



# 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 [<sup>F1</sup>universal credit,] income support [<sup>F2</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] 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.

[<sup>F3</sup>(3) Subject to subsection (4), for the purposes of this Part, a person shall be liable to maintain another person if that other person is—

- (a) his or her spouse or civil partner, or
- (b) a person whom he or she would be liable to maintain if section 74(6)(c) and (8) had effect for the purposes of this Part.]

[<sup>F4</sup>(4) For the purposes of this section, in its application to an income-based jobseeker's allowance [<sup>F5</sup>or an income-related employment and support allowance] , [<sup>F6</sup>subsection (3)(b) shall not apply] .]

*Status: Point in time view as at 27/09/2017.*

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**Textual Amendments**

- F1** Words in s. 100(1)(b) inserted (27.9.2017) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 2 para. 10**; S.R. 2017/190, art. 4(1)(2)(g)(ii)
- F2** Words in s. 100(1)(b) substituted (27.10.2008) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#), s. 60(1), **Sch. 3 para. 4(10)(a)**; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2
- F3** S. 100(3) substituted (14.7.2008) by [Child Maintenance Act \(Northern Ireland\) 2008 \(c. 10\)](#), **ss. 35(1), 41(1)**; S.R. 2008/291, art. 2(1)(b)
- F4** S. 100(4) inserted (17.7.1996) by S.I. 1996/1705 (N.I. 15), art. 40(1), **Sch. 2**, para. 36(4); S.R. 1996/285, art. 2, **Sch.**
- F5** Words in s. 100(4) inserted (27.10.2008) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#), s. 60(1), **Sch. 3 para. 4(10)(b)**; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2
- F6** Words in s. 100(4) substituted (14.7.2008) by [Child Maintenance Act \(Northern Ireland\) 2008 \(c. 10\)](#), **ss. 35(2), 41(1)**; S.R. 2008/291, art. 2(1)(b)

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

(1) Subject to the following provisions of this section, if income support [<sup>F7</sup>or universal credit] 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 <sup>M1</sup>Magistrates’ Courts (Northern Ireland) Order 1981 against the liable person for an order under this section.

<sup>F8</sup>(2) .....

<sup>F8</sup>(3) .....

(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 [<sup>F9</sup>or universal credit] (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 [<sup>F9</sup>or universal credit] 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 [<sup>F10</sup>or universal credit] (whether paid before or after the making of the order);  
(b) to the person claiming income support [<sup>F10</sup>or universal credit] 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.

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#### Textual Amendments

- F7** Words in s. 101(1) inserted (27.9.2017) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 2 para. 11](#); S.R. 2017/190, art. 4(1)(2)(g)(ii)
- F8** S. 101(2)(3) repealed (4.11.1996) by S.I. 1995/755 (N.I. 2), arts. 1, 185(2), [Sch. 10](#); S.R. 1996/297, [art. 2\(2\)](#)
- F9** Words in s. 101(4)(5) inserted (27.9.2017) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 2 para. 11](#); S.R. 2017/190, art. 4(1)(2)(g)(ii)
- F10** Words in s. 101(6)(a)(b) inserted (27.9.2017) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 2 para. 11](#); S.R. 2017/190, art. 4(1)(2)(g)(ii)

#### Marginal Citations

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

### <sup>F11</sup>102 Recovery of expenditure on income support: additional amounts and transfer of orders.

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#### Textual Amendments

- F11** S. 102 repealed (27.10.2008) by [Child Maintenance Act \(Northern Ireland\) 2008 \(c. 10\)](#), s. 41(1), [Sch. 5](#); S.R. 2008/399, art. 2(2)(d)(ii) (with art. 3)

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

- (1) This section applies where—
- a person (“the claimant”) who is the parent of one or more children is in receipt of income support [<sup>F12</sup>or universal credit] either in respect of those children or in respect of both himself and those children; and
  - there is in force a maintenance order made against the other parent (“the liable person”)—
    - in favour of the claimant or one or more of the children, or
    - 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—
- 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
  - 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.

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- [<sup>F13</sup>(bb) any water undertaker (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006);]
- (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 <sup>M2</sup>Maintenance Orders Act 1950;
    - (ii) section 11 of the <sup>M3</sup>Maintenance and Affiliation Orders Act (Northern Ireland) 1966; [<sup>F14</sup>or]<sup>F15</sup> . . .
    - (iii) the <sup>M4</sup>Civil Jurisdiction and Judgments Act 1982; <sup>F16</sup> . . .
  - <sup>F16</sup>[<sup>F17</sup>(iv) . . . . .]
  - [<sup>F18</sup>(aa) to apply for recognition and enforcement of the maintenance order under the Maintenance Regulation, to the extent permitted by Article 64 of that Regulation;]<sup>F19</sup> . . .
  - [<sup>F20</sup>(ab) to apply for recognition and enforcement of the maintenance order under the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007, to the extent permitted by Article 36 of that Convention; and]
  - (b) to make an application under section 2 of the <sup>M5</sup>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 a lump sum, the Department shall inform [<sup>F21</sup>the Department of Justice] of the amount of that lump sum if the Department knows—
- (a) that the primary recipient received [<sup>F22</sup>civil legal services funded by the Department of Justice] 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 [<sup>F23</sup>by virtue of Article 17 of the Access to Justice (Northern Ireland) Order 2003] in respect of those proceedings.

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[<sup>F24</sup>(8) In this section “maintenance order” means an order for the making of periodical payments under any statutory provision prescribed for the purposes of this subsection.]

[<sup>F25</sup>(9) In this section “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

### Textual Amendments

- F12** Words in s. 103(1)(a) inserted (27.9.2017) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 2 para. 12**; S.R. 2017/190, art. 4(1)(2)(g)(ii)
- F13** S. 103(2D)(bb) inserted (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336), art. 1(2), **Sch. 12 para. 30(2)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2(2), Sch. Pt. 2 (with Sch. 2)
- F14** Word in s. 103(4)(a)(ii) inserted (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 15(a)(i)**
- F15** Word in s. 103(4)(a) omitted (1.3.2002) by virtue of S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 25(a)**
- F16** S. 103(4)(a)(iv) and word repealed (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 15(a)(ii)**
- F17** S. 103(4)(a)(iv) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 25(c)**
- F18** S. 103(4)(aa) inserted (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 15(b)**
- F19** Word in s. 103(4)(aa) repealed (coming into force in accordance with reg. 1(1) of the amending Rule) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 3(a)**
- F20** S. 103(4)(ab) inserted (coming into force in accordance with reg. 1(1) of the amending Rule) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 3(b)**
- F21** Words in s. 103(7) substituted (1.4.2015) by Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 (c. 11), s. 12(1), **Sch. 2 para. 2** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e)
- F22** Words in s. 103(7) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 10(b)** (with art. 45) (as amended (18.11.2014) by Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 c. 11, Sch. 2 para 6(43)(b)(7)); S.R. 2015/194, art. 2, Sch. (with art. 3)
- F23** Words in s. 103(7) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 10(c)** (with art. 45); S.R. 2015/194, art. 2, Sch. (with art. 3)
- F24** S. 103(8) substituted (27.10.2008) by Child Maintenance Act (Northern Ireland) 2008 (c. 10), s. 41(1), **Sch. 4 para. 2(2)**; S.R. 2008/399, art. 2(2)(c)
- F25** S. 103(9) inserted (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 15(c)**

### Marginal Citations

- M2** 1950 c. 37.  
**M3** 1966 c. 35 (N.I.).  
**M4** 1982 c. 27.  
**M5** 1972 c. 18.

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