Words in **art. 18(1)** substituted (3.3.2003 for certain purposes otherwise prosp.) by **Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 8(2), 68(2)**; S.R. 2003/53, **art. 3(1), Sch.**
- F158** Words in **art. 18(1)** substituted (3.3.2003 for certain purposes otherwise prosp.) by **Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 8(2), 68(2)**; S.R. 2003/53, **art. 3(1), Sch.**
- F159** **Art. 18(1A)(1B)** inserted (3.3.2003 for certain purposes otherwise prosp.) by **Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 8(3), 68(2)**; S.R. 2003/53, **art. 3(1), Sch.**

^{F160}Decisions superseding earlier decisions **N.I.**

19.—(1) Subject to paragraph (2), the following, namely—

- (a) any decision of the Department under Article 13 or 14 or this Article, whether as originally made or as revised under Article 18;
- (b) any decision of an appeal tribunal under Article 22;^{F161} and]
- ^{F162}(c) any decision of a Child Support Commissioner on an appeal from such a decision as is mentioned in sub-paragraph (b),]
- ^{F163}(c) any reduced benefit decision under Article 43;
- (d) any decision of an appeal tribunal on a referral under Article 28D(1)(b); and
- (e) any decision of a Child Support Commissioner on an appeal from such a decision as is mentioned in sub-paragraph (b) or (d),]

may be superseded by a decision made by the Department, either on an application made for the purpose or on the Department's own initiative.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this Article.

^{F164}(4) Subject to paragraph (5) and Article 28ZC, a decision under this Article shall take effect as from the date on which it is made or, where applicable, the date on which the application was made.]

^{F165}(4) Subject to paragraph (5) and Article 28ZC, a decision under this Article shall take effect as from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which the application was made.

(4A) In paragraph (4), a maintenance period is (except where a different meaning is prescribed for prescribed cases) a period of seven days, the first one beginning on and including the effective date of the first decision made by the Department under Article 13 or (if earlier) the Department's first default or interim maintenance decision (under Article 14) in relation to the non-resident parent in question, and each subsequent one beginning on and including the day after the last day of the previous one.]

(5) Regulations may provide that, in prescribed cases or circumstances, a decision under this Article shall take effect as from such other date as may be prescribed.]

F160 1998 NI 10

- F161** Word after art. 19(1)(b) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 67, 68(2), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F162** Art. 19(1)(c)-(e) substituted for art. 19(1)(c) (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 9(2)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F163** Art. 19(1)(c)-(e) substituted for art. 19(1)(c) (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 9(2)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F164** Art. 19(4)(4A) substituted for art. 19(4) (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 9(3)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F165** Art. 19(4)(4A) substituted for art. 19(4) (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 9(3)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F166}^{F167} Appeals to appeal tribunals **N.I.**

- 22.—(1) A qualifying person has a right of appeal to an appeal tribunal against—
- (a) a decision of the Department under Article 13, 14 or 19 (whether as originally made or as revised under Article 18);
 - (b) a decision of the Department not to make a maintenance calculation under Article 13 or not to supersede a decision under Article 19;
 - (c) a reduced benefit decision under Article 43;
 - (d) the imposition (by virtue of Article 38A) of a requirement to make penalty payments, or their amount;
 - (e) the imposition (by virtue of Article 44) of a requirement to pay fees.
- (2) In paragraph (1), qualifying person means—
- (a) in relation to sub-paragraphs (a) and (b), the person with care, or non-resident parent, with respect to whom the Department made the decision;
 - (b) in relation to sub-paragraph (c), the person in respect of whom the benefits are payable;
 - (c) in relation to sub-paragraph (d), the parent who has been required to make penalty payments; and
 - (d) in relation to sub-paragraph (e), the person required to pay fees.
- (3) A person with a right of appeal under this Article shall be given such notice as may be prescribed of—
- (a) that right; and
 - (b) the relevant decision, or the imposition of the requirement.
- (4) Regulations may make—
- (a) provision as to the manner in which, and the time within which, appeals are to be brought; and
 - (b) such provision with respect to proceedings before appeal tribunals as the Department considers appropriate.
- (5) The regulations may in particular make any provision of a kind mentioned in Schedule 4 to the Social Security (Northern Ireland) Order 1998.

Status: Point in time view as at 03/04/2006.

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(6) No appeal lies by virtue of paragraph (1)(c) unless the amount of the person's benefit is reduced in accordance with the reduced benefit decision; and the time within which such an appeal may be brought runs from the date of notification of the reduction.

(7) In deciding an appeal under this Article, an appeal tribunal—

- (a) need not consider any issue that is not raised by the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the Department made the decision or imposed the requirement.

(8) If an appeal under this Article is allowed, the appeal tribunal may—

- (a) itself make such decision as it considers appropriate; or
- (b) remit the case to the Department, together with such directions (if any) as it considers appropriate.]]

F166 1998 NI 10

F167 Art. 22 substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 10, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F166F599} Appeals to appeal tribunals **N.I.**

22.—(1) Where an application for a [^{F600}maintenance assessment] [^{F601}maintenance calculation] is refused, the person who made that application shall have a right of appeal to an appeal tribunal against the refusal.

(2) Where a [^{F602}maintenance assessment] [^{F603}maintenance calculation] is in force, the [^{F604}absent parent] [^{F605}non-resident parent] or person with care with respect to whom it was made shall have a right of appeal to an appeal tribunal against the amount of the [^{F606}assessment] [^{F607}calculation] or the date from which the [^{F608}assessment] [^{F609}calculation] takes effect.

(3) Where a [^{F610}maintenance assessment] [^{F611}maintenance calculation] is cancelled, or an application for the cancellation of a [^{F612}maintenance assessment] [^{F613}maintenance calculation] is refused, the [^{F614}absent parent] [^{F615}non-resident parent] or person with care with respect to whom the [^{F616}maintenance assessment] [^{F617}maintenance calculation] in question was, or remains, in force, shall have a right of appeal to an appeal tribunal against the cancellation or refusal.

(4) A person with a right of appeal under this Article shall be given such notice of that right and, in the case of a right conferred by paragraph (1) or (3), such notice of the decision as may be prescribed.

(5) Regulations may make—

- (a) provision as to the manner in which, and the time within which, appeals are to be brought; and
- (b) such provision with respect to proceedings before appeal tribunals as the Department considers appropriate.

(6) The regulations may in particular make any provision of a kind mentioned in Schedule 4 to the Social Security (Northern Ireland) Order 1998.

(7) In deciding an appeal under this Article, an appeal tribunal—

- (a) need not consider any issue that is not raised by the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the decision or [^{F618}assessment] [^{F619}calculation] appealed against was made.]

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- F166** 1998 NI 10
- F599** Art. 22 substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 10, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F600** Words in art. 22(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F601** Words in art. 22(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F602** Words in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F603** Words in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F604** Words in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F605** Words in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F606** Word in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F607** Word in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F608** Word in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F609** Word in art. 22(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F610** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F611** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F612** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F613** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F614** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F615** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

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- F616** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F617** Words in art. 22(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F618** Word in art. 22(7)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F619** Word in art. 22(7)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

Matters concerning Child Support Commissioners **N.I.**

24. Schedule 4 shall have effect with respect to certain matters concerning Child Support Commissioners.

[^{F168}Redetermination of appeals **N.I.**

24A.—(1) This Article applies where an application is made to a person under Article 25(6)(a) for leave to appeal from a decision of an appeal tribunal.

(2) If the person who constituted, or was the chairman of, the appeal tribunal considers that the decision was erroneous in point of law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.

(3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.

(4) The “principal parties” are—

- (a) the Department; and
- (b) those who are qualifying persons for the purposes of Article 22(2) in relation to the decision in question.]

F168 2000 c. 4 (NI)

Appeal to Child Support Commissioner **N.I.**

25.—(1) Any person who is aggrieved by a decision of [^{F169} an appeal tribunal, and the Department], may appeal to a Child Support Commissioner on a question of law.

Para. (1A) rep. by 1998 NI 10

(2) Where, on an appeal under this Article, a Child Support Commissioner holds that the decision appealed against was wrong in law he shall set it aside.

(3) Where a decision is set aside under paragraph (2), the Child Support Commissioner may—

- (a) if he can do so without making fresh or further findings of fact, give the decision which he considers should have been given by [^{F169} the appeal tribunal];
- (b) if he considers it expedient, make such findings and give such decision as he considers appropriate in the light of those findings; or

- [^{F170}(c) on an appeal by the Department, refer the case to[^{F169} an appeal tribunal] with directions for its determination; or
- (d) on any other appeal, refer the case to[^{F169} the Department] or, if he considers it appropriate, to[^{F169} an appeal tribunal] with directions for its determination.]
- [^{F169}(4) The reference under paragraph (3) to the Department shall, subject to any direction of the Child Support Commissioner, be to an officer of the Department, or to a person providing it with services, who has taken no part in the decision originally appealed against.]
- (5) On a reference under paragraph (3) to[^{F169} an appeal tribunal], the tribunal shall, subject to any direction of the Child Support Commissioner, consist of persons who were not members of the tribunal which gave the decision which has been appealed against.
- (6) No appeal lies under this Article without the leave—
- (a) of the person[^{F169} who constituted, or was the chairman, of the appeal tribunal] when the decision appealed against was given or of[^{F169} such other person] as may be determined in accordance with regulations made by the Lord Chancellor; or
- (b) subject to and in accordance with regulations so made, of a Child Support Commissioner.
- (7) The Lord Chancellor may by regulations make provision as to the manner in which and the time within which appeals under this Article are to be brought and applications for leave under this Article are to be made.
- (8) Where a question which would otherwise fall to be determined by[^{F169} the Department] first arises in the course of an appeal to a Child Support Commissioner, he may, if he thinks fit, determine it even though it has not been considered by[^{F169} the Department].

F169 1998 NI 10

F170 1995 NI 13

Appeal from Child Support Commissioner on question of law **N.I.**

- 26.—(1) An appeal on a question of law shall lie to the Court of Appeal from any decision of a Child Support Commissioner.
- (2) No such appeal may be brought except—
- (a) with leave of the Child Support Commissioner who gave the decision or, where regulations made by the Lord Chancellor so provide, of a Child Support Commissioner selected in accordance with the regulations; or
- (b) if the Child Support Commissioner refuses leave, with the leave of the Court of Appeal.
- (3) An application for leave to appeal under this Article against a decision of a Child Support Commissioner (“the appeal decision”) may only be made by—
- (a) a person who was a party to the proceedings in which the original decision, or appeal decision, was given;
- (b) the Department; or
- (c) any other person who is authorised to do so by regulations made by the Lord Chancellor.
- (4) In this Article “original decision” means the decision to which the appeal decision in question relates.
- (5) The Lord Chancellor may by regulations make provision with respect to—
- (a) the manner in which and the time within which applications must be made to a Child Support Commissioner for leave under this Article; and

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- (b) the procedure for dealing with such applications.

Disputes about parentage **N.I.**

27.—(1) Where a person who is alleged to be a parent of the child with respect to whom an application for a [^{F171}maintenance assessment] [^{F172}maintenance calculation] has been made [^{F173}or treated as made] (“the alleged parent”) denies that he is one of the child's parents, [^{F174}the Department] shall not make a [^{F171}maintenance assessment] [^{F172}maintenance calculation] on the assumption that the alleged parent is one of the child's parents unless the case falls within one of those set out in paragraph (2).

- (2) The Cases are—

^{F175}CASE A1

Where—

- (a) the child is habitually resident in Northern Ireland;
- (b) the Department is satisfied that the alleged parent was married to the child's mother at some time in the period beginning with the conception and ending with the birth of the child; and
- (c) the child has not been adopted.

CASE A2

Where—

- (a) the child is habitually resident in Northern Ireland;
- (b) the alleged parent has been registered as the father of the child under Article 14 or 18(1) (b)(ii) of the Births and Deaths Registration (Northern Ireland) Order 1976, or under section 10 or 10A of the Births and Deaths Registration Act 1953, or in any register kept under section 13 or 44 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and
- (c) the child has not subsequently been adopted.

CASE A3

Where the result of a scientific test (within the meaning of Article 27A) taken by the alleged parent would be relevant to determining the child's parentage, and the alleged parent—

- (a) refuses to take such a test; or
- (b) has submitted to such a test, and it shows that there is no reasonable doubt that the alleged parent is a parent of the child.

CASE A

Where the alleged parent is a parent of the child in question by virtue of having adopted him.

CASE B

Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the Human Fertilisation and Embryology Act 1990

^{F176} (parental orders in favour of gamete donors).

^{F177}CASE B1

Where the Department is satisfied that the alleged parent is a parent of the child in question by virtue of section 27 or 28 of that Act (meaning of

“mother” and of “father” respectively).

CASE C

Where—

- (a) either—
 - (i) a declaration that the alleged parent is a parent of the child in question (or a declaration which has that effect) is in force under^{F178} Article^{F179} 31B or 32 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 or section 56 of the Family Law Act 1986^{F180} (declarations of parentage); or
 - (ii) a declarator by a court in Scotland that the alleged parent is a parent of the child in question (or a declarator which has that effect) is in force; and
- (b) the child has not subsequently been adopted.

CASE D

Where—

- (a) a declaration to the effect that the alleged parent is one of the parents of the child in question has been made under Article 28; and
- (b) the child has not subsequently been adopted.

CASE E

Where—

- (a) the alleged parent has been found or adjudged to be the father of the child in question—
 - (i) in affiliation proceedings before any court in the United Kingdom; or
 - (ii) in proceedings before any court in England and Wales^{F181} or Northern Ireland which are relevant proceedings for the purposes of section 12 of the Civil Evidence Act 1968^{F182}^{F183} or section 8 of the Civil Evidence Act (Northern Ireland) 1971, (whether or not he offered any defence to the allegation of paternity) and that finding or adjudication still subsists; and
 - (b) the child has not subsequently been adopted.
- (3) In this Article—

“adopted” means adopted within the meaning of Part V of the Adoption (Northern Ireland) Order 1987^{F184}; and

“affiliation proceedings”, in relation to Scotland, means any action of affiliation and aliment.]]]]]]

F171 Words in art. 27(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

F172 Words in art. 27(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

F173 Words in art. 27(1) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 17; S.R. 2003/53, art. 3(1), Sch.

F174 1998 NI 10

F175 2000 c. 4 (NI)

F176 1990 c. 37

Status: Point in time view as at 03/04/2006.

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F177 2000 c. 4 (NI)
F178 1995 NI 2
F179 2000 c. 4 (NI)
F180 1986 c. 55
F181 1995 NI 2
F182 1968 c. 64
F183 1995 NI 2
F184 1987 NI 22

[^{F185}Recovery of fees for scientific tests **N.I.**

27A.—(1) This Article applies in any case where—

- (a) an application for a [^{F186}maintenance assessment] [^{F187}maintenance calculation] has been made[^{F188} or treated as made] or a [^{F186}maintenance assessment] [^{F187}maintenance calculation] is in force;
- (b) scientific tests have been carried out (otherwise than under a direction) in relation to bodily samples obtained from a person who is alleged to be a parent of a child with respect to whom the application or [^{F189}assessment] [^{F190}calculation] is made[^{F191} or, as the case may be, treated as made];
- (c) the results of the tests do not exclude the alleged parent from being one of the child's parents; and
- (d) one of the conditions set out in paragraph (2) is satisfied.

(2) The conditions are that—

- (a) the alleged parent does not deny that he is one of the child's parents; or
- (b) in proceedings under^{F192} Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989, a court has made a declaration that the alleged parent is a parent of the child in question.

(3) In any case to which this Article applies, any fee paid by the Department in connection with scientific tests may be recovered by it from the alleged parent as a debt due to the Crown.

(4) In this Article—

“bodily sample” means a sample of bodily fluid or bodily tissue taken for the purpose of scientific tests;

“direction” means a direction given by a court under Article 8 of the Family Law Reform (Northern Ireland) Order 1977^{F193} (tests to determine paternity); and

“scientific tests” means scientific tests made with the object of ascertaining the inheritable characteristics of bodily fluids or bodily tissue.

(5) Any sum recovered by the Department under this Article shall be paid by the Department into the Consolidated Fund.]]

F185 1995 NI 13

F186 Words in art. 27A(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\)](#), 68(2); S.R. 2003/53, art. 3(1), [Sch.](#)

F187 Words in art. 27A(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(a\)](#), 68(2); S.R. 2003/53, art. 3(1), [Sch.](#)

- F188** Words in art. 27A(1)(a) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 18(a)**; S.R. 2003/53, art. 3(1), **Sch.**
- F189** Word in art. 27A(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F190** Word in art. 27A(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F191** Words in art. 27A(1)(b) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 18(b)**; S.R. 2003/53, art. 3(1), **Sch.**
- F192** 2000 c. 4 (NI)
- F193** 1980 NI 5

[^{F194}Applications for declaration of parentage under Matrimonial and Family Proceedings (Northern Ireland) Order 1989 **N.I.**

28.—(1) This Article applies where—

- (a) an application for a maintenance calculation has been made (or is treated as having been made), or a maintenance calculation is in force, with respect to a person (“the alleged parent”) who denies that he is a parent of a child with respect to whom the application or calculation was made or treated as made;
- (b) the Department is not satisfied that the case falls within one of those set out in Article 27(2); and
- (c) the Department or the person with care makes an application for a declaration under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 as to whether or not the alleged parent is one of the child's parents.

(2) Where this Article applies—

- (a) if it is the person with care who makes the application, that person shall be treated as having a sufficient personal interest for the purposes of paragraph (3) of that Article; and
- (b) if it is the Department which makes the application, that paragraph shall not apply.]

F194 2000 c. 4 (NI)

[^{F195}Decisions and appeals dependent on other cases]

F195 1998 NI 10

[^{F196}Decisions involving issues that arise on appeal in other cases] **N.I.**

28ZA.—(1) This Article applies where—

- (a) a decision by the Department falls to be made under Article 13, 14, 18 or 19 [^{F197}in relation to a maintenance assessment][^{F198}or with respect to a reduced benefit decision under Article 43]; and
- (b) an appeal is pending against a decision given in relation to a different [^{F199}maintenance assessment][^{F200}matter] by a Child Support Commissioner or a court.

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(2) If the Department considers it possible that the result of the appeal will be such that, if it were already determined, it would affect the decision in some way—

- (a) the Department need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;
- (b) the Department may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.

(3) Where the Department acts in accordance with paragraph (2)(b), following the determination of the appeal it shall, if appropriate, revise its decision (under Article 18) in accordance with that determination.

(4) For the purposes of this Article, an appeal against a decision is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for leave to appeal against the decision has been made but not determined; or
- (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.

(5) In sub-paragraphs (a), (b) and (c) of paragraph (4), any reference to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.

F196 1998 NI 10

F197 Words in art. 28ZA(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 19(a)**; S.R. 2003/53, art. 3(1), **Sch.**

F198 Words in art. 28ZA(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 19(a)**; S.R. 2003/53, art. 3(1), **Sch.**

F199 Words in art. 28ZA(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 19(b)**; S.R. 2003/53, art. 3(1), **Sch.**

F200 Words in art. 28ZA(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 19(b)**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F201} **Appeals involving issues that arise on appeal in other cases** **N.I.**

28ZB.—(1) This Article applies where—

^{F202}(a) an appeal ("appeal A") in relation to a decision falling within Article 22(1) or (3), or an assessment falling within Article 22(2), is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner; and]

[^{F203}(a) an appeal (“appeal A”) in relation to a decision or the imposition of a requirement falling within Article 22(1) is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner;]

- (b) an appeal (“appeal B”) is pending against a decision given in a different case by a Child Support Commissioner or a court.

(2) If the Department considers it possible that the result of appeal B will be such that, if it were already determined, it would affect the determination of appeal A, the Department may serve notice requiring the tribunal or Child Support Commissioner—

- (a) not to determine appeal A but to refer it to the Department; or
 - (b) to deal with the appeal in accordance with paragraph (4).
- (3) Where appeal A is referred to the Department under paragraph (2)(a), following the determination of appeal B and in accordance with that determination, the Department shall if appropriate—
- (a) in a case where appeal A has not been determined by the tribunal, revise (under Article 18) its decision which gave rise to that appeal; or
 - (b) in a case where appeal A has been determined by the tribunal, make a decision (under Article 19) superseding the tribunal's decision.
- (4) Where appeal A is to be dealt with in accordance with this paragraph, the appeal tribunal or Child Support Commissioner shall either—
- (a) stay appeal A until appeal B is determined; or
 - (b) if the tribunal or Child Support Commissioner considers it to be in the interests of the appellant to do so, determine appeal A as if—
 - (i) appeal B had already been determined; and
 - (ii) the issues arising on appeal B had been decided in the way that was most unfavourable to the appellant.
- In this paragraph “the appellant” means the person who appealed or, as the case may be, first appealed against the decision [^{F204}or assessment][^{F205}or the imposition of the requirement] mentioned in paragraph (1)(a).
- (5) Where the appeal tribunal or Child Support Commissioner acts in accordance with paragraph (4)(b), following the determination of appeal B the Department shall, if appropriate, make a decision (under Article 19) superseding the decision of the tribunal or Child Support Commissioner in accordance with that determination.
- (6) For the purposes of this Article, an appeal against a decision is pending if—
- (a) an appeal against the decision has been brought but not determined;
 - (b) an application for leave to appeal against the decision has been made but not determined; or
 - (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (7) In this Article—
- (a) the reference in paragraph (1)(a) to an appeal to a Child Support Commissioner includes a reference to an application for leave to appeal to a Child Support Commissioner; and
 - (b) any reference in sub-paragraph (a), (b) or (c) of paragraph (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.
- (8) Regulations may make provision supplementing that made by this Article.]

F201 1998 NI 10

F202 Art. 28ZB(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 20\(a\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)

F203 Art. 28ZB(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 20\(a\)](#); S.R. 2003/53, art. 3(1), [Sch.](#)

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- F204** Words in art. 28ZB(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 20(b)**; S.R. 2003/53, art. 3(1), **Sch.**
- F205** Words in art. 28ZB(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 20(b)**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F206}Cases of error]

F206 1998 NI 10

[^{F207}Restrictions on liability in certain cases of error] N.I.

- 28ZC.**—(1) Subject to paragraph (2), this Article applies where—
- (a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that the adjudicating authority's decision out of which the appeal arose was erroneous in point of law; and
 - (b) after the date of the relevant determination a decision falls to be made by the Department in accordance with that determination (or would, apart from this Article, fall to be so made)—
 - (i) with respect to an application for a [^{F208}maintenance assessment] [^{F209}maintenance calculation] (made after the commencement date)[^{F210} or one treated as having been so made, or under Article 43 as to the reduction of benefit];
 - (ii) as to whether to revise, under Article 18, [^{F211}a decision (made after the commencement date) with respect to such an assessment; or][^{F212} any decision (made after the commencement date) referred to in Article 18(1A)]
 - (iii) on an application under Article 19 (made after the commencement date) for [^{F213}a decision with respect to such an assessment to be superseded.][^{F214} any decision (made after the commencement date) referred to in Article 19(1)]
- (2) This Article does not apply where the decision of the Department mentioned in paragraph (1) (b)—
- (a) is one which, but for Article 28ZA(2)(a), would have been made before the date of the relevant determination; or
 - (b) is one made in pursuance of Article 28ZB(3) or (5).
- (3) In so far as the decision relates to a person's liability[^{F215} or the reduction of a person's benefit] in respect of a period before the date of the relevant determination, it shall be made as if the adjudicating authority's decision had been found by the Commissioner or court not to have been erroneous in point of law.
- (4) Paragraph (1)(a) shall be read as including a case where—
- (a) the effect of the relevant determination is that part or all of a purported regulation or order is invalid; and
 - (b) the error of law made by the adjudicating authority was to act on the basis that the purported regulation or order (or the part held to be invalid) was valid.
- (5) It is immaterial for the purposes of paragraph (1)—
- (a) where such a decision as is mentioned in sub-paragraph (b)(i) falls to be made; or

(b) where such a decision as is mentioned in sub-paragraph (b)(ii) or (iii) falls to be made on an application under Article 18 or (as the case may be) Article 19, whether the application was made before or after the date of the relevant determination.

(6) In this Article—

“adjudicating authority” means the Department or a child support officer^{F216} or, in the case of a decision made on a referral under Article 28D(1)(b), an appeal tribunal];

“the commencement date” means the date of the coming into operation of Article 44 of the Social Security (Northern Ireland) Order 1998;

“the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in England and Wales, the House of Lords or the Court of Justice of the European Community.

(7) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this Article in accordance with any regulations made for that purpose.

(8) Regulations made under paragraph (7) may include provision—

(a) for a determination of a higher court to be treated as if it had been made on the date of a determination of a lower court or a Child Support Commissioner; or

(b) for a determination of a lower court or a Child Support Commissioner to be treated as if it had been made on the date of a determination of a higher court.

F207 1998 NI 10

F208 Words in art. 28ZC(1)(b)(i) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F209 Words in art. 28ZC(1)(b)(i) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F210 Words in art. 28ZC(1)(b)(i) added (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(a)**; S.R. 2003/53, art. 3(1), **Sch.**

F211 Words in art. 28ZC(1)(b)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(b)**; S.R. 2003/53, art. 3(1), **Sch.**

F212 Words in art. 28ZC(1)(b)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(b)**; S.R. 2003/53, art. 3(1), **Sch.**

F213 Words in art. 28ZC(1)(b)(iii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(c)**; S.R. 2003/53, art. 3(1), **Sch.**

F214 Words in art. 28ZC(1)(b)(iii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(c)**; S.R. 2003/53, art. 3(1), **Sch.**

F215 Words in art. 28ZC(3) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(d)**; S.R. 2003/53, art. 3(1), **Sch.**

F216 Words in art. 28ZC(6) in definition of "adjudicating authority" added (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 21(e)**; S.R. 2003/53, art. 3(1), **Sch.**

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[^{F217}Correction of errors and setting aside of decisions] **N.I.**

28ZD.—(1) Regulations may make provision with respect to—

- (a) the correction of accidental errors in any decision or record of a decision given under this Order; and
- (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
 - (i) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative or was not received at an appropriate time by the person who gave the decision; or
 - (ii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.

(2) Nothing in paragraph (1) shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that paragraph.]

F217 1998 NI 10

[^{F218}Departure from usual rules for determining maintenance assessments]

F218 1995 NI 13

[^{F219F220F221}Application for a departure direction] **N.I.**

28A.—(1) Where a maintenance assessment (“the current assessment”) is in force, the person with care, or absent parent, with respect to whom it was made may apply to the Department for a direction under Article 28F (a “departure direction”).

(2) An application for a departure direction shall state in writing the grounds on which it is made and shall, in particular, state whether it is based on—

- (a) the effect of the current assessment; or
- (b) a material change in the circumstances of the case since the current assessment was made.

(3) In other respects, an application for a departure direction shall be made in such manner as may be prescribed.

[^{F222}(4) An application may be made under this Article even though an application has been made under Article 18(1) or 19(1) with respect to the current assessment.]

(5) If the Department considers it appropriate to do so, the Department may by regulations provide for the question whether a change of circumstances is material to be determined in accordance with the regulations.

(6) Schedule 4A shall have effect in relation to departure directions.

F219 1995 NI 13

F220 prosp. in pt. subst. 2000 c. 4 (NI)

F221 see SR 2001/24 which am. and rep. for the purpose only of making regulations

F222 1998 NI 10

^{F223F224F225} **Preliminary consideration of applications** **N.I.**

28B.—(1) Where an application for a departure direction has been duly made to the Department, it may give the application a preliminary consideration.

(2) Where the Department does so the Department may, on completing the preliminary consideration, reject the application if it appears to the Department—

- (a) that there are no grounds on which a departure direction could be given in response to the application; or
- (b) that the difference between the current amount and the revised amount is less than an amount to be calculated in accordance with regulations made by the Department for the purposes of this paragraph and Article 28F(4).

(3) In paragraph (2)—

“the current amount” means the amount of the child support maintenance fixed by the current assessment; and

“the revised amount” means the amount of child support maintenance which, but for paragraph (2)(b), would be fixed if a fresh maintenance assessment were to be made as a result of a departure direction allowing the departure applied for.

Paras. (4), (5) rep. by 1998 NI 10

^{F226} (6) Where a decision as to a maintenance assessment is revised or superseded under Article 18 or 19, the Department—

- (a) shall notify the applicant and such other persons as may be prescribed that the decision has been revised or superseded; and
- (b) may direct that the application is to lapse unless, before the end of such period as may be prescribed, the applicant notifies the Department that he wishes it to stand.]]

F223 1995 NI 13

F224 prosp. in pt. subst. 2000 c. 4 (NI)

F225 see SR 2001/24 which am. and rep. for the purpose only of making regulations

F226 1998 NI 10

^{F227F228F229} **Imposition of a regular payments condition** **N.I.**

28C.—(1) Where an application for a departure direction is made by an absent parent, the Department may impose on him one of the conditions mentioned in paragraph (2) (“a regular payments condition”).

(2) The conditions are that—

- (a) the applicant must make the payments of child support maintenance fixed by the current assessment;
- (b) the applicant must make such reduced payments of child support maintenance as may be determined in accordance with regulations made by the Department.

(3) Where the Department imposes a regular payments condition, the Department shall give written notice to the absent parent and person with care concerned of the imposition of the condition and of the effect of failure to comply with it.

(4) A regular payments conditions shall cease to have effect on the failure or determination of the application.

(5) For the purposes of paragraph (4), an application for a departure direction fails if—

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- (a) it lapses or is withdrawn; or
 - (b) the Department rejects it on completing a preliminary consideration under Article 28B.
- (6) Where an absent parent has failed to comply with a regular payments condition—
- (a) the Department may refuse to consider the application; and
 - (b) in prescribed circumstances the application shall lapse.
- (7) The question whether an absent parent has failed to comply with a regular payments condition shall be determined by the Department.
- (8) Where the Department determines that an absent parent has failed to comply with a regular payments condition the Department shall give that parent, and the person with care, concerned, written notice of its decision.]

F227 1995 NI 13

F228 prosp. in pt. subst. 2000 c. 4 (NI)

F229 see SR 2001/24 which am. and rep. for the purpose only of making regulations

[^{F230} **Determination of applications** **N.I.**]

28D.—^{F231}(1) Where an application for a departure direction has not failed, the Department shall—

- ^{F232}(a) determine the application in accordance with the relevant provisions of, or made under, this Order; or
 - (b) refer the application to [^{F233} an appeal tribunal] for the tribunal to determine it in accordance with those provisions.
- (2) For the purposes of paragraph (1), an application for a ^{F234} departure direction has failed if—
- (a) it has ^{F235} lapsed or been withdrawn, ^{F235} or
 - (b) the Department has rejected it on completing a preliminary consideration under Article 28B ^{F236}.

^{F237}(3) In dealing with an application for a ^{F234} departure direction which has been referred to it under paragraph (1)(b), [^{F233} an appeal tribunal] shall have the same powers, and be subject to the same duties, as would the Department if it were dealing with the application.]

F230 1995 NI 13

F231 prosp. in pt. subst. 2000 c. 4 (NI)

F232 see SR 2001/24 which am. and rep. for the purpose only of making regulations

F233 1998 NI 10

F234 prosp. in pt. subst. 2000 c. 4 (NI)

F235 prosp. in pt. rep. by 2000 c. 4 (NI)

F236 prosp. in pt. inserted by 2000 c.4 (NI)

F237 prosp. in pt. added by 2000 c.4 (NI)

[^{F238} **Matters to be taken into account** **N.I.**]

28E.—(1) In determining ^{F239} any application for a departure direction, the Department shall have regard both to the general principles set out in paragraph (2) and to such other considerations as may be prescribed.

- (2) The general principles are that—

- (a) parents should be responsible for maintaining their children whenever they can afford to do so;
 - (b) where a parent has more than one child, his obligation to maintain any one of them should be no less of an obligation than his obligation to maintain any other of them.
- (3) In determining^{F239} any application for a departure direction, the Department shall take into account any representations made to it by the person with care or absent parent concerned.
- (4) In determining^{F239} any application for a departure direction, no account shall be taken of the fact that—
- (a) any part of the income of the person with care concerned is, or would be if^{F239} a departure direction were made, derived from any benefit; or
 - (b) some or all of any child support maintenance might be taken into account in any manner in relation to any entitlement to benefit.
- (5) In this Article “benefit” has such meaning as may be prescribed.]

F238 1995 NI 13

F239 prosp. in pt. subst. 2000 c. 4 (NI)

[^{F240F241F242}**Departure directions** **N.I.**

- 28F.**—(1) The Department may give a departure direction if—
- (a) the Department is satisfied that the case is one which falls within one or more of the cases set out in Part I of Schedule 4B or in regulations made under that Part; and
 - (b) it is the Department's opinion that, in all the circumstances of the case, it would be just and equitable to give a departure direction.
- (2) In considering whether it would be just and equitable in any case to give a departure direction, the Department shall have regard, in particular, to—
- (a) the financial circumstances of the absent parent concerned,
 - (b) the financial circumstances of the person with care concerned, and
 - (c) the welfare of any child likely to be affected by the direction.
- (3) The Department may by regulations make provision—
- (a) for factors which are to be taken into account in determining whether it would be just and equitable to give a departure direction in any case;
 - (b) for factors which are not to be taken into account in determining such a question.
- (4) The Department shall not give a departure direction if it is satisfied that the difference between the current amount and the revised amount is less than an amount to be calculated in accordance with regulations made by the Department for the purposes of this paragraph and Article 28B(2).
- (5) In paragraph (4)—
- “the current amount” means the amount of the child support maintenance fixed by the current assessment, and
- “the revised amount” means the amount of child support maintenance which would be fixed if a fresh maintenance assessment were to be made as a result of the departure direction which the Department would give in response to the application but for paragraph (4).
- (6) A departure direction shall—
- (a) require^{F243} the making of] one or more fresh maintenance assessments; and

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(b) specify the basis on which the amount of child support maintenance is to be fixed by any assessment made in consequence of the direction.

(7) In giving a departure direction, the Department shall comply with the provisions of regulations made under Part II of Schedule 4B.

(8) Before the end of such period as may be prescribed, the Department shall notify the applicant for a departure direction, and such other persons as may be prescribed—

- (a) of its decision in relation to the application, and
- (b) of the reasons for its decision.]

F240 1995 NI 13

F241 prosp. in pt. subst. 2000 c. 4 (NI)

F242 see SR 2001/24 which am. and rep. for the purpose only of making regulations

F243 1998 NI 10

[^{F244F245}**Effect and duration of departure directions** **N.I.**

Para. (1) rep. by 1998 NI 10

(2) A departure direction may be given so as to have effect—

- (a) for a specified period; or
- (b) until the occurrence of a specified event.

(3) The Department may by regulations make provision for the cancellation of a departure direction in prescribed circumstances.

(4) The Department may by regulations make provision as to when a departure direction is to take effect.

(5) Regulations under paragraph (4) may provide for a departure direction to have effect from a date earlier than that on which the direction is given.]

F244 1995 NI 13

F245 prosp. in pt. subst. 2000 c. 4 (NI)

[^{F246F247}**Departure directions: decisions and appeals** **N.I.**

28H. Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to decisions with respect to departure directions.]

F246 1998 NI 10

F247 prosp. in pt. rep. by 2000 c. 4 (NI)

[^{F248F249}**Transitional provisions** **N.I.**

28I.—^{F250}(1) In the case of an application for a departure direction relating to a maintenance assessment which was made before the coming into operation of Article 28A the period within which the application must be made shall be such period as may be prescribed.

^{F250}(2) The Department may by regulations make provision for applications for departure directions to be dealt with according to an order determined in accordance with the regulations.

^{F250}(3) The regulations may, for example, provide for—

- (a) applications relating to prescribed descriptions of maintenance assessment, or
 - (b) prescribed descriptions of application, to be dealt with before applications relating to other prescribed descriptions of assessment or (as the case may be) other prescribed descriptions of application.
- ^{F250}(4) The Department may by regulations make provision—
- (a) enabling applications for departure directions made before the coming into operation of Article 28A to be considered even though that Article is not in operation;
 - (b) for the determination of any such application as if Article 28A and the other provisions of this Order relating to departure directions were in operation; and
 - (c) as to the effect of any departure direction given before the coming into operation of Article 28A.
- (5) Regulations under Article 28G(4) may not provide for a departure direction to have effect from a date earlier than that on which that Article came into operation.]

F248 1995 NI 13

F249 prosp. in pt. rep. by 2000 c. 4 (NI)

F250 prosp. insertion by 1995 NI 13

[^{F251}Voluntary Payments]

F251 Art. 28J and preceding cross-heading inserted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), [ss. 3, 68\(2\)](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, [art. 5](#)

^{F252}**Voluntary Payments** **N.I.**

- 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;

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- (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.]

F252 [Art. 28J](#) and preceding cross-heading inserted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 3, 68\(2\)](#); [S.R. 2000/358, art. 2\(b\)](#), [Sch. Pt. II](#); [S.R. 2003/53, art. 5](#)

Collection and enforcement

Collection of child support maintenance N.I.

- 29.**—(1) The Department may arrange for the collection of any child support maintenance payable in accordance with a [^{F253}maintenance assessment] [^{F254}maintenance calculation] where—
- (a) the [^{F255}assessment] [^{F256}calculation] is made by virtue of Article 9; or
 - (b) an application has been made to the Department under Article 7(2) for the Department to arrange for its collection.
- (2) Where a [^{F257}maintenance assessment] [^{F258}maintenance calculation] is made under this Order, payments of child support maintenance under the [^{F259}assessment] [^{F260}calculation] shall be made in accordance with regulations made by the Department.
- (3) The regulations may, in particular, make provision—
- (a) for payments of child support maintenance to be made—
 - (i) to the person caring for the child or children in question;
 - (ii) to, or through, the Department; or
 - (iii) to, or through, such other person as the Department may specify;
 - (b) as to the method by which payments of child support maintenance are to be made;
 - (c) as to the intervals at which such payments are to be made;
 - (d) as to the method and timing of the transmission of payments which are made to or through the Department or any other person, in accordance with the regulations;
 - (e) empowering the Department to direct any person liable to make payments in accordance with the [^{F261}assessment] [^{F262}calculation]—
 - (i) to make them by standing order or by any other method which requires one person to give his authority for payments to be made from an account of his to an account of another's on specific dates during the period for which the authority is in force and without the need for any further authority from him;
 - (ii) to open an account from which payments under the [^{F263}assessment] [^{F264}calculation] may be made in accordance with the method of payment which that person is obliged to adopt;

- (f) providing for the making of representations with respect to matters with which the regulations are concerned.

- F253** Words in art. 29(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F254** Words in art. 29(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F255** Word in art. 29(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F256** Word in art. 29(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F257** Words in art. 29(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F258** Words in art. 29(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F259** Word in art. 29(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F260** Word in art. 29(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F261** Word in art. 29(3)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F262** Word in art. 29(3)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F263** Word in art. 29(3)(e)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F264** Word in art. 29(3)(e)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

Collection and enforcement of other forms of maintenance **N.I.**

30.—(1) Where the Department is arranging for the collection of any payments under Article 29 or paragraph (2), it may also arrange for the collection of any periodical payments, or secured periodical payments, of a prescribed kind which are payable to or for the benefit of any person who falls within a prescribed category.

[^{F265}(2) The Department may, except in prescribed cases, arrange for the collection of any periodical payments, or secured periodical payments, of a prescribed kind which are payable for the benefit of a child even though the Department is not arranging for the collection of child support maintenance with respect to that child.]

(3) Where—

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- (a) the Department is arranging, under this Order, for the collection of different payments (“the payments”) from the same [^{F266}absent parent] [^{F267}non-resident parent];
- (b) an amount is collected by the Department from the absent parent which is less than the total amount due in respect of the payments; and
- (c) the [^{F268}absent parent] [^{F269}non-resident parent] has not stipulated how that amount is to be allocated by the Department as between payments,

the Department may allocate that amount as it sees fit.

(4) The Department may by regulations make provision for Articles 29 and 31 to 37 to apply, with such modifications (if any) as it considers necessary or expedient, for the purpose of enabling it to enforce any obligation to pay any amount which it is authorised to collect under this Article.

F265 2000 c.4 (NI)

F266 Words in art. 30(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)

F267 Words in art. 30(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)

F268 Words in art. 30(3)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)

F269 Words in art. 30(3)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)

Deduction from earnings orders **N.I.**

31.—(1) This Article applies where any person (“the liable person”) is liable to make payments of child support maintenance.

(2) The Department may make an order (“a deduction from earnings order”) against a liable person to secure the payment of any amount due under the [^{F270}maintenance assessment] [^{F271}maintenance calculation] in question.

(3) A deduction from earnings order may be made so as to secure the payment of—

- (a) arrears of child support maintenance payable under the [^{F272}assessment] [^{F273}calculation];
- (b) amounts of child support maintenance which will become due under the [^{F274}assessment] [^{F275}calculation]; or
- (c) both such arrears and such future amounts.

(4) A deduction from earnings order—

- (a) shall be expressed to be directed at a person (“the employer”) who has the liable person in his employment; and
- (b) shall have effect from such date as may be specified in the order.

(5) A deduction from earnings order shall operate as an instruction to the employer to—

- (a) make deductions from the liable person's earnings; and
- (b) pay the amounts deducted to the Department.

(6) The Department shall serve a copy of any deduction from earnings order which it makes under this Article on—

- (a) the person who appears to the Department to have the liable person in question in his employment; and
 - (b) the liable person.
- (7) Where—
- (a) a deduction from earnings order has been made; and
 - (b) a copy of the order has been served on the liable person's employer,

it shall be the duty of that employer to comply with the order; but he shall not be under any liability for non-compliance before the end of the period of 7 days beginning with the date on which the copy was served on him.

- (8) In this Article and in Article 32 “earnings” has such meaning as may be prescribed.

- F270** Words in art. 31(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F271** Words in art. 31(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F272** Word in art. 31(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F273** Word in art. 31(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F274** Word in art. 31(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F275** Word in art. 31(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

Regulations about deduction from earnings orders **N.I.**

32.—(1) The Department may by regulations make provision with respect to deduction from earnings orders.

- (2) The regulations may, in particular, make provision—
- (a) as to the circumstances in which one person is to be treated as employed by another;
 - (b) requiring any deduction from earnings under an order to be made in the prescribed manner;
 - ^[F276](bb) for the amount or amounts which are to be deducted from the liable person’s earnings not to exceed a prescribed proportion of his earnings (as determined by the employer);]
 - (c) requiring an order to specify the amount or amounts to which the order relates and the amount or amounts which are to be deducted from the liable person's earnings in order to meet his liabilities under the [^{F277}maintenance assessment] [^{F278}maintenance calculation] in question;
 - (d) requiring the intervals between deductions to be made under an order to be specified in the order;
 - (e) as to the payment of sums deducted under an order to the Department;

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- (f) allowing the person who deducts and pays any amount under an order to deduct from the liable person's earnings a prescribed sum towards his administrative costs;
 - (g) with respect to the notification to be given to the liable person of amounts deducted, and amounts paid, under the order;
 - (h) requiring any person on whom a copy of an order is served to notify the Department in the prescribed manner and within a prescribed period if he does not have the liable person in his employment or if the liable person ceases to be in his employment;
 - (i) as to the operation of an order where the liable person is in the employment of the Crown;
 - (j) for the variation of orders;
 - (k) similar to that made by Article 31(7), in relation to any variation of an order;
 - (l) for an order to lapse when the employer concerned ceases to have the liable person in his employment;
 - (m) as to the revival of an order in such circumstances as may be prescribed;
 - (n) allowing or requiring an order to be discharged;
 - (o) as to the giving of notice by the Department to the employer concerned that an order has lapsed or has ceased to have effect.
- (3) The regulations may include provision that while a deduction from earnings order is in force—
- (a) the liable person shall notify the Department, in the prescribed manner and within a prescribed period, of each occasion on which he leaves any employment or becomes employed, or re-employed, and shall include in such a notification a statement of his earnings and expected earnings from the employment concerned and of such other matters as may be prescribed;
 - (b) any person who becomes the liable person's employer and knows that the order is in force shall notify the Department, in the prescribed manner and within a prescribed period, that he is the liable person's employer, and shall include in such a notification a statement of the liable person's earnings and expected earnings from the employment concerned and of such other matters as may be prescribed.
- (4) The regulations may include provision with respect to the priority as between a deduction from earnings order and—
- (a) any other deduction from earnings order;
 - (b) any order under any other statutory provision which provides for deductions from the liable person's earnings.
- (5) The regulations may include a provision that a liable person may appeal to a court of summary jurisdiction if he is aggrieved by the making of a deduction from earnings order against him, or by the terms of any such order, or there is a dispute as to whether payments constitute earnings or as to any other prescribed matter relating to the order.
- (6) On an appeal under paragraph (5) the court shall not question the [^{F279} maintenance assessment] [^{F280} maintenance calculation] by reference to which the deduction from earnings order was made.
- (7) Regulations made by virtue of paragraph (5) may include provision as to the powers of a court of summary jurisdiction in relation to an appeal (which may include provision as to the quashing of a deduction from earnings order or the variation of the terms of such an order).
- (8) If any person fails to comply with the requirements of a deduction from earnings order or with any regulation under this Article which is designated for the purposes of this paragraph, he shall be guilty of an offence.
- (9) In paragraph (8) “designated” means designated by the regulations.

(10) It shall be a defence for a person charged with an offence under paragraph (8) to prove that he took all reasonable steps to comply with the requirements in question.

(11) Any person guilty of an offence under paragraph (8) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

F276 Art. 32(2)(bb) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 24**; S.R. 2003/53, art. 3(1), **Sch.**

F277 Words in art. 32(2)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F278 Words in art. 32(2)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F279 Words in art. 32(6) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F280 Words in art. 32(6) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Liability orders **N.I.**

33.—(1) This Article applies where—

- (a) a person who is liable to make payments of child support maintenance (“the liable person”) fails to make one or more of those payments; and
- (b) it appears to the Department that—
 - (i) it is inappropriate to make a deduction from earnings order against him (because, for example, he is not employed); or
 - (ii) although such an order has been made against him, it has proved ineffective as a means of securing that payments are made in accordance with the [^{F281}maintenance assessment] [^{F282}maintenance calculation] in question.

(2) The Department may apply to a court of summary jurisdiction for an order (“a liability order”) against the liable person.

(3) Where the Department applies for a liability order, the court of summary jurisdiction shall make the order if satisfied that the payments in question have become payable by the liable person and have not been paid.

(4) On an application under paragraph (2), the court shall not question the [^{F283}maintenance assessment] [^{F284}maintenance calculation] under which the payments of child support maintenance fell to be made.

[^{F285}(5) Where regulations have been made under Article 29(3)(a)—

- (a) the liable person fails to make a payment (for the purposes of paragraph (1)(a)); and
- (b) a payment is not paid (for the purposes of paragraph (3)),

unless the payment is made to, or through, the person specified in or by virtue of those regulations for the case of the liable person in question.]

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- F281** Words in art. 33(1)(b)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F282** Words in art. 33(1)(b)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F283** Words in art. 33(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F284** Words in art. 33(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F285** 2000 c. 4 (NI)

Regulations about liability orders **N.I.**

34.—(1) The Department may make regulations—

- (a) prescribing the procedure to be followed in dealing with an application by the Department for a liability order;
- (b) prescribing the form and contents of a liability order; and
- (c) providing that where a court of summary jurisdiction has made a liability order, the person against whom it is made shall, during such time as the amount in respect of which the order was made remains wholly or partly unpaid, be under a duty to supply relevant information to the Department.

(2) In paragraph (1) “relevant information” means any information of a prescribed description which is in the possession of the liable person and which the Department has asked him to supply.

Enforcement of liability orders **N.I.**

35.—(1) Where a liability order has been made against a person (“the liable person”)—

- (a) the order shall be enforceable by the Enforcement of Judgments Office on an application to it by the Department; and
- (b) the Judgments Enforcement (Northern Ireland) Order 1981^{F286} (“the Order of 1981”) shall apply in relation to the amount in respect of which the order was made, to the extent that it remains unpaid, as a money judgment, but subject to paragraphs (2) and (3).

(2) Without prejudice to Article 141 of the Order of 1981 (power to make Judgment Enforcement Rules), the Department may, with the consent of the Lord Chancellor, make such regulations with respect to the enforcement of liability orders by the Enforcement of Judgments Office as it considers appropriate.

(3) Regulations made under paragraph (2) may, in particular, provide for the modification of any provision made by or under the Order of 1981 in its application to liability orders.

(4) In paragraph (3) “modification” includes the making of additions, omissions or amendments.

F286 1981 NI 6

Enforcement in Northern Ireland of English and Scottish liability orders **N.I.**

36.—(1) The Department may by regulations make provision for, or in connection with, the enforcement in Northern Ireland of—

- (a) any liability order made by a court in England and Wales; or
- (b) any liability order made by the sheriff in Scotland,

as if it had been made by a court of summary jurisdiction in Northern Ireland.

(2) Regulations under paragraph (1) may, in particular, make provision for the registration of any such order as is referred to in that paragraph in connection with its enforcement in Northern Ireland.

[^{F287} Commitment to prison and disqualification from driving **N.I.**

36A.—(1) Where the Department has sought to recover an amount by virtue of Article 35 and that amount, or any portion of it, remains unpaid, the Department may apply to the court under this Article.

(2) An application under this Article is for whichever the court considers appropriate in all the circumstances of—

- (a) the issue of a warrant committing the liable person to prison; or
- (b) an order for him to be disqualified for holding or obtaining a driving licence.

(3) On any such application the court shall (in the presence of the liable person) inquire as to—

- (a) whether he needs a driving licence to earn his living;
- (b) his means; and

(c) whether there has been wilful refusal or culpable neglect on his part.

(4) The Department may make representations to the court as to whether the Department thinks it more appropriate to commit the liable person to prison or to disqualify him for holding or obtaining a driving licence; and the liable person may reply to those representations.

(5) In this Article and Article 37A, “driving licence” means a licence to drive a motor vehicle granted under Part II of the Road Traffic (Northern Ireland) Order 1981.

(6) In this Article and Articles 37 and 37A, “the court” means a court of summary jurisdiction.]

F287 2000 c. 4 (NI)

Commitment to prison **N.I.**

Paras. (1),(2) rep. by 2000 c. 4 (NI)

(3) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the liable person it may—

- (a) issue a warrant of commitment against him; or
- (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as it thinks just.

(4) Any such warrant—

- (a) shall be made in respect of an amount equal to the aggregate of—
 - (i) the amount in respect of which the liability order was made or so much of that amount as remains outstanding; and
 - (ii) an amount (determined in accordance with regulations made by the Department) in respect of the costs of commitment; and

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- (b) shall state that amount.
- (5) No warrant may be issued under this Article against a person who is under the age of 18.
- (6) A warrant issued under this Article shall order the liable person—
- (a) to be imprisoned for a specified period; but
 - (b) to be released (unless he is in custody for some other reason) on payment of the amount stated in the warrant.
- (7) The maximum period of imprisonment which may be imposed by virtue of paragraph (6) shall be calculated in accordance with Schedule 3 to the Magistrates' Courts (Northern Ireland) Order 1981^{F288} (maximum periods of imprisonment in default of payment) but shall not exceed six weeks.
- (8) The Department may by regulations make provision for the period of imprisonment specified in any warrant issued under this Article to be reduced where there is part payment of the amount in respect of which the warrant was issued.
- (9) A warrant issued under this Article may be directed to such person or persons as the court issuing it thinks fit.
- (10) Article 110 of the Magistrates' Courts (Northern Ireland) Order 1981 (application of money found on defaulter) shall apply in relation to a warrant issued under this Article against a liable person as it applies in relation to the enforcement of a sum mentioned in paragraph (1) of that Article.
- (11) The Department may by regulations make provision—
- (a) as to the form of any warrant issued under this Article;
 - (b) allowing an application under this Article to be renewed where no warrant is issued or term of imprisonment is fixed;
 - (c) that a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts stated;
 - (d) that, for the purposes of enabling an inquiry to be made as to the liable person's conduct and means, a justice of the peace may issue a summons to him to appear before a court of summary jurisdiction and (if he does not obey) may issue a warrant for his arrest;
 - (e) that for the purpose of enabling such an inquiry, a justice of the peace may issue a warrant for the liable person's arrest without issuing a summons;
 - (f) as to the execution of a warrant for arrest.

F288 1981 NI 26

[^{F289}Disqualification from driving: further provision N.I.]

- 37A.**—(1) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the liable person, it may—
- (a) order him to be disqualified, for such period specified in the order but not exceeding two years as it thinks fit, for holding or obtaining a driving licence (a “disqualification order”); or
 - (b) make a disqualification order but suspend its operation until such time and on such conditions (if any) as it thinks just.
- (2) The court may not take action under both Article 37 and this Article.
- (3) A disqualification order shall state the amount in respect of which it is made, which shall be the aggregate of—

- (a) the amount in respect of which the liability order was made or so much of that amount as remains outstanding; and
 - (b) an amount (determined in accordance with regulations made by the Department) in respect of the costs of the application under Article 36A.
- (4) A court which makes a disqualification order shall require the person to whom it relates to produce any driving licence held by him, and its counterpart (within the meaning of Part II of the Road Traffic (Northern Ireland) Order 1981).
- (5) On an application by the Department or the liable person, the court—
- (a) may make an order substituting a shorter period of disqualification, or make an order revoking the disqualification order, if part of the amount referred to in paragraph (3) (the “amount due”) is paid to any person authorised to receive it; and
 - (b) shall make an order revoking the disqualification order if all of the amount due is so paid.
- (6) The Department may make representations to the court as to the amount which should be paid before it would be appropriate to make an order revoking the disqualification order under paragraph (5)(a), and the liable person may reply to those representations.
- (7) The Department may make a further application under Article 36A if the amount due has not been paid in full when the period of disqualification specified in the disqualification order expires.
- (8) Where a court—
- (a) makes a disqualification order;
 - (b) makes an order under paragraph (5); or
 - (c) allows an appeal against a disqualification order,
- it shall send notice of that fact to the Department; and the notice shall contain such particulars and be sent in such manner and to such address as the Department may determine.
- (9) Where a court makes a disqualification order, it shall also send the driving licence and its counterpart, on their being produced to the court, to the Department at such address as the Department may determine.
- (10) Article 110 of the Magistrates' Courts (Northern Ireland) Order 1981 (application of sums found upon defaulter) shall apply in relation to a disqualification order under this Article in relation to a liable person as it applies in relation to the enforcement of a sum mentioned in paragraph (1) of that Article.
- (11) The Department may by regulations make provision in relation to disqualification orders corresponding to the provision it may make under Article 37(11).]

F289 2000 c. 4 (NI)

Arrears of child support maintenance **N.I.**

38.—(1) This Article applies where—

- (a) the Department is authorised under Article 7 or 9 to recover child support maintenance payable by [^{F290}an absent parent] [^{F291}a non-resident parent] in accordance with a [^{F292}maintenance assessment] [^{F293}maintenance calculation] ; and
- (b) the [^{F294}absent parent] [^{F295}non-resident parent] has failed to make one or more payments of child support maintenance due from him in accordance with that [^{F296}assessment] [^{F297}calculation].

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[^{F298}(2) Where the Department recovers any such arrears it may, in such circumstances as may be prescribed and to such extent as may be prescribed, retain them if it is satisfied that the amount of any benefit paid to or in respect of the person with care of the child or children in question would have been less had the [^{F299}absent parent] [^{F300}non-resident parent] made the payment or payments of child support maintenance in question.

(2A) In determining for the purposes of paragraph (2) whether the amount of any benefit paid would have been less at any time than the amount which was paid at that time, in a case where the [^{F301}maintenance assessment] [^{F302}maintenance calculation] had affect from a date earlier than that on which it was made, the [^{F303}assessment] [^{F304}calculation] shall be taken to have been in force at that time.]

(3) [^{F305}In such circumstances as may be prescribed, the [^{F306}absent parent] [^{F307}non-resident parent] shall be liable to make such payments of interest with respect to the arrears of child support maintenance as may be prescribed.]

(4) [^{F308}The Department may by regulations make provision—

- (a) as to the rate of interest payable by virtue of paragraph (3);
- (b) as to the time at which, and person to whom, any such interest shall be payable;
- (c) as to the circumstances in which, in a case where the Department has been acting under Article 9, any such interest may be retained by it;
- (d) for the Department, in a case where it has been acting under Article 9 and in such circumstances as may be prescribed, to waive any such interest (or part of any such interest).]

(5) [^{F309}The provisions of this Order with respect to—

- (a) the collection of child support maintenance;
- (b) the enforcement of any obligation to pay child support maintenance,

shall apply equally to interest payable by virtue of this Article.]

(6) Any sums retained by the Department by virtue of this Article shall be paid by it into the Consolidated Fund.

F290 Words in art. 38(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F291 Words in art. 38(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F292 Words in art. 38(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F293 Words in art. 38(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F294 Words in art. 38(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F295 Words in art. 38(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

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- F296** Word in art. 38(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F297** Word in art. 38(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F298** 1995 NI 13
- F299** Words in art. 38(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F300** Words in art. 38(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F301** Words in art. 38(2A) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F302** Words in art. 38(2A) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F303** Word in art. 38(2A) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F304** Word in art. 38(2A) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F305** Art. 38(3) repealed (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 17(1), 67, 68(2), **Sch. 9 Pt. I**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F306** Words in art. 38(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F307** Words in art. 38(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F308** Art. 38(4) repealed (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 17(1), 67, 68(2), **Sch. 9 Pt. I**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F309** Art. 38(5) repealed (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 17(1), 67, 68(2), **Sch. 9 Pt. I**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

..... F310F311

N.I.

- F310** prosp. insertion by 1995 NI 13
- F311** prosp. in pt. subst. 2000 c. 4 (NI)

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^{F312}Repayment of overpaid child support maintenance **N.I.**

38B.—(1) This Article applies where it appears to the Department that [^{F313}an absent parent] [^{F314}a non-resident parent] has made a payment by way of child support maintenance which amounts to an overpayment by him of that maintenance and that—

- (a) it would not be possible for the [^{F315}absent parent] [^{F316}non-resident parent] to recover the amount of overpayment by way of an adjustment of the amount payable under a [^{F317}maintenance assessment] [^{F318}maintenance calculation]; or
- (b) it would be inappropriate to rely on an adjustment of the amount payable under a [^{F319}maintenance assessment] [^{F320}maintenance calculation] as the means of enabling the [^{F321}absent parent] [^{F322}non-resident parent] to recover the amount of the overpayment.

[^{F323}(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.]

(2) The Department may make such payment to the [^{F324}absent parent] [^{F325}non-resident parent] by way of reimbursement, or partial reimbursement, of the overpayment as the Department considers appropriate.

(3) Where the Department has made a payment under this Article the Department may, in such circumstances as may be prescribed, require the relevant person to pay to it the whole, or a specified proportion, of the amount of that payment.

(4) Any such requirement shall be imposed by giving the relevant person a written demand for the amount which the Department wishes to recover from him.

(5) Any sum which a person is required to pay to the Department under this Article shall be recoverable from him by the Department as a debt due to the Crown.

(6) The Department may by regulations make provision in relation to any case in which—

- (a) one or more overpayments of child support maintenance are being reimbursed to the Department by the relevant person; and
- (b) child support maintenance has continued to be payable by the [^{F326}absent parent] [^{F327}non-resident parent] concerned to the person with care concerned, or again becomes so payable.

^{F328}(7) For the purposes of this Article any payments made by a person under a maintenance assessment which was not validly made shall be treated as overpayment of child support maintenance made by an absent parent.]

[^{F329}(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.]

(8) In this Article “relevant person”, in relation to an overpayment, means the person with care to whom the overpayment was made.

(9) Any sum recovered by the Department under this Article shall be paid by the Department into the Consolidated Fund.]

- F312** 1995 NI 13
- F313** Words in art. 38B(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F314** Words in art. 38B(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F315** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F316** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F317** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F318** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F319** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F320** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F321** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F322** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F323** Art. 38B(1A) inserted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 19(2)(3)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, arts. 3, 5, **Sch.**
- F324** Words in art. 38B(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F325** Words in art. 38B(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F326** Words in art. 38B(6)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F327** Words in art. 38B(6)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F328** Art. 38B(7) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 19(2)(4)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, arts. 3, 5, **Sch.**
- F329** Art. 38B(7) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 19(2)(4)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, arts. 3, 5, **Sch.**

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Special cases

Special cases **N.I.**

39.—(1) The Department may by regulations provide that in prescribed circumstances a case is to be treated as a special case for the purposes of this Order.

(2) Those regulations may, for example, provide for the following to be special cases—

- (a) each parent of a child is [^{F330}an absent parent] [^{F331}a non-resident parent] in relation to the child;
- (b) there is more than one person who is a person with care in relation to the same child;
- (c) there is more than one qualifying child in relation to the same [^{F332}absent parent] [^{F333}non-resident parent] but the person who is the person with care in relation to one of those children is not the person who is the person with care in relation to all of them;
- (d) a person is [^{F334}an absent parent] [^{F335}a non-resident parent] in relation to more than one child and the other parent of each of those children is not the same person;
- (e) the person with care has care of more than one qualifying child and there is more than one [^{F336}absent parent] [^{F337}non-resident parent] in relation to those children;
- (f) a qualifying child has his home in two or more separate households.

(3) The Department may by regulations make provision with respect to special cases.

(4) Regulations made under paragraph (3) may, in particular—

- (a) modify any provision made by or under this Order, in its application to any special case or any special case falling within a prescribed category;
- (b) make new provision for any such case; or
- (c) provide for any prescribed provision made by or under this Order not to apply to any such case.

F330 Words in art. 39(2)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F331 Words in art. 39(2)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F332 Words in art. 39(2)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F333 Words in art. 39(2)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F334 Words in art. 39(2)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F335 Words in art. 39(2)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F336 Words in art. 39(2)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F337 Words in art. 39(2)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 11](#); S.R. 2003/53, art. 3(1), [Sch.](#)

[^{F338}Recovery of child support maintenance by deduction from benefit N.I.]

40.—(1) This Article applies where—

- (a) a non-resident parent is liable to pay a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1; and
- (b) such conditions as may be prescribed for the purposes of this Article are satisfied.

(2) The power of the Department to make regulations under section 5 of the Social Security Administration (Northern Ireland) Act 1992 by virtue of subsection (1)(q) (deductions from benefits) may be exercised in relation to cases to which this Article applies with a view to securing that payments in respect of child support maintenance are made or that arrears of child support maintenance are recovered.

(3) For the purposes of this Article, the benefits to which section 5 of that Act applies shall be taken as including war disablement pensions and war widows' pensions (within the meaning of section 146(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (interpretation)).]

F338 [Art. 40](#) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 20, 68\(2\)](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

[^{F620}Contribution to maintenance by deduction from benefit N.I.]

40.—(1) This Article applies where—

- (a) by virtue of paragraph 5(4) of Schedule 1, [^{F621}an absent parent] [^{F622}a non-resident parent] is taken for the purposes of that Schedule to have no [^{F623}assessable] [^{F624}calculable] income; and
- (b) such conditions as may be prescribed for the purposes of this Article are satisfied.

(2) The power of the Department to make regulations under Article 52 of the Social Security (Northern Ireland) Order 1986^{F625} by virtue of paragraph (1)(q) (deductions from benefits) may be exercised in relation to cases to which this Article applies with a view to securing that—

- (a) payments of prescribed amounts are made with respect to qualifying children in place of payments of child support maintenance; and
- (b) arrears of child support maintenance are recovered.

[^{F626}(3) Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to any decision with respect to a person's liability under this Article, that is to say, his liability to make payments under regulations made by virtue of this Article.]

F620 [Art. 40](#) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 20, 68\(2\)](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

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- F621** Words in art. 40(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F622** Words in art. 40(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F623** Word in art. 40(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F624** Word in art. 40(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F625** 1986 NI 18
- F626** 1998 NI 10

Jurisdiction

Jurisdiction **N.I.**

41.—(1) [^{F339}The Department] shall have jurisdiction to make a [^{F340}maintenance assessment] [^{F341}maintenance calculation] with respect to a person who is—

- (a) a person with care;
- (b) [^{F342}an absent parent] [^{F343}a non-resident parent]; or
- (c) a qualifying child,

only if that person is habitually resident in the United Kingdom^{F344}, except in the case of a non-resident parent who falls within paragraph (2A)].

(2) Where the person with care is not an individual, paragraph (1) shall have effect as if subparagraph (a) were omitted.

[^{F344}(2A) A non-resident parent falls within this paragraph if he is not habitually resident in the United Kingdom, but is—

- (a) employed in the civil service of the Crown, including Her Majesty's Diplomatic Service and Her Majesty's Overseas Civil Service;
- (b) a member of the naval, military or air forces of the Crown, including any person employed by an association established for the purposes of Part XI of the Reserve Forces Act 1996;
- (c) employed by a company of a prescribed description registered under the Companies (Northern Ireland) Order 1986 or under the Companies Act 1985 in England and Wales or in Scotland; or
- (d) employed by a body of a prescribed description.]

(3) [^{F345}The Department may by regulations make provision for the cancellation of any [^{F346}maintenance assessment] [^{F347}maintenance calculation] where—

- (a) the person with care, [^{F348}absent parent] [^{F349}non-resident parent] or qualifying child with respect to whom it was made ceases to be habitually resident in the United Kingdom;
- (b) in a case falling within paragraph (2), the absent parent or qualifying child with respect to whom it was made ceases to be habitually resident in the United Kingdom; or

- (c) in such circumstances as may be prescribed, a maintenance order of a prescribed kind is made with respect to any qualifying child with respect to whom the [^{F350}maintenance assessment] [^{F351}maintenance calculation] was made.]

F339 1998 NI 10

F340 Words in art. 41(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F341 Words in art. 41(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F342 Words in art. 41(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F343 Words in art. 41(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F344 2000 c. 4 (NI)

F345 Art. 41(3) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 21(4), 67, 68(2), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**

F346 Words in art. 41(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F347 Words in art. 41(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F348 Words in art. 41(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F349 Words in art. 41(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F350 Words in art. 41(3)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

F351 Words in art. 41(3)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Jurisdiction of courts in certain proceedings under this Order **N.I.**

42.—(1) The Lord Chancellor may^{F352}, after consultation with the Lord Chief Justice,] by order make such provision as he considers necessary to secure that appeals, or such class of appeals as may be specified in the order—

- (a) shall be made to a court instead of being made to^{F353} an appeal tribunal]; or
(b) shall be so made in such circumstances as may be so specified.

(2) In paragraph (1) “court” means^{F354}, subject to any provision made under Schedule 7 to the Children (Northern Ireland) Order 1995,] the High Court, a county court or a court of summary jurisdiction.

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(3) Where the effect of any order under paragraph (1) is that there are no longer any appeals which fall to be dealt with by^{F353} appeal tribunals], the Lord Chancellor may^{F355}, after consultation with the Lord Chief Justice,] by order provide for the abolition of those tribunals.

(4) Any order under paragraph (1) or (3) may make—

- (a) such modifications of any provision of this Order or of any other statutory provision; and
- (b) such transitional provision,

as the Lord Chancellor considers appropriate^{F356}, after consultation with the Lord Chief Justice,] in consequence of any provision made by the order.

^{F357}(5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Article—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

F352 Words in art. 42(1) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 87(2); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(a)

F353 1998 NI 10

F354 1995 NI 2

F355 Words in art. 42(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 87(2); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(a)

F356 Words in art. 42(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 87(3); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(a)

F357 Art. 42(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 87(4); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(a)

Miscellaneous and supplemental

^{F358X3}**Reduced benefit decisions** **N.I.**

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.]

Editorial Information

X3 This version shows the text of Article 43 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 18, 68\(2\); S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 4](#)

F358 [Art. 43](#) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 18, 68\(2\); S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 4](#)

X29F627 Failure to comply with obligations imposed by Article 9 **N.I.**

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

(a) fails to comply with a requirement imposed on the parent by the Department under Article 9(1); or

(b) fails to comply with any regulation made under Article 9(9).

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(2) [^{F628}The Department] may serve written notice on the parent requiring the parent, before the end of the specified period, either to comply or to give [^{F629}the Department] reasons for failing to do so.

(3) When the specified period has expired, [^{F630}the Department] shall consider whether, having regard to any reasons given by the parent, there are reasonable grounds for believing that, if the parent were to be required to comply, there would be a risk of the parent or of any children living with the parent suffering harm or undue distress as a result of complying.

(4) If [^{F631}the Department] considers that there are such reasonable grounds, [^{F632}it] shall—

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

(5) If [^{F631}the Department] considers that there are no such reasonable grounds, [^{F632}it] may [^{F633}, except in prescribed circumstances,] give a reduced benefit direction with respect to the parent.

(6) Where [^{F631}the Department] gives a reduced benefit direction [^{F632}it] shall send a copy of it to the parent.

[^{F634}(7) Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to decisions with respect to reduced benefit directions.]

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

(10) Reasons given in response to a notice under paragraph (2) may be given either in writing or orally.

(11) In this Article—

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

“reduced benefit direction” means a direction ^{F635} . . . 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, [^{F636}an income-based jobseeker’s allowance]^{F637} . . . or any other benefit of a kind prescribed for the purposes of Article 9; and

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

Editorial Information

X29 This version shows the text of Article 43 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 18, 68\(2\); S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 4](#)

F627 prosp. in pt. subst. 2000 c. 4 (N.I.)

F628 1998 NI 10

F629 1998 NI 10

F630 1998 NI 10

F631 1998 NI 10

F632 1998 NI 10

F633 1995 NI 13

F634 1998 NI 10

F635 1998 NI 10

F636 1995 NI 15

F637 1999 c. 10

^{F359}Finality of decisions **N.I.**

43A.—(1) Subject to the provisions of this Order, any decision of the Department or an appeal tribunal made in accordance with the foregoing provisions of this Order shall be final.

(2) If and to the extent that regulations so provide, any finding of fact or other determination embodied in or necessary to such a decision, or on which such a decision is based, shall be conclusive for the purposes of—

- (a) further such decisions;
- (b) decisions made in accordance with Articles 9 to 16 of the Social Security (Northern Ireland) Order 1998 or section 22 of the Social Security Administration (Northern Ireland) Act 1992, or with regulations under Article 12 of that Order; and
- (c) decisions made under the Vaccine Damage Payments Act 1979.]

F359 1998 NI 10

Matters arising as respects decisions **N.I.**

43B.—(1) Regulations may make provision as respects matters arising pending—

- (a) any decision of the Department under Article 13, 14 or 19;
- (b) any decision of an appeal tribunal under Article 22; or
- (c) any decision of a Child Support Commissioner under Article 25.

(2) Regulations may also make provision as respects matters arising out of the revision under Article 18, or on appeal, of any such decision as is mentioned in paragraph (1).

(3) [^{F360}Any reference in this Article to Article 18, 19 or 22 includes a reference to that Article as extended by Schedule 4C.]

F360 Art. 43B(3) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 67, 68(2), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**

Fees **N.I.**

44.—(1) The Department may by regulations provide for the payment, by the [^{F361}absent parent] [^{F362}non-resident parent] or the person with care (or by both), of such fees as may be prescribed in cases where the Department takes^{F363} any action under Article 7 or 9.

(2) Regulations made under this Article—

- (a) may require any information which is needed for the purpose of determining the amount of any such fee to be furnished, in accordance with the regulations, by such person as may be prescribed;
- (b) shall provide that no such fees shall be payable by any person to or in respect of whom income support, [^{F364}an income-based jobseeker's allowance,] [^{F365}any element of child tax credit other than the family element, working tax credit] or any other benefit of a prescribed kind is paid; and

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- (c) may, in particular, make provision with respect to the recovery by the Department of any fees payable under the regulations.

[^{F366}(3) The provisions of this Order with respect to—

- (a) the collection of child support maintenance;
(b) the enforcement of any obligation to pay child support maintenance,

shall apply equally (with any necessary modifications) to fees payable by virtue of regulations made under this Article.]

F361 Words in art. 44(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F362 Words in art. 44(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

F363 prosp. insertion by 1995 NI 13

F364 1995 NI 15

F365 2002 c. 21

F366 Art. 44(3) added (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 26**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

Conduct of proceedings **N.I.**

45. Any [^{F367} officer of the Department who is authorised] by the Department for the purposes of this Article may, although not of counsel or a solicitor, prosecute or conduct before a court of summary jurisdiction any proceedings under this Order.

F367 1995 NI 13

Unauthorised disclosure of information **N.I.**

46.—(1) Any person who is, or has been, employed in employment to which this Article applies is guilty of an offence if, without lawful authority, he discloses any information which—

- (a) was acquired by him in the course of that employment; and
(b) relates to a particular person.

(2) It is not an offence under this Article—

- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
(b) to disclose information which has previously been disclosed to the public with lawful authority.

(3) It is a defence for a person charged with an offence under this Article to prove that at the time of the alleged offence—

- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
(b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(4) A person guilty of an offence under this Article shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (5) This Article applies to employment as—
- (a) the Chief Child Support Officer;
 - (b) any other child support officer;
 - (c) any clerk to, or other officer of,^{F368} an appeal tribunal or] a child support tribunal;
 - (d) any member of the staff of such a tribunal;
 - (e) a civil servant in connection with the carrying out of any functions under this Order,
- and to employment of any other kind which is prescribed for the purposes of this Article.
- (6) For the purposes of this Article a disclosure is to be regarded as made with lawful authority if, and only if, it is made—
- (a) by a civil servant in accordance with his official duty; or
 - (b) by any other person either—
 - (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the responsible person; or
 - (ii) to, or in accordance with an authorisation duly given by, the responsible person;
 - (c) in accordance with any statutory provision or order of a court;
 - (d) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or before any tribunal or other body or person mentioned in this Order; or
 - (e) with the consent of the appropriate person.
- (7) “The responsible person” means—
- (a) the Lord Chancellor;
 - (b) the Department;
 - (c) any person authorised by the Lord Chancellor, or the Department, for the purposes of this paragraph; or
 - (d) any other prescribed person, or person falling within a prescribed category.
- (8) “The appropriate person” means the person to whom the information in question relates, except that if the affairs of that person are being dealt with—
- (a) under a power of attorney;
 - (b) by a controller appointed under Article 101 of the Mental Health (Northern Ireland) Order 1986^{F369};
 - (c) by a mental health appointee, that is to say—
 - (i) a person directed or authorised as mentioned in sub-paragraph (a) of rule 38(1) of Order 109 of the Rules of the Supreme Court (Northern Ireland) 1980^{F370};
 - (ii) a controller ad interim appointed under sub-paragraph (b) of that rule;
- the appropriate person is the attorney, controller or appointee (as the case may be) or, in a case falling within sub-paragraph (a), the person to whom the information relates.

F368 1998 NI 10

F369 1986 NI 4

Status: Point in time view as at 03/04/2006.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Child Support (Northern Ireland) Order 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

F370 SR 1980 No. 346

Supplementary powers to make regulations **N.I.**

47.—(1) The Department may by regulations make such incidental, supplemental and transitional provision as it considers appropriate in connection with any provision made by or under this Order.

(2) The regulations may, in particular, make provision—

(a) as to the procedure to be followed with respect to—

(i) the making of applications for maintenance [^{F371}assessments] [^{F372}calculations];

^{F373}(ii) the making, cancellation or refusal to make maintenance [^{F374}assessments] [^{F375}calculations];

^{F376}(iii) the making of decisions under Articles 18 or 19;]

^{F377}(ii) the making of decisions under Article 13;

(iii) the making of decisions under Article 18 or 19;]

^{F378}(b) extending the categories of case to which [^{F376} Schedule 4C] applies;]

^{F379}(b) extending the categories of case to which Article 18, 19 or 22 applies;]

(c) as to the date on which an application for a [^{F380} maintenance assessment] [^{F381} maintenance calculation] is to be treated as having been made;

(d) for attributing payments made under maintenance [^{F382} assessments] [^{F383} calculations] to the payment of arrears;

(e) for the adjustment, for the purpose of taking account of the retrospective effect of a [^{F384} maintenance assessment] [^{F385} maintenance calculation], of amounts payable under the [^{F386} assessment] [^{F387} calculation];

(f) for the adjustment, for the purpose of taking account of overpayments or under payments of child support maintenance, of amounts payable under a [^{F388} maintenance assessment] [^{F389} maintenance calculation];

(g) as to the evidence which is to be required in connection with such matters as may be prescribed;

(h) as to the circumstances in which any official record or certificate is to be conclusive evidence;

(i) with respect to the giving of notices or other documents;

(j) for the rounding up or down of any amounts calculated, estimated or otherwise arrived at in applying any provision made by or under this Order.

(3) No power to make regulations conferred by any other provision of this Order shall be taken to limit the powers given to the Department by this Article.

F371 Word in art. 47(2)(a)(i) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

F372 Word in art. 47(2)(a)(i) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

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- F373** Art. 47(2)(a)(ii)(iii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 27(a)**; S.R. 2003/53, art. 3(1), **Sch.**
- F374** Word in art. 47(2)(a)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F375** Word in art. 47(2)(a)(ii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F376** 1998 NI 10
- F377** Art. 47(2)(a)(ii)(iii) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 27(a)**; S.R. 2003/53, art. 3(1), **Sch.**
- F378** Art. 47(2)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 27(b)**; S.R. 2003/53, art. 3(1), **Sch.**
- F379** Art. 47(2)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 27(b)**; S.R. 2003/53, art. 3(1), **Sch.**
- F380** Words in art. 47(2)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F381** Words in art. 47(2)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F382** Word in art. 47(2)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F383** Word in art. 47(2)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F384** Words in art. 47(2)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F385** Words in art. 47(2)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F386** Word in art. 47(2)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F387** Word in art. 47(2)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F388** Words in art. 47(2)(f) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F389** Words in art. 47(2)(f) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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Regulations and orders **N.I.**

48.—(1) Any regulations or any order made by the Lord Chancellor under this Order (except an order made under Article 1(2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946^{F390} shall apply accordingly.

^{F391}(2) A statutory rule containing (whether alone or with other provisions) regulations made under Article 7(7), 8(3), 9(1), (9) or (10), 14(2), [^{F392} 28C(2)(b), 28F(3), 30(4A)] 38(2), (3) or (4) [^{F392} 38A, 38B(6)], 39, 40(1), 43 or 44 or Part I of Schedule 1 [^{F392} or under Schedule 4B] shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.]

[^{F393}(2) A statutory rule containing (whether alone or with other provisions) regulations made under—

- (a) Article 9(1), 14(4) (so far as the regulations make provision for the default rate of child support maintenance mentioned in Article 14(5)(b)), 28C(2)(b), 28F(2)(b), 30(4A), 38(2), 38A, 38B(6), 40(1), 41(2A)(d), 43 or 44;
- (b) paragraph 3(2) or 10A(1) of Part I of Schedule 1; or
- (c) Schedule 4B,

shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(2A) A statutory rule containing (whether alone or with other provisions) the first set of regulations made under paragraph 10(1) of Part I of Schedule 1 (as substituted by section 1(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000) shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.]

(3) The following statutory rules—

- (a) any regulations made by the Department under this Order (except regulations to which paragraph (2) [^{F394} or (2A)] applies); and
- (b) any order made by the Department under this Order (except an order made under Article 1(2));

shall be subject to negative resolution.

(4) Any power to make a statutory rule shall be exercisable so to provide for a person to exercise a discretion in dealing with any matter.

F390 1946 c. 36

F391 Art. 48(2)(2A) substituted for art. 48(2) (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 24(1), 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F392 1995 NI 13

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- F393** Art. 48(2)(2A) substituted for art. 48(2) (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 24(1), 68(2); S.R. 2000/358, art. 2(b), Sch. Pt. II; S.R. 2003/53, art. 3(1), Sch.
- F394** Words in art. 48(3)(a) inserted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 24(2), 68(2); S.R. 2000/358, art. 2(b), Sch. Pt. II; S.R. 2003/53, art. 3(1), Sch.

Co-ordination with Great Britain **N.I.**

49.—(1) The Department may make arrangements with the Secretary of State with a view to securing, to the extent allowed for in the arrangements, that—

- (a) the provision made by or under this Order (“the provision made for Northern Ireland”); and
- (b) the provision made by or under the Child Support Act 1991^{F395} (“the provision made for Great Britain”),

provide for a single system within the United Kingdom.

Paras. (2), (3) rep. by 1998 c. 47

F395 1991 c. 48

Application to Crown **N.I.**

50.—(1) The power of the Department to make regulations under Article 16 requiring prescribed persons to furnish information may be exercised so as to require information to be furnished by persons employed in the service of the Crown or otherwise in the discharge of Crown functions.

(2) In such circumstances, and subject to such conditions, as may be prescribed, an inspector appointed under Article 17 may enter any Crown premises for the purpose of exercising any powers conferred on him by that Article.

(3) Where such an inspector duly enters any Crown premises for those purposes, Article 17 shall apply in relation to persons employed in the service of the Crown or otherwise in the discharge of Crown functions as it applies in relation to other persons.

(4) Where a liable person is in the employment of the Crown, a deduction from earnings order may be made under Article 31 in relation to that person; but in such a case paragraph (8) of Article 32 shall apply only in relation to the failure of that person to comply with any requirement imposed on him by regulations made under Article 32.

Amendments, etc. **N.I.**

51.—(1) The Lord Chancellor or the Department may by order make such amendments or repeals in, or such modifications of, such statutory provisions as may be specified in the order, as appear to the Lord Chancellor or the Department to be necessary or expedient in consequence of any provision made by or under this Order (including any provision made by virtue of Article 1(3)).

(2) Until Schedule 1 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991^{F396} comes into operation, paragraph 1(1) of Schedule 3 shall have effect with the omission of “and disability appeal tribunals” and the insertion, after “social security appeal tribunals”, of “ and ”.

Para. (3)—Amendments

F396 1991 NI 17

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SCHEDULES

SCHEDULE 1 **N.I.**

Article 13.

MAINTENANCE ASSESSMENTS

^{X4F397}PART I **N.I.**

CALCULATION OF CHILD SUPPORT MAINTENANCE

Editorial Information

X4 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000](#) (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F397 prosp. in pt. subst. 2000 c. 4 (NI)

The maintenance requirement

^{X5}**1.**—(1) In this Schedule “the maintenance requirement” means the amount, calculated in accordance with the formula set out in sub-paragraph (2), which is to be taken as the minimum amount necessary for the maintenance of the qualifying child or, where there is more than one qualifying child, all of them.

(2) The formula is—

$$MR = AG - CB$$

where—

MR is the amount of the maintenance requirement;

AG is the aggregate of the amounts to be taken into account under sub-paragraph (3); and

CB is the amount payable by way of child benefit (or which would be so payable if the person with care of the qualifying child were an individual) or, where there is more than one qualifying child, the aggregate of the amounts so payable with respect to each of them.

(3) The amounts to be taken into account for the purpose of calculating AG are—

- (a) such amount or amounts (if any), with respect to each qualifying child, as may be prescribed;
- (b) such amount or amounts (if any), with respect to the person with care of the qualifying child or qualifying children, as may be prescribed; and
- (c) such further amount or amounts (if any) as may be prescribed.

(4) For the purposes of calculating CB it shall be assumed that child benefit is payable with respect to any qualifying child at the basic rate.

(5) In sub-paragraph (4) “basic rate” has the meaning for the time being prescribed.

Editorial Information

X5 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

The general rule

^{x6}2.—(1) In order to determine the amount of any maintenance assessment, first calculate—

$$(A + C) \times P$$

where—

A is the absent parent’s assessable income;

C is the assessable income of the other parent, where that parent is the person with care, and otherwise has such value (if any) as may be prescribed; and

P is such number greater than zero but less than 1 as may be prescribed.

(2) Where the result of the calculation made under sub-paragraph (1) is an amount which is equal to, or less than, the amount of the maintenance requirement for the qualifying child or qualifying children, the amount of maintenance payable by the absent parent for that child or those children shall be an amount equal to—

$$A \times P$$

where A and P have the same values as in the calculation made under sub-paragraph (1).

(3) Where the result of the calculation made under sub-paragraph (1) is an amount which exceeds the amount of the maintenance requirement for the qualifying child or qualifying children, the amount of maintenance payable by the absent parent for that child or those children shall consist of—

(a) a basic element calculated in accordance with the provisions of paragraph 3; and

(b) an additional element calculated in accordance with the provisions of paragraph 4.

Editorial Information

X6 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

The basic element

^{x7}3.—(1) The basic element shall be calculated by applying the formula—

$$BE = A \times G \times P$$

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where—

BE is the amount of the basic element;

A and P have the same values as in the calculation made under paragraph 2(1); and

G has the value determined under sub-paragraph (2).

(2) The value of G shall be determined by applying the formula—

$$G = \frac{MR}{(A + C) \times P}$$

where—

MR is the amount of the maintenance requirement for the qualifying child or qualifying children; and A, C and P have the same values as in the calculation made under paragraph 2(1).

Editorial Information

X7 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), [Sch. 1](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

The additional element

^{x8}4.—(1) Subject to sub-paragraph (2), the additional element shall be calculated by applying the formula—

$$AE = (1 - G) \times A \times R$$

where—

AE is the amount of the additional element;

A has the same value as in the calculation made under paragraph 2(1);

G has the value determined under paragraph 3(2); and

R is such number greater than zero but less than 1 as may be prescribed.

(2) Where applying the alternative formula set out in sub-paragraph (3) would result in a lower amount for the additional element, that formula shall be applied in place of the formula set out in sub-paragraph (1).

(3) The alternative formula is—

$$AE = Z \times Q \times \left(\frac{A}{A + C} \right)$$

Where—

A and C have the same values as in the calculation made under paragraph 2(1);

Z is such number as may be prescribed; and

Q is the aggregate of—

- (a) (3) (a) any amount taken into account by virtue of paragraph 1(3)(a) in calculating the maintenance requirement; and

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- (b) any amount which is both taken into account by virtue of paragraph 1(3)(c) in making that calculation and is an amount prescribed for the purposes of this paragraph.

Editorial Information

X8 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), [Sch. 1](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

Assessable income

^{x9}5.—(1) The assessable income of an absent parent shall be calculated by applying the formula—

$$A = N - E$$

where—

A is the amount of that parent's assessable income;

N is the amount of that parent's net income, calculated or estimated in accordance with regulations made by the Department for the purposes of this sub-paragraph; and

E is the amount of that parent's exempt income, calculated or estimated in accordance with regulations made by the Department for those purposes.

(2) The assessable income of a parent who is a person with care of the qualifying child or children shall be calculated by applying the formula—

$$C = M - F$$

where—

C is the amount of that parent's assessable income;

M is the amount of that parent's net income, calculated or estimated in accordance with regulations made by the Department for the purposes of this sub-paragraph; and

F is the amount of that parent's exempt income, calculated or estimated in accordance with regulations made by the Department for those purposes.

(3) Where the preceding provisions of this paragraph would otherwise result in a person's assessable income being taken to be a negative amount his assessable income shall be taken to be nil.

(4) Where income support [^{F398}, an income-based jobseeker's allowance] or any other benefit of a prescribed kind is paid to or in respect of a parent who is an absent parent or a person with care that parent shall, for the purposes of this Schedule, be taken to have no assessable income.

Editorial Information

X9 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), [Sch. 1](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

F398 1995 NI 15

Status: Point in time view as at 03/04/2006.

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Protected income

^{x10}6.—(1) This paragraph applies where—

- (a) one or more maintenance assessments have been made with respect to an absent parent; and
- (b) payment by him of the amount, or the aggregate of the amounts, so assessed would otherwise reduce his disposable income below his protected income level.

(2) The amount of the assessment, or (as the case may be) of each assessment, shall be adjusted in accordance with such provisions as may be prescribed with a view to securing so far as is reasonably practicable that payment by the absent parent of the amount, or (as the case may be) aggregate of the amounts, so assessed will not reduce his disposable income below his protected income level.

(3) Regulations made under sub-paragraph (2) shall secure that, where the prescribed minimum amount fixed by regulations made under paragraph 7 applies, no maintenance assessment is adjusted so as to provide for the amount payable by an absent parent in accordance with that assessment to be less than that amount.

(4) The amount which is to be taken for the purposes of this paragraph as an absent parent's disposable income shall be calculated, or estimated, in accordance with regulations made by the Department.

(5) Regulations made under sub-paragraph (4) may, in particular, provide that, in such circumstances and to such extent as may be prescribed—

- (a) income of any child who is living in the same household with the absent parent; and

[^{F399}(b) where the absent parent—

- (i) is living together in the same household with another adult of the opposite sex (regardless of whether or not they are married),
- (ii) is living together in the same household with another adult of the same sex who is his civil partner, or
- (iii) is living together in the same household with another adult of the same sex as if they were civil partners,

income of that other adult,]

is to be treated as the absent parent's income for the purposes of calculating his disposable income.

[^{F400}(5A) For the purposes of this paragraph, two adults of the same sex are to be regarded as living together in the same household as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two adults of the opposite sex.]

(6) In this paragraph “the protected income level” of a particular absent parent means an amount of income calculated, by reference to the circumstances of that parent, in accordance with regulations made by the Department.

Editorial Information

X10 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000](#) (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F399 2004 c. 33

F400 2004 c. 33

Status: Point in time view as at 03/04/2006.

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The minimum amount of child support maintenance

^{X117}7.—(1) The Department may prescribe a minimum amount for the purposes of this paragraph.

(2) Where the amount of child support maintenance which would be fixed by a maintenance assessment but for this paragraph is nil or less than the prescribed minimum amount, the amount to be fixed by the assessment shall be the prescribed minimum amount.

(3) In any case to which Article 40 applies, and in such other cases (if any) as may be prescribed, sub-paragraph (2) shall not apply.

Editorial Information

X11 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000](#) (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

Housing costs

^{X128}8. Where regulations under this Schedule require [^{F401}the Department] to take account of the housing costs of any person in calculating, or estimating, his assessable income or disposable income, those regulations may make provision—

- (a) as to the costs which are to be treated as housing costs for the purpose of the regulations;
- (b) for the apportion*ment of housing costs; and
- (c) for the amount of housing costs to be taken into account for prescribed purposes not to exceed such amount (if any) as may be prescribed by, or determined in accordance with, the regulations.

Editorial Information

X12 This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000](#) (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F401 1998 NI 10

Regulations about income and capital

^{X139}9. The Department may by regulations provide that, in such circumstances and to such extent as may be prescribed—

- (a) income of a child shall be treated as income of a parent of his;
- (b) where [^{F402}the Department] is satisfied that a person has intentionally deprived himself of a source of income with a view to reducing the amount of his assessable income, his net income shall be taken to include income from that source of an amount estimated by [^{F402}the Department];
- (c) a person is to be treated as possessing capital or income which he does not possess;
- (d) capital or income which a person does possess is to be disregarded;
- (e) income is to be treated as capital;

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(f) capital is to be treated as income.

Editorial Information

- X13** This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F402** 1998 NI 10

References to qualifying children

^{X14}**10.** References in this Part to “qualifying children” are to those qualifying children with respect to whom the maintenance assessment fails to be made.^{F403}

Editorial Information

- X14** This version shows the text of Sch. 1 Pt. 1 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F403** subst. by 2004 c. 33 to para.10C(5) which is awaiting insertion by 2000 c.4(NI) when prosp. is removed

[^{F404X15} PART I **N.I.**

CALCULATION OF WEEKLY AMOUNT OF CHILD SUPPORT MAINTENANCE]

Editorial Information

- X15** This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F404** Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)

[^{F405} General rule]

- F405** Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)

[^{F406X16}**1.**—(1) The weekly rate of child support maintenance is the basic rate unless a reduced rate, a flat rate or the nil rate applies.

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- (2) Unless the nil rate applies, the amount payable weekly to a person with care is—
- (a) the applicable rate, if paragraph 6 does not apply; or
 - (b) if paragraph 6 does apply, that rate as apportioned between the persons with care in accordance with paragraph 6,

as adjusted, in either case, by applying the rules about shared care in paragraph 7 or 8.]

Editorial Information

X16 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F406 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F407}Basic rate]

F407 Sch. 1 Pt. I substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F408X17}2.—(1) The basic rate is the following percentage of the non-resident parent's net weekly income—

- 15 per cent. where he has one qualifying child;
- 20 per cent. where he has two qualifying children;
- 25 per cent. where he has three or more qualifying children.

(2) If the non-resident parent also has one or more relevant other children, the appropriate percentage referred to in sub-paragraph (1) is to be applied instead to his net weekly income less—

- 15 per cent. where he has one relevant other child;
- 20 per cent. where he has two relevant other children;
- 25 per cent. where he has three or more relevant other children.]

Editorial Information

X17 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F408 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

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[^{F409}Reduced rate]

F409 Sch. 1 Pt. I substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2003/53, art. 3(1), **Sch.**

- ^{F410X18}**3.**—(1) A reduced rate is payable if—
- (a) neither a flat rate nor the nil rate applies; and
 - (b) the non-resident parent’s net weekly income is less than £200 but more than £100.
- (2) The reduced rate payable shall be prescribed in, or determined in accordance with, regulations.
- (3) The regulations may not prescribe, or result in, a rate of less than £5.]

Editorial Information

X18 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F410 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F411}Flat rate]

F411 Sch. 1 Pt. I substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2003/53, art. 3(1), **Sch.**

- ^{F412X19}**4.**—(1) Except in a case falling within sub-paragraph (2), a flat rate of £5 is payable if the nil rate does not apply and—
- (a) the non-resident parent’s net weekly income is £100 or less; or
 - (b) he receives any benefit, pension or allowance prescribed for the purposes of this head; or
 - (c) he or his partner (if any) receives any benefit prescribed for the purposes of this head.
- (2) A flat rate of a prescribed amount is payable if the nil rate does not apply and—
- (a) the non-resident parent has a partner who is also a non-resident parent;
 - (b) the partner is a person with respect to whom a maintenance calculation is in force; and
 - (c) the non-resident parent or his partner receives any benefit prescribed under sub-paragraph (1)(c).
- (3) The benefits, pensions and allowances which may be prescribed for the purposes of sub-paragraph (1)(b) include those paid to the non-resident parent under the law of a place outside the United Kingdom.]

Editorial Information

X19 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security](#)

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Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F412 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F413}Nil rate]

F413 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F414X20}**5.** The rate payable is nil if the non-resident parent—

- (a) is of a prescribed description; or
- (b) has a net weekly income of below £5.]

Editorial Information

X20 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F414 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F415}Apportionment]

F415 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F416X21}**6.**—(1) If the non-resident parent has more than one qualifying child and in relation to them there is more than one person with care, the amount of child support maintenance payable is (subject to paragraph 7 or 8) to be determined by apportioning the rate between the persons with care.

(2) The rate of maintenance liability is to be divided by the number of qualifying children, and shared among the persons with care according to the number of qualifying children in relation to whom each is a person with care.]

Editorial Information

X21 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

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F416 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), [Sch. 1](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

[^{F417}Shared care - basic and reduced rate]

F417 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), [Sch. 1](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

^{F418X227}—(1) This paragraph applies only if the rate of child support maintenance payable is the basic rate or a reduced rate.

(2) If the care of a qualifying child is shared between the non-resident parent and the person with care, so that the non-resident parent from time to time has care of the child overnight, the amount of child support maintenance which he would otherwise have been liable to pay the person with care, as calculated in accordance with the preceding paragraphs, is to be decreased in accordance with this paragraph.

(3) First, there is to be a decrease according to the number of such nights which the Department determines there to have been, or expects there to be, or both during a prescribed twelve-month period.

(4) The amount of that decrease for one child is set out in the following Table—

Number of nights	Fraction to subtract
52 to 103	One-seventh
104 to 155	Two-sevenths
156 to 174	Three-sevenths
175 or more	One-half

(5) If the person with care is caring for more than one qualifying child of the non-resident parent, the applicable decrease is the sum of the appropriate fractions in the Table divided by the number of such qualifying children.

(6) If the applicable fraction is one-half in relation to any qualifying child in the care of the person with care, the total amount payable to the person with care is then to be further decreased by £7 for each such child.

(7) If the application of the preceding provisions of this paragraph would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to the person with care (or all of them) to less than £5, he is instead liable to pay child support maintenance at the rate of £5 a week, apportioned (if appropriate) in accordance with paragraph 6.]

Editorial Information

X22 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), [Sch. 1](#); S.R. 2000/358, art. 2(b), [Sch. Pt. II](#); S.R. 2003/53, art. 3(1), [Sch.](#)

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F418 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F419}Shared care - flat rate]

F419 Sch. 1 Pt. I substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2003/53, art. 3(1), **Sch.**

^{F420X23}**8.**—(1) This paragraph applies only if—

- (a) the rate of child support maintenance payable is a flat rate; and
- (b) that rate applies because the non-resident parent falls within paragraph 4(1)(b) or (c) or 4(2).

(2) If the care of a qualifying child is shared as mentioned in paragraph 7(2) for at least 52 nights during a prescribed twelve-month period, the amount of child support maintenance payable by the non-resident parent to the person with care of that child is nil.]

Editorial Information

X23 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F420 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F421}Regulations about shared care]

F421 Sch. 1 Pt. I substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1](#); S.R. 2003/53, art. 3(1), **Sch.**

^{F422X24}**9.** The Department may by regulations provide for—

- (a) which nights are to count for the purposes of shared care under paragraphs 7 and 8, or for how it shall be determined whether a night counts;
- (b) what counts, or does not count, as “care” for those purposes; and
- (c) paragraph 7(3) or 8(2) to have effect, in prescribed circumstances, as if the period mentioned there were other than twelve months, and in such circumstances for the Table in paragraph 7(4) (or that Table as modified pursuant to regulations made under paragraph 10A(2)(a)), or the period mentioned in paragraph 8(2), to have effect with prescribed adjustments.]

Editorial Information

X24 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security](#)

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Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F422 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F423}Net weekly income]

F423 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F424X25}**10.**—(1) For the purposes of this Schedule, net weekly income shall be determined in such manner as is provided for by regulations.

(2) The regulations may, in particular, provide for the Department to estimate any income or make an assumption as to any fact where, in the Department's view, the information at its disposal is unreliable, insufficient or relates to an atypical period in the life of the non-resident parent.

(3) Any amount of net weekly income (calculated as above) over £2,000 is to be ignored for the purposes of this Schedule.]

Editorial Information

X25 This version shows the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

F424 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F425}Regulations about rates, figures, etc.]

F425 Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F426X26}**10A.**—(1) The Department may by regulations provide that—

- (a) paragraph 2 is to have effect as if different percentages were substituted for those set out there;
- (b) paragraph 3(1) or (3), 4(1), 5, 7(7) or 10(3) is to have effect as if different amounts were substituted for those set out there.

(2) The Department may by regulations provide that—

- (a) the Table in paragraph 7(4) is to have effect as if different numbers of nights were set out in the first column and different fractions were substituted for those set out in the second column;

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- (b) paragraph 7(6) is to have effect as if a different amount were substituted for that set out there, or as if the amount were an aggregate amount and not an amount for each qualifying child, or both.]

Editorial Information

- X26** Sch. 1 Pt. 1 para. 10A forms part of the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F426** Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F427}Regulations about income]

- F427** Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

^{F428X27}**10B.** The Department may by regulations provide that, in such circumstances and to such extent as may be prescribed—

- (a) where the Department is satisfied that a person has intentionally deprived himself of a source of income with a view to reducing the amount of his net weekly income, his net weekly income shall be taken to include income from that source of an amount estimated by the Department;
- (b) a person is to be treated as possessing income which he does not possess;
- (c) income which a person does possess is to be disregarded.]

Editorial Information

- X27** Sch. 1 Pt. 1 para. 10B forms part of the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F428** Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

[^{F429}References to various terms]

- F429** Sch. 1 Pt. I substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 1(3), 68(2), **Sch. 1**; S.R. 2003/53, art. 3(1), **Sch.**

^{F430X28}**10C.**—(1) References in this Part to “qualifying children” are to those qualifying children with respect to whom the maintenance calculation falls to be made.

(2) References in this Part to “relevant other children” are to—

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- (a) children other than qualifying children in respect of whom the non-resident parent or his partner receives child benefit under Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
 - (b) such other description of children as may be prescribed.
- (3) In this Part, a person “receives” a benefit, pension or allowance for any week if it is paid or due to be paid to him in respect of that week.
- (4) In this Part, a person’s “partner” is—
- (a) if they are a couple, the other member of that couple;
 - (b) if the person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy, another party to the marriage who is of the opposite sex and is a member of the same household.
- [^{F431}(5) In sub-paragraph (4)(a), “couple” means—
- (a) a man and a woman who are married to each other and are members of the same household,
 - (b) a man and a woman who are not married to each other but are living together as husband and wife,
 - (c) two people of the same sex who are civil partners of each other and are members of the same household, or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (6) For the purposes of this paragraph, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]]

Editorial Information

- X28** Sch. 1 Pt. 1 para. 10C forms part of the text of Sch. 1 Pt. 1 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F430** Sch. 1 Pt. I substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(3\), 68\(2\), Sch. 1; S.R. 2000/358, art. 2\(b\), Sch. Pt. II; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F431** Sch. 1 para 10C(5)(6) substituted (5.12.2005) for para. 10C(5) by [Civil Partnership Act 2004 \(c. 33\), ss. 254\(1\), 263\(8\)\(d\), Sch. 24 para. 12; S.I. 2005/3255, art. 2\(1\), Sch.](#)

PART II **N.I.**

GENERAL PROVISIONS ABOUT MAINTENANCE

[^{F432}ASSESSMENTS] [^{F433}CALCULATIONS]

- F432** Word in [Sch. 1 Pt. II heading](#) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)
- F433** Word in [Sch. 1 Pt. II heading](#) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 1\(2\)\(b\), 68\(2\); S.R. 2003/53, art. 3\(1\), Sch.](#)

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Effective date of [^{F434}assessment] [^{F435}calculation]

F434 Word in Sch. 1 para. 11 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F435 Word in Sch. 1 para. 11 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

11.—(1) A [^{F436}maintenance assessment] [^{F437}maintenance calculation] shall take effect on such date as may be determined in accordance with regulations made by the Department.

(2) That date may be earlier than the date on which the [^{F438}assessment] [^{F439}calculation] is made.

F436 Words in Sch. 1 para. 11(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

F437 Words in Sch. 1 para. 11(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

F438 Word in Sch. 1 para. 11(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F439 Word in Sch. 1 para. 11(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

Form of [^{F440}assessment] [^{F441}calculation]

F440 Word in Sch. 1 para. 12 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F441 Word in Sch. 1 para. 12 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

12. Every [^{F442}maintenance assessment] [^{F443}maintenance calculation] shall be made in such form and contain such information as the Department may direct.

F442 Words in Sch. 1 para. 12 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

F443 Words in Sch. 1 para. 12 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

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[^{F444}Assessments] [^{F445}Calculations] where amount of child support is nil

- F444** Word in Sch. 1 para. 13 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F445** Word in Sch. 1 para. 13 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

13

^{F446}^{F447}The Department] shall not decline to make a [^{F448}maintenance assessment] [^{F449}maintenance calculation] only on the ground that the amount of the [^{F450}assessment] [^{F451}calculation] is nil.]

- F446** Sch. 1 para. 13 repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(a), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F447** 1998 NI 10
- F448** Words in Sch. 1 para. 13 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F449** Words in Sch. 1 para. 13 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F450** Word in Sch. 1 para. 13 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F451** Word in Sch. 1 para. 13 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Consolidated applications and [^{F452}assessments] [^{F453}calculations]

- F452** Word in Sch. 1 para. 14 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F453** Word in Sch. 1 para. 14 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

- 14.** ^{F454}The Department may by regulations provide—
- (a) for two or more applications for maintenance assessments to be treated, in prescribed circumstances, as a single application; and
 - (b) for the replacement, in prescribed circumstances, of a maintenance assessment made on the application of one person by a later maintenance assessment made on the application of that or any other person.

F454 prosp. in pt. added by 2000 c.4 (NI)

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Separate [^{F455}assessments] [^{F456}calculations] for different periods

F455 Word in Sch. 1 para. 15 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F456 Word in Sch. 1 para. 15 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

15. Where^{F457} the Department] is satisfied that the circumstances of a case require different amounts of child support maintenance to be [^{F458}assessed] [^{F459}calculated] in respect of different periods,^{F457} it] may make separate maintenance [^{F460}assessments] [^{F461}calculations] each expressed to have effect in relation to a different specified period.

F457 1998 NI 10

F458 Word in Sch. 1 para. 15 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F459 Word in Sch. 1 para. 15 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F460 Word in Sch. 1 para. 15 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F461 Word in Sch. 1 para. 15 substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

Termination of [^{F462}assessments] [^{F463}calculations]

F462 Word in Sch. 1 para. 16 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

F463 Word in Sch. 1 para. 16 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.

16.—(1) A^{F464} maintenance assessment] [^{F465} maintenance calculation] shall cease to have effect—

- (a) on the death of the [^{F466}absent parent] [^{F467}non-resident parent], or of the person with care, with respect to whom it was made;
- (b) on there no longer being any qualifying child with respect to whom it would have effect;
- (c) on the [^{F468}absent parent] [^{F469}non-resident parent] with respect to whom it was made ceasing to be a parent of—
 - (i) the qualifying child with respect to whom it was made; or
 - (ii) where it was made with respect to more than one qualifying child, all of the qualifying children with respect to whom it was made;

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- (d) [F470 where the [F471 absent parent] [F472 non-resident parent] and the person with care with respect to whom it was made have been living together for a continuous period of six months;]
- (e) [F473 where a new [F474 maintenance assessment] [F475 maintenance calculation] is made with respect to any qualifying child with respect to whom the [F476 assessment] [F477 calculation] in question was in force immediately before the making of the new [F478 assessment] [F479 calculation].]

[F480(2) [F481 A [F482 maintenance assessment] [F483 maintenance calculation] made in response to an application under Article 7 shall be cancelled by the Department if the person on whose application the [F484 assessment] [F485 calculation] was made asks the Department to do so.]

(3) [F486 A [F487 maintenance assessment] [F488 maintenance calculation] made in response to an application under Article 9 shall be cancelled by the Department if—

- (a) the person on whose application the [F489 assessment] [F490 calculation] was made (“the applicant”) asks it to do so; and
- (b) the Department is satisfied that the applicant has ceased to fall within paragraph (1) of that Article.]

(4) [F491 Where the Department is satisfied that the person with care with respect to whom a [F492 maintenance assessment] [F493 maintenance calculation] was made has ceased to be a person with care in relation to the qualifying child, or any of the qualifying children, with respect to whom the [F494 assessment] [F495 calculation] was made, the Department may cancel the [F496 assessment] [F497 calculation] with effect from the date on which, in its opinion, the change of circumstances took place.]

(5) [F498 A [F499 maintenance assessment] [F500 maintenance calculation] may be cancelled by the Department if it is proposing to make a decision under Article 18 or 19 and it appears to the Department—

- (a) that the person with care with respect to whom the [F501 maintenance assessment] [F502 maintenance calculation] in question was made has failed to provide the Department with sufficient information to enable it to make the decision; and
- (b) where the [F503 maintenance assessment] [F504 maintenance calculation] in question was made in response to an application under Article 9, that the person with care with respect to whom the [F505 assessment] [F506 calculation] was made has ceased to fall within paragraph (1) of that Article.]

(6) [F507 Where—

- (a) at any time a [F508 maintenance assessment] [F509 maintenance calculation] is in force but the Department would no longer have jurisdiction to make it if it were to be applied for at that time; and
- (b) the [F510 assessment] [F511 calculation] has not been cancelled, or has not ceased to have effect under any other provision made by or under this Order,

it shall be taken to have continuing effect unless cancelled by the Department in accordance with such prescribed provision (including provision as to the effective date of cancellation) as the Department considers it appropriate to make.]

(7) [F512 Where both the [F513 absent parent] [F514 non-resident parent] and the person with care with respect to whom a [F515 maintenance assessment] [F516 maintenance calculation] was made request the Department to cancel the [F517 assessment] [F518 calculation], the Department may do so if it is satisfied that they are living together.]

(8) [^{F519}Any cancellation of a [^{F520}maintenance assessment] [^{F521}maintenance calculation] under sub-paragraph (5), (6) or (7) shall have effect from such date as may be determined by the Department.]

(9) [^{F522}Where the Department cancels a [^{F523}maintenance assessment] [^{F524}maintenance calculation] , it shall immediately notify the [^{F525}absent parent] [^{F526}non-resident parent] and person with care, so far as that is reasonably practicable.]

(10) [^{F527}Any notice under sub-paragraph (9) shall specify the date with effect from which the cancellation took effect.]

(11) A person with care with respect to whom a [^{F528}maintenance assessment] [^{F529}maintenance calculation] is in force shall provide the Department with such information, in such circumstances, as may be prescribed, with a view to assisting the Department in determining whether the [^{F530}assessment] [^{F531}calculation] has ceased to have effect [^{F532}, or should be cancelled].

(12) The Department may by regulations make such supplemental, incidental or transitional provision as it thinks necessary or expedient in consequence of the provisions of this paragraph.]

- F464** Words in Sch. 1 para. 16(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F465** Words in Sch. 1 para. 16(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F466** Words in Sch. 1 para. 16(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 11; S.R. 2003/53, art. 3(1), Sch.
- F467** Words in Sch. 1 para. 16(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 11; S.R. 2003/53, art. 3(1), Sch.
- F468** Words in Sch. 1 para. 16(1)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 11; S.R. 2003/53, art. 3(1), Sch.
- F469** Words in Sch. 1 para. 16(1)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 11; S.R. 2003/53, art. 3(1), Sch.
- F470** Sch. 1 para. 16(1)(d) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(i), Sch. 9 Pt. I; S.R. 2003/53, art. 3(1), Sch.
- F471** Words in Sch. 1 para. 16(1)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 11; S.R. 2003/53, art. 3(1), Sch.
- F472** Words in Sch. 1 para. 16(1)(d) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), Sch. 3 para. 11; S.R. 2003/53, art. 3(1), Sch.
- F473** Sch. 1 para. 16(1)(e) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(i), Sch. 9 Pt. I; S.R. 2003/53, art. 3(1), Sch.
- F474** Words in Sch. 1 para. 16(1)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

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- F475** Words in Sch. 1 para. 16(1)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F476** Word in Sch. 1 para. 16(1)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F477** Word in Sch. 1 para. 16(1)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F478** Word in Sch. 1 para. 16(1)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F479** Word in Sch. 1 para. 16(1)(e) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F480** 1998 NI 10
- F481** Sch. 1 para. 16(2) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F482** Words in Sch. 1 para. 16(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F483** Words in Sch. 1 para. 16(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F484** Word in Sch. 1 para. 16(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F485** Word in Sch. 1 para. 16(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F486** Sch. 1 para. 16(3) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F487** Words in Sch. 1 para. 16(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F488** Words in Sch. 1 para. 16(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F489** Word in Sch. 1 para. 16(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F490** Word in Sch. 1 para. 16(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F491** Sch. 1 para. 16(4) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F492** Words in Sch. 1 para. 16(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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- F493** Words in Sch. 1 para. 16(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F494** Word in Sch. 1 para. 16(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F495** Word in Sch. 1 para. 16(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F496** Word in Sch. 1 para. 16(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F497** Word in Sch. 1 para. 16(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F498** Sch. 1 para. 16(5) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F499** Words in Sch. 1 para. 16(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F500** Words in Sch. 1 para. 16(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F501** Words in Sch. 1 para. 16(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F502** Words in Sch. 1 para. 16(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F503** Words in Sch. 1 para. 16(5)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F504** Words in Sch. 1 para. 16(5)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F505** Word in Sch. 1 para. 16(5)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F506** Word in Sch. 1 para. 16(5)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F507** Sch. 1 para. 16(6) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F508** Words in Sch. 1 para. 16(6)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F509** Words in Sch. 1 para. 16(6)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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- F510** Word in Sch. 1 para. 16(6)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F511** Word in Sch. 1 para. 16(6)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F512** Sch. 1 para. 16(7) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F513** Words in Sch. 1 para. 16(7) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F514** Words in Sch. 1 para. 16(7) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F515** Words in Sch. 1 para. 16(7) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F516** Words in Sch. 1 para. 16(7) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F517** Word in Sch. 1 para. 16(7) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F518** Word in Sch. 1 para. 16(7) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F519** Sch. 1 para. 16(8) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F520** Words in Sch. 1 para. 16(8) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F521** Words in Sch. 1 para. 16(8) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F522** Sch. 1 para. 16(9) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F523** Words in Sch. 1 para. 16(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F524** Words in Sch. 1 para. 16(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F525** Words in Sch. 1 para. 16(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F526** Words in Sch. 1 para. 16(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

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- F527** Sch. 1 para. 16(10) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(ii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**
- F528** Words in Sch. 1 para. 16(11) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F529** Words in Sch. 1 para. 16(11) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F530** Word in Sch. 1 para. 16(11) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F531** Word in Sch. 1 para. 16(11) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F532** Words in Sch. 1 para. 16(11) repealed (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 67, 68(2), Sch. 3 para. 28(c)(iii), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**

N.I.

Schedules 2 and 3 rep. by 1998 NI 10

SCHEDULE 4 N.I.

Article 24.

MATTERS CONCERNING CHILD SUPPORT COMMISSIONERS

Proceedings before Child Support Commissioners

1.—(1) The Lord Chancellor may make such regulations with respect to proceedings before Child Support Commissioners as he considers appropriate.

(2) The regulations—

- (a) may, in particular, make any provision of a kind mentioned in^{F533} Schedule 4 to the Social Security (Northern Ireland) Order 1998]; and
- (b) shall provide that any hearing before a Child Support Commissioner shall be in public except in so far as the Commissioner for special reasons directs otherwise.

F533 1998 NI 10

^{F534}Determination of questions by other officers

F534 1995 NI 13

1A.—(1) The Lord Chancellor may by regulations provide—

Status: Point in time view as at 03/04/2006.

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- (a) for officers authorised by him to determine any question which is determinable by a Child Support Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;
 - (b) for the procedure to be followed by any such officer in determining any such question;
 - (c) for the manner in which determinations of such questions by such officers may be called in question.
- (2) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Child Support Commissioner is not a determination of the appeal, application or reference for the purposes of sub-paragraph (1).]

[^{F535}Tribunal of Commissioners

F535 1998 NI 10

2.—(1) If it appears to the Chief Child Support Commissioner (or, in the case of his inability to act, to such other of the Child Support Commissioners as he may have nominated to act for the purpose) that—

- (a) an application for leave under Article 25(6)(b); or
- (b) an appeal,

falling to be heard by one of the Child Support Commissioners involves a question of law of special difficulty, he may direct that the application or appeal be dealt with, not by that Commissioner alone, but by a tribunal consisting of any 2 or more of the Child Support Commissioners.

(2) If the decision of such a tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal; and the presiding Child Support Commissioner shall have a casting vote if the votes are equally divided.

(3) Where a direction is given under sub-paragraph (1)(a), Article 25(6)(b) shall have effect as if the reference to a Child Support Commissioner were a reference to such a tribunal as is mentioned in sub-paragraph (1).]

Finality of decisions

3.—(1) Subject to Article 26 the decision of any Child Support Commissioner shall be final.

[^{F536}(2) If and to the extent that regulations so provide, any finding of fact or other determination which is embodied in or necessary to a decision, or on which a decision is based, shall be conclusive for the purposes of any further decision.]

F536 1998 NI 10

[^{F537}Expenses of persons required to attend proceedings

F537 1995 NI 13

3A.—[

^{F538}(1) The Lord Chancellor may pay to any person who attends any proceedings before a Child Support Commissioner such travelling and other allowances as he may determine.]

(2) In sub-paragraph (1), references to travelling and other allowances include references to compensation for loss of remunerative time.

(3) No compensation for loss of remunerative time shall be paid to any person under this paragraph in respect of any time during which he is in receipt of other remuneration so paid.]

F538 1998 NI 10

Pensions

4. The Lord Chancellor may pay, or make such payments towards the provision of, such pensions to or in respect of persons appointed as Child Support Commissioners as he may, with the consent of the Treasury, determine.

^{F539F540F541}SCHEDULE 4A **N.I.**

DEPARTURE DIRECTIONS

F539 1995 NI 13

F540 prosp. in pt. subst. 2000 c. 4 (NI)

F541 see SR 2001/24 which am. and rep. for the purpose only of making regulations

Interpretation

1. In this Schedule—

“departure application” means an application for a departure direction;

“regulations” means regulations made by the Department;

Definition rep. by 1998 NI 10

Applications for departure directions

2. Regulations may make provision—

(a) as to the procedure to be followed in considering a departure application;

(b) as to the procedure to be followed when a departure application is referred to^{F542} an appeal tribunal] under Article 28D(1)(b);

(c) for the giving of a direction by the Department as to the order in which, in a particular case,^{F542} a decision on a departure application and a decision under Article 18 or 19 are to be made];

(d) for the reconsideration of a departure application in a case where further information becomes available to the Department after the application has been determined.

F542 1998 NI 10

Completion of preliminary consideration

3. Regulations may provide for determining when the preliminary consideration of a departure application is to be taken to have been completed.

Information

4.—(1) Regulations may make provision for the use for any purpose of this Order of—

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- (a) information acquired by the Department in connection with an application for, or the making of, a departure direction;
- (b) information acquired by^{F543} . . . the Department in connection with an application for, or the making of, a maintenance assessment.

(2) If any information which is required (by regulations under this Order) to be furnished to the Department in connection with a departure application has not been furnished within such period as may be prescribed, the Department may nevertheless proceed to determine the application.

F543 1998 NI 10

Anticipation of change of circumstances

5.—(1) A departure direction may be given so as to provide that if the circumstances of the case change in such manner as may be specified in the direction a fresh maintenance assessment is to be made.

(2) Where any such provision is made, the departure direction may provide for the basis on which the amount of child support maintenance is to be fixed by the fresh maintenance assessment to differ from the basis on which the amount of child support maintenance was fixed by any earlier maintenance assessment made as a result of the direction.

N.I.

Para. 6 rep. by 1998 NI 10

Subsequent departure directions

7.—(1) Regulations may make provision with respect to any departure application made with respect to a maintenance assessment which was made as a result of a departure direction.

(2) The regulations may, in particular, provide for the application to be considered by reference to the maintenance assessment which would have been made had the departure direction not been given.

Joint consideration of departure applications and appeals

8.—(1) Regulations may provide for two or more departure applications with respect to the same current assessment to be considered together.

(2) [^{F544}An appeal tribunal] considering—

- (a) a departure application referred to it under Article 28D(1)(b), or
- (b) an appeal under Article 28H,

may consider it at the same time as hearing an appeal under Article 22 in respect of the current assessment, if it considers that to be appropriate.

F544 1998 NI 10

[^{F545}Appeal tribunals]

F545 1998 NI 10

9.—(1) Regulations may provide that, in prescribed circumstances, where—

Status: Point in time view as at 03/04/2006.

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- (a) a departure application is referred to^{F546} [an appeal tribunal] under Article 28D(1)(b), or
 - (b) an appeal is brought under Article 28H, the application or appeal may be dealt with by a tribunal constituted by the chairman sitting alone.
- (2) Sub-paragraph (1) does not apply in relation to any appeal which is being heard together with an appeal under Article 22.

F546 1998 NI 10

Current assessments which are replaced by fresh assessments

10. Regulations may make provision as to the circumstances in which prescribed references in this Order to a current assessment are to have effect as if they were references to any later maintenance assessment made with respect to the same persons as the current assessment.]

[^{F547F548F549}SCHEDULE 4B N.I.]

DEPARTURE DIRECTIONS: THE CASES AND CONTROLS

F547 1995 NI 13

F548 prosp. in pt. subst. 2000 c. 4 (NI)

F549 see SR 2001/24 which am. and rep. for the purpose only of making regulations

PART I N.I.

THE CASES

General

1.—(1) The cases in which a departure direction may be given are those set out in this Part or in regulations made under this Part.

(2) In this Schedule “applicant” means the person whose application for a departure direction is being considered.

Special expenses

2.—(1) A departure direction may be given with respect to special expenses of the applicant which were not, and could not have been, taken into account in determining the current assessment in accordance with the provisions of, or made under, Part I of Schedule 1.

(2) In this paragraph “special expenses” means the whole, or any prescribed part, of expenses which fall within a prescribed description of expenses.

(3) In prescribing descriptions of expenses for the purposes of this paragraph, the Department may, in particular, make provision with respect to—

- (a) costs incurred in travelling to work;

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- (b) costs incurred by an absent parent in maintaining contact with the child, or with any of the children, with respect to whom he is liable to pay child support maintenance under the current assessment;
 - (c) costs attributable to a long-term illness or disability of the applicant or of a dependant of the applicant;
 - (d) debts incurred, before the absent parent became an absent parent in relation to a child with respect to whom the current assessment was made—
 - (i) for the joint benefit of both parents;
 - (ii) for the benefit of any child with respect to whom the current assessment was made; or
 - (iii) for the benefit of any other child falling within a prescribed category;
 - (e) pre-1993 financial commitments from which it is impossible for the parent concerned to withdraw or from which it would be unreasonable to expect that parent to have to withdraw;
 - (f) costs incurred by a parent in supporting a child who is not his child but who is part of his family.
- (4) For the purposes of sub-paragraph (3)(c)—
- (a) the question whether one person is a dependant of another shall be determined in accordance with regulations made by the Department;
 - (b) “disability” and “illness” have such meaning as may be prescribed; and
 - (c) the question whether an illness or disability is long-term shall be determined in accordance with regulations made by the Department.
- (5) For the purposes of sub-paragraph (3)(e), “pre-1993 financial commitments” means financial commitments of a prescribed kind entered into before 5th April 1993 in any case where—
- (a) a court order of a prescribed kind was in force with respect to the absent parent and the person with care concerned at the time when they were entered into; or
 - (b) an agreement between them of a prescribed kind was in force at that time.
- (6) For the purposes of sub-paragraph (3)(f), a child who is not the child of a particular person is a part of that person's family in such circumstances as may be prescribed.

Property or capital transfers

- 3.—(1) A departure direction may be given if—
- (a) before 5th April 1993—
 - (i) a court order of a prescribed kind was in force with respect to the absent parent and either the person with care with respect to whom the current assessment was made or the child, or any of the children, with respect to whom that assessment was made; or
 - (ii) an agreement of a prescribed kind between the absent parent and any of those persons was in force;
 - (b) in consequence of one or more transfers of property of a prescribed kind—
 - (i) the amount payable by the absent parent by way of maintenance was less than would have been the case had that transfer or those transfers not been made; or
 - (ii) no amount was payable by the absent parent by way of maintenance; and
 - (c) the effect of that transfer, or those transfers, is not properly reflected in the current assessment.

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(2) For the purposes of sub-paragraph (1)(b), “maintenance” means periodical payments of maintenance made (otherwise than under this Order) with respect to the child, or any of the children, with respect to whom the current assessment was made.

(3) For the purposes of sub-paragraph (1)(c), the question whether the effect of one or more transfers of property is properly reflected in the current assessment shall be determined in accordance with regulations made by the Department.

4.—(1) A departure direction may be given if—

(a) before 5th April 1993—

- (i) a court order of a prescribed kind was in force with respect to the absent parent and either the person with care with respect to whom the current assessment was made or the child, or any of the children, with respect to whom that assessment was made, or
- (ii) an agreement of a prescribed kind between the absent parent and any of those persons was in force;

(b) in pursuance of the court order or agreement, the absent parent has made one or more transfers of property of a prescribed kind;

(c) the amount payable by the absent parent by way of maintenance was not reduced as a result of that transfer or those transfers;

(d) the amount payable by the absent parent by way of child support maintenance under the current assessment has been reduced as a result of that transfer or those transfers, in accordance with provisions of or made under this Order; and

(e) it is nevertheless inappropriate, having regard to the purposes for which the transfer or transfers was or were made, for that reduction to have been made.

(2) For the purposes of sub-paragraph (1)(c), “maintenance” means periodical payments of maintenance made (otherwise than under this Order) with respect to the child, or any of the children, with respect to whom the current assessment was made.

Additional cases

5.—(1) The Department may by regulations prescribe other cases in which a departure may be given.

(2) Regulations under this paragraph may, for example, make provision with respect to cases where—

(a) assets which do not produce income are capable of producing income;

(b) a person's life-style is inconsistent with the level of his income;

(c) housing costs are unreasonably high;

(d) housing costs are in part attributable to housing persons whose circumstances are such as to justify disregarding a part of those costs;

(e) travel costs are unreasonably high; or

(f) travel costs should be disregarded.

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PART II **N.I.**

REGULATORY CONTROLS

6.—(1) The Department may by regulations make provision with respect to the directions which may be given in a departure direction.

(2) No directions may be given other than those which are permitted by the regulations.

(3) Regulations under this paragraph may, in particular, make provision for a departure direction to require—

- (a) the substitution, for any formula set out in Part I of Schedule 1, of such other formula as may be prescribed;
- (b) any prescribed amount by reference to which any calculation is to be made in fixing the amount of child support maintenance to be increased or reduced in accordance with the regulations;
- (c) the substitution, for any provision in accordance with which any such calculation is to be made, of such other provision as may be prescribed.

(4) Regulations may limit the extent to which the amount of the child support maintenance fixed by a maintenance assessment made as a result of a departure direction may differ from the amount of the child support maintenance which would be fixed by a maintenance assessment made otherwise than as a result of the direction.

(5) Regulations may provide for the amount of any special expenses to be taken into account in a case falling within paragraph 2, for the purposes of a departure direction, not to exceed such amount as may be prescribed or as may be determined in accordance with the regulations.

(6) No departure direction may be given so as to have the effect of denying to an absent parent the protection of paragraph 6 of Schedule 1.

(7) Sub-paragraph (6) does not prevent the modification of the provisions of, or made under, paragraph 6 of Schedule 1 to the extent permitted by regulations under this paragraph.

(8) Any regulations under this paragraph may make different provision with respect to different levels of income.]

^{F550F551}SCHEDULE 4C **N.I.**

DECISIONS AND APPEALS: DEPARTURE DIRECTIONS AND REDUCED BENEFIT DIRECTIONS, ETC.

F550 1998 NI 10

F551 prosp. in pt. rep. by 2000 c. 4 (NI)

Revision of decisions

1. Article 18 shall apply in relation to—

- (a) any decision of the Department with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40;
- (b) any decision of the Department under Article 19 as extended by paragraph 2; and
- (c) any decision of an appeal tribunal on a referral under Article 28D(1)(b),

as it applies in relation to any decision of the Department under Article 13, 14 or 19.

Decisions superseding earlier decisions

2.—(1) Article 19 shall apply in relation to—

- (a) any decision of the Department with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40;
- (b) any decision of the Department under Article 19 as extended by this sub-paragraph; and
- (c) any decision of an appeal tribunal on a referral under Article 28D(1)(b),

whether as originally made or as revised under Article 18 as extended by paragraph 1, as it applies in relation to any decision of the Department under Article 13, 14 or 19, whether as originally made or as revised under Article 18.

(2) Article 19 shall apply in relation to any decision of an appeal tribunal under Article 22 as extended by paragraph 3 as it applies in relation to any decision of an appeal tribunal under Article 22.

Appeals to appeal tribunals

3.—(1) Subject to sub-paragraphs (2) and (3), Article 22 shall apply—

- (a) in relation to a qualifying person who is aggrieved by any decision of the Department with respect to a departure direction; and
- (b) in relation to any person who is aggrieved by a decision of the Department—
 - (i) with respect to a reduced benefit direction; or
 - (ii) with respect to a person's liability under Article 40,

as it applies in relation to a person whose application for a [^{F552}maintenance assessment] [^{F553}maintenance calculation] is refused or to such a person as is mentioned in paragraph (2) of Article 22.

(2) On an appeal under Article 22 as extended by sub-paragraph (1)(a), the appeal tribunal shall—

- (a) consider the matter—
 - (i) as if it were exercising the powers of the Department in relation to the application in question; and
 - (ii) as if it were subject to the duties imposed on the Department in relation to that application;
- (b) have regard to any representations made to it by the Department; and
- (c) confirm the decision or replace it with such decision as the tribunal considers appropriate.

(3) No appeal shall lie under Article 22 as extended by sub-paragraph (1)(b)(i) unless the amount of the person's benefit is reduced in accordance with the reduced benefit direction; and the time within which such an appeal may be brought shall run from the date of the notification of the reduction.

(4) In sub-paragraph (1) “qualifying person” means the person with care, or [^{F554}absent parent] [^{F555}non-resident parent], with respect to whom the current [^{F556}assessment] [^{F557}calculation] was made.

F552 Words in Sch. 4C para. 3(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

F553 Words in Sch. 4C para. 3(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

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- F554** Words in Sch. 4C para. 3(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F555** Words in Sch. 4C para. 3(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F556** Word in Sch. 4C para. 3(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F557** Word in Sch. 4 para. 3(4) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Decisions and appeals dependent on other cases

- 4.—(1) Article 28ZA shall also apply where—
- (a) a decision falls to be made—
 - (i) with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40, by the Department; or
 - (ii) with respect to a departure direction, by an appeal tribunal on a referral under Article 28D(1)(b); and
 - (b) an appeal is pending against a decision given with respect to a different direction by a Child Support Commissioner or a court.
- (2) Article 28ZA as it applies by virtue of sub-paragraph (1) shall have effect as if the reference in paragraph (3) to Article 18 were a reference to that Article as extended by paragraph 1.
- (3) Article 28ZA as it applies by virtue of sub-paragraph (1)(a)(ii) shall have effect as if—
- (a) in paragraph (2), for the words “the Department”, in each place where they occur, there were substituted the words “ the appeal tribunal ”; and
 - (b) in paragraph (3)—
 - (i) for the words “the Department” there were substituted the words “ the appeal tribunal ”;
 - (ii) for the word “it” there were substituted the words “ the Department ”; and
 - (iii) for the word “its” there were substituted the words “ the tribunal's ”.
- 5.—(1) Article 28ZB shall also apply where—
- (a) an appeal is made to an appeal tribunal under Article 22 as extended by paragraph 3; and
 - (b) an appeal is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) Article 28ZB as it applies by virtue of sub-paragraph (1) shall have effect as if any reference to Article 18 or Article 19 were a reference to that Article as extended by paragraph 1 or, as the case may be, paragraph 2.

Cases of error

- 6.—(1) Subject to sub-paragraph (2), Article 28ZC shall also apply where—
- (a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that the adjudicating authority's decision out of which the appeal arose was erroneous in point of law; and

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- (b) after the date of the relevant determination a decision falls to be made by the Department in accordance with that determination (or would, apart from this paragraph, fall to be so made)—
- (i) in relation to an application for a departure direction (made after the commencement date);
 - (ii) as to whether to revise, under Article 18 as extended by paragraph 1, a decision (made after the commencement date) in relation to a departure direction, a reduced benefit direction or a person's liability under Article 40; or
 - (iii) on an application made under Article 19 as extended by paragraph 2 before the date of the relevant determination (but after the commencement date) for a decision in relation to a departure direction, a reduced benefit direction or a person's liability under Article 40 to be superseded.
- (2) Article 28ZC shall not apply where the decision of the Department mentioned in sub-paragraph (1)(b)—
- (a) is one which, but for Article 28ZA(2)(a) as it applies by virtue of paragraph 4(1), would have been made before the date of the relevant determination; or
 - (b) is one made in pursuance of Article 28ZB(3) or (5) as it applies by virtue of paragraph 5(1).
- (3) Article 28ZC as it applies by virtue of sub-paragraph (1) shall have effect as if in paragraph (4), in the definition of “adjudicating authority”, at the end there were added the words “ or, in the case of a decision made on a referral under Article 28D(1)(b), an appeal tribunal ”.
- (4) In this paragraph “adjudicating authority”, “the commencement date” and “the court” have the same meanings as in Article 28ZC.]

N.I.

Schedule 5—Amendments

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