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STATUTORY INSTRUMENTS

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**1991 No. 2628**

**The Child Support (Northern Ireland) Order 1991**

*The basic principles*

**<sup>X1</sup>Applications by those receiving benefit **N.I.****

<sup>X2FIX1F1</sup>9.—(1) Where income support, [<sup>F2</sup>an income-based jobseeker's allowance]<sup>F3</sup> . . . 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 <sup>F4</sup> . . . 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.
- <sup>X2FIX1F1</sup>9.—<sup>FIX2</sup>(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).]

#### 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](#)
- F1** [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](#)
- F2** 1995 NI 15
- F3** 1999 c. 10
- F4** 1998 NI 10

### 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.

View outstanding changes

### Changes and effects yet to be applied to :

- art. 9 power to amend conferred by 2008 c. 10 (N.I.) s. 40(1)
- art. 9 repealed by 2008 c. 10 (N.I.) s. 7(a)Sch. 5
- art. 9(1) words inserted by 2007 c. 2 (N.I.) Sch. 3 para. 2(3)
- art. 9(1) words inserted by 2007 c. 2 (N.I.) Sch. 3 para. 2(4)
- art. 9(1) words repealed by 2010 c. 13 (N.I.) Sch. 4 Pt. 1

### Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Order applied by S.R. 2014/191 reg. 7(1)
- Order applied in part (with modifications) by S.R. 2010/312 reg. 16Sch. 2
- Order power to apply (with modifications) conferred by 2008 c. 10 (N.I.) s. 3(4)
- Order transfer of functions by S.I. 2010/976 Sch. 17 para. 42
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(a)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(b)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 1 para. 9(1) Sch. 1 para. 9 renumbered as Sch. 1 para. 9(1) by 2008 c. 10 (N.I.) Sch. 1 para. 8(1)
- Sch. 1 para. 9(2) added by 2008 c. 10 (N.I.) Sch. 1 para. 8(4)
- Sch. 1 para. 5A and cross-heading inserted by 2008 c. 10 (N.I.) Sch. 1 para. 5(2)
- Sch. 1 para. 9(1)(ba) inserted by 2008 c. 10 (N.I.) Sch. 1 para. 8(3)
- Sch. 1 para. 9(1)(za) inserted by 2008 c. 10 (N.I.) Sch. 1 para. 8(2)
- Sch. 1 para. 5A(2) modified by S.R. 2012/428 reg. 3
- Sch. 1 para. 5A(2) modified by S.R. 2013/190 reg. 2
- Sch. 1 Pt. 1 words substituted by 2008 c. 10 (N.I.) Sch. 1 para. 2
- Sch. 1 Pt. 1 para. 10C(5A) omitted by S.I. 2019/1514 reg. 64(5)(b)
- Sch. 1 Pt. 1 para. 10C(5) substituted for Sch. 1 Pt. 1 para. 10C(5)(6) by S.I. 2019/1514 reg. 64(4)
- Sch. 1 Pt. 1 para. 6(5)(b)(i)(ii) substituted for Sch. 1 Pt. 1 para. 6(5)(b)(i)-(iii) by S.I. 2019/1514 reg. 64(5)(a)
- Sch. 1 Pt. 1 para. 5(4) words inserted by 2007 c. 2 (N.I.) Sch. 3 para. 2(8)
- art. 2(3) added by 2008 c. 10 (N.I.) Sch. 4 para. 1(3)
- art. 4(4)(ba) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 16
- art. 7(2A) inserted by S.I. 2015/2006 (N.I.) art. 127(2)(b)
- art. 7(3A)-(3C) inserted by 2023 c. 24 s. 4(2)(a)
- art. 7(4)(d) and word inserted by 2023 c. 24 s. 4(2)(b)(ii)
- art. 11(2A) inserted by S.I. 2015/2006 (N.I.) art. 126(1)
- art. 11(6)(a)(b) and word repealed by 2008 c. 10 (N.I.) Sch. 5
- art. 11A inserted by S.I. 2015/2006 (N.I.) art. 128
- art. 16A(3A) inserted by 2008 c. 10 (N.I.) s. 27(1)
- art. 16A(3A) substituted by 2010 c. 13 (N.I.) s. 32(2)
- art. 16A(6) added by 2010 c. 13 (N.I.) s. 32(3)
- art. 19(1)(c) repealed by 2008 c. 10 (N.I.) Sch. 5
- art. 22(1)(ba) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(5)
- art. 22(2)(aa) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(6)
- art. 22(2A)-(2C) inserted by S.I. 2015/2006 (N.I.) Sch. 11 para. 2
- art. 22(3A)-(3C) inserted by S.I. 2015/2006 (N.I.) Sch. 11 para. 3
- art. 22(5A) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(7)

- art. 22(7A) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(8)
- art. 27(2)(b) words substituted by S.I. 2019/1514 reg. 64(2)
- art. 27(2)(b) words substituted by S.I. 2019/1514 reg. 64(2)
- art. 28D(2A)(2B) inserted by 2008 c. 10 (N.I.) s. 10(2)
- art. 28F(4)(a) words repealed by 2008 c. 10 (N.I.) Sch. 5
- art. 29(3)(c)(ca) substituted for art. 29(3)(c) by 2010 c. 13 (N.I.) s. 31(2)
- art. 29(3A) inserted by 2010 c. 13 (N.I.) s. 31(3)
- art. 29(4)-(7) added by 2008 c. 10 (N.I.) s. 12
- art. 29(4)-(7) excluded by S.R. 2016/390 reg. 6(1)
- art. 31(8)(9) substituted for art. 31(8) by 2008 c. 10 (N.I.) s. 13
- art. 32A-32D inserted by 2008 c. 10 (N.I.) s. 14
- art. 32E-32K inserted by 2008 c. 10 (N.I.) s. 15
- art. 32G(1) restricted by SR 1992/390 reg. 25N (as inserted) by S.R. 2009/286 reg. 2
- art. 32H(2)(b) restricted by SR 1992/390 reg. 25N (as inserted) by S.R. 2009/286 reg. 2
- art. 32L inserted by 2008 c. 10 (N.I.) s. 16
- art. 32L(5) words inserted by S.I. 2019/1514 reg. 64(3)
- art. 32M32N inserted by 2008 c. 10 (N.I.) s. 17
- art. 36B-36F inserted by 2008 c. 10 (N.I.) s. 18
- art. 36G-36O inserted by 2008 c. 10 (N.I.) s. 19
- art. 37(2A)-(2C) inserted by 2008 c. 10 (N.I.) s. 20(1)
- art. 37(10)-(10C) substituted for art. 37(10) by 2008 c. 10 (N.I.) s. 20(2)
- art. 37(12) added by 2008 c. 10 (N.I.) Sch. 4 para. 1(14)
- art. 37A(A1)-(A4)(1) substituted for art. 37A(1) by 2008 c. 10 (N.I.) s. 21(1)
- art. 37A(10)-(10C) substituted for art. 37A(10) by 2008 c. 10 (N.I.) s. 21(2)
- art. 37A(12) added by 2008 c. 10 (N.I.) Sch. 4 para. 1(17)
- art. 38A(5)(c)(d) repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(a)
- art. 38C inserted by 2008 c. 10 (N.I.) s. 22
- art. 38D inserted by 2008 c. 10 (N.I.) s. 23
- art. 38E inserted by 2008 c. 10 (N.I.) s. 24
- art. 39(2)(g) added by 2008 c. 10 (N.I.) s. 28
- art. 40A inserted by 2008 c. 10 (N.I.) s. 29
- art. 41(4)(5) inserted by S.I. 2011/1484 Sch. 7 para. 22
- art. 41(4) omitted by S.I. 2019/519 Sch. para. 20(a)
- art. 41(5) omitted by S.I. 2019/519 Sch. para. 20(b)
- art. 45A inserted by 2008 c. 10 (N.I.) s. 25
- art. 45B45C inserted by 2008 c. 10 (N.I.) s. 30
- art. 45D inserted by 2008 c. 10 (N.I.) s. 31
- art. 46(1A)-(1C) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(19)
- art. 47A inserted by 2008 c. 10 (N.I.) s. 32
- art. 47A(6) inserted by S.I. 2015/2006 (N.I.) Sch. 11 para. 4
- art. 48(2B) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(22)