
STATUTORY INSTRUMENTS

1991 No. 2628

The Child Support (Northern Ireland) Order 1991

The basic principles

Role of the courts with respect to maintenance for children

10.—(1) This paragraph applies in any case where^[F1] the Department] would have jurisdiction to make a ^[F2]maintenance calculation] with respect to a qualifying child and ^[F3]a non-resident parent] of his on an application duly made^[F4] or treated as made] by a person entitled to apply for such ^[F5]a calculation] with respect to that child.

(2) Paragraph (1) applies even though the circumstances of the case are such that^[F1] the Department] would not make ^[F6]a calculation] if it were applied for.

(3) ^[F7]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 ^[F8]non-resident parent] concerned.

^[F9](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^[F10], 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 ^[F11]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.

^[F12](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—

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- (a) a [^{F13}maintenance calculation] is in force with respect to the child;
- [^{F14}(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 [^{F15}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 [^{F16}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^{F17};
- (c) the Domestic Proceedings (Northern Ireland) Order 1980^{F18};
- (d) Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989^{F19, F20} . . .
- [^{F21}(da) Schedule 15, 16 or 17 to the Civil Partnership Act 2004; or]
- [^{F20}(dd) Schedule 1 to the Children (Northern Ireland) Order 1995;^{F22} . . .]
- (e) any other prescribed statutory provision,
- and includes any order varying or reviving such an order.

F1 1998 NI 10

F2 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.

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- F3** 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.**
- F4** 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.**
- F5** 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.**
- F6** 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.**
- F7** 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.**
- F8** 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.**
- F9** 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.**
- F10** 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)
- F11** 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.**
- F12** 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)
- F13** 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.**
- F14** 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.**
- F15** 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.**
- F16** 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.**
- F17** 1978 NI 15
- F18** 1980 NI 5
- F19** 1989 NI 4
- F20** 1995 NI 2
- F21** 2004 c.33
- F22** 2004 c.33

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