



Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART V

INCOME SUPPORT AND THE DUTY TO MAINTAIN

100 Failure to maintain - general.

- (1) If—
- (a) any person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain; and
 - (b) in consequence of his refusal or neglect income support is paid to or in respect of him or such a person,
- he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of an amount not exceeding level 4 on the standard scale or to both.
- (2) For the purposes of subsection (1) above a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.
- (3) Subsections (6) to (8) of section 74 above shall have effect for the purposes of this Part of this Act as they have effect for the purposes of that section.

101 Recovery of expenditure on benefit from person liable for maintenance.

- (1) Subject to the following provisions of this section, if income support is claimed by or in respect of a person whom another person is liable to maintain or paid to or in respect of such a person, the Department may make a complaint under Part VIII of the ^{M1}Magistrates' Courts (Northern Ireland) Order 1981 against the liable person for an order under this section.

Status: Point in time view as at 01/07/1992.

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- (2) Except in a case falling within subsection (3) below, this section does not apply where the person who is liable to be maintained is an illegitimate child of the liable person.
- (3) A case falls within this subsection if—
 - (a) the liable person is someone other than the child’s father; or
 - (b) the liable person is liable because he is a person such as is mentioned in section 74(6)(c) above.
- (4) On the hearing of a complaint under this section the court shall have regard to all the circumstances and, in particular, to the income of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 74(6)(c) above that sum shall not include any amount which is not attributable to income support (whether paid before or after the making of the order).
- (5) In determining whether to order any payments to be made in respect of income support for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person’s income exceeds the income which was his during that period.
- (6) Any payments ordered to be made under this section shall be made—
 - (a) to the Department in so far as they are attributable to any income support (whether paid before or after the making of the order);
 - (b) to the person claiming income support or (if different) the dependant; or
 - (c) to such other person as appears to the court expedient in the interests of the dependant.
- (7) Any proceedings for an order under this section shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates’ Courts (Northern Ireland) Order 1981; and Article 88 of that Order (definition of “domestic proceedings”) shall have effect accordingly.

Marginal Citations

M1 [S.I. 1981/1675 \(N.I. 26\)](#).

102 Recovery of expenditure on income support: additional amounts and transfer of orders.

- (1) In any case where—
 - (a) the claim for income support referred to in section 101(1) above is or was made by the parent of one or more children in respect of both himself and those children; and
 - (b) the other parent is liable to maintain those children but, by virtue of not being the claimant’s husband or wife, is not liable to maintain the claimant,

the sum which the court may order that other parent to pay under subsection (4) of that section may include an amount, determined in accordance with regulations, in respect of any income support paid to or for the claimant by virtue of such provisions as may be prescribed.
- (2) Where the sum which a court orders a person to pay under section 101 above includes by virtue of subsection (1) above an amount (in this section referred to as a “personal

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allowance element”) in respect of income support by virtue of paragraph 1(2) of Schedule 2 to the ^{M2}Income Support (General) Regulations (Northern Ireland) 1987 (personal allowance for lone parent) the order shall separately identify the amount of the personal allowance element.

(3) In any case where—

- (a) there is in force an order under subsection (4) of section 101 above made against a person (“the liable parent”) who is the parent of one or more children, in respect of the other parent or the children; and
- (b) payments under the order fall to be made to the Department by virtue of subsection (6)(a) of that section; and
- (c) that other parent (“the dependent parent”) ceases to claim income support,

the Department may, by giving notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer to the dependent parent the right to receive the payments under the order, exclusive of any personal allowance element, and to exercise the relevant rights in relation to the order, except so far as relating to that element.

(4) Notice under subsection (3) above shall not be given (and if purportedly given, shall be of no effect) at a time when there is in force a maintenance order made against the liable parent—

- (a) in favour of the dependent parent or one or more of the children; or
- (b) in favour of some other person for the benefit of the dependent parent or one or more of the children;

and if such a maintenance order is made at any time after notice under that subsection has been given, the order under section 101(4) above shall cease to have effect.

(5) Except as provided by subsections (7) and (8) below, where the Department gives notice under subsection (3) above, it shall cease to be entitled—

- (a) to receive any payment under the order in respect of any personal allowance element; or
- (b) to exercise the relevant rights, so far as relating to any such element,

notwithstanding that the dependent parent does not become entitled to receive any payment in respect of that element or to exercise the relevant rights so far as so relating.

(6) If, in a case where the Department gives notice under subsection (3) above, a payment under the order is or has been made to the Department wholly or partly in respect of the whole or any part of the period beginning with the day on which the transfer takes effect and ending with the day on which the notice under subsection (3) above is given to the liable parent, the Department shall—

- (a) repay to or for the liable parent so much of the payment as is referable to any personal allowance element in respect of that period or, as the case may be, the part of it in question; and
- (b) pay to or for the dependent parent so much of any remaining balance of the payment as is referable to that period or part;

and a payment under paragraph (b) above shall be taken to discharge, to that extent, the liability of the liable parent to the dependent parent under the order in respect of that period or part.

(7) If, in a case where the Department has given notice under subsection (3) above, the dependent parent makes a further claim for income support, then—

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- (a) the Department may, by giving a further notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer back from the dependent parent to the Department the right to receive the payments and to exercise the relevant rights; and
 - (b) that transfer shall revive the Department’s right to receive payment under the order in respect of any personal allowance element and to exercise the relevant rights so far as relating to any such element.
- (8) A transfer under subsection (3) or (7) above does not transfer or otherwise affect the right of any person—
- (a) to receive a payment which fell due to him at a time before the transfer took effect; or
 - (b) to exercise the relevant rights in relation to any such payment;
- and, where notice is given under subsection (3), subsection (5) above does not deprive the Department of its right to receive such a payment in respect of any personal allowance element or to exercise the relevant rights in relation to such a payment.
- (9) For the purposes of this section—
- (a) a transfer under subsection (3) above takes effect on the day on which the dependent parent ceases to be in receipt of income support in consequence of the cessation referred to in paragraph (c) of that subsection, and
 - (b) a transfer under subsection (7) above takes effect on—
 - (i) the first day in respect of which the dependent parent receives income support after the transfer under subsection (3) above took effect, or
 - (ii) such later day as may be specified for the purpose in the notice under subsection (7),
 irrespective of the day on which notice under the subsection in question is given.
- (10) In this section—
- “child” means a person under the age of 16, notwithstanding section 74(6)(d) above;
 - “court” shall be construed in accordance with section 101 above;
 - “maintenance order” means an order for the making of periodical payments or the payment of a lump sum under any statutory provision prescribed for the purposes of this subsection;
 - “the relevant rights”, in relation to an order under section 101(4) above, means the right to bring any proceedings, take any steps or do any other thing under or in relation to the order which the Department could have brought, taken or done apart from any transfer under this section.

Marginal Citations

M2 S.R. (N.I.) 1987 No. 459.

103 Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Department.

- (1) This section applies where—

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- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support either in respect of those children or in respect of both himself and those children; and
 - (b) there is in force a maintenance order made against the other parent (“the liable person”)—
 - (i) in favour of the claimant or one or more of the children, or
 - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;
- and in this section “the primary recipient” means the person in whose favour that maintenance order was made.
- (2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—
- (a) the Department may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
 - (b) any court before which proceedings are brought by the Department by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.
- (3) The Department’s powers under this section are exercisable at the Department’s discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.
- (4) The powers conferred on the Department by subsection (2)(a) above include power—
- (a) to apply for the registration of the maintenance order under—
 - (i) section 17 of the ^{M3}Maintenance Orders Act 1950;
 - (ii) section 11 of the ^{M4}Maintenance and Affiliation Orders Act (Northern Ireland) 1966; or
 - (iii) the ^{M5}Civil Jurisdiction and Judgments Act 1982; and
 - (b) to make an application under section 2 of the ^{M6}Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).
- (5) Where this section applies, the prescribed person shall in prescribed circumstances give the Department notice of any application—
- (a) to alter, vary, suspend, discharge, revoke, revive or enforce the maintenance order in question; or
 - (b) to remit arrears under that maintenance order;
- and the Department shall be entitled to appear and be heard on the application.
- (6) Where, by virtue of this section, the Department commences any proceedings to enforce a maintenance order, the Department shall, in relation to those proceedings, be treated for the purposes of any statutory provision relating to maintenance orders as if it were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).
- (7) Where, in any proceedings under this section, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as

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a lump sum, the Department shall inform the Incorporated Law Society of Northern Ireland of the amount of that lump sum if the Department knows—

- (a) that the primary recipient received legal aid under Part II of the ^{M7}Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 in connection with the proceedings in which the maintenance order was made, and
 - (b) that a sum remains unpaid on account of the contribution required of the primary recipient under Article 12 of that Order in respect of those proceedings.
- (8) In this section “maintenance order” has the same meaning as it has in section 102 above, but does not include any such order for the payment of a lump sum.

Marginal Citations

- M3** 1950 c. 37.
- M4** 1966 c. 35 (N.I.).
- M5** 1982 c. 27.
- M6** 1972 c. 18.
- M7** S.I. 1981/228 (N.I. 8).

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