



2008 CHAPTER 10

PART 2
CHILD SUPPORT ETC.

Miscellaneous

Meaning of “child”

26. For Article 3 of the Child Support Order substitute—

“Meaning of “child”

3.—(1) In this Order, “child” means (subject to paragraph (2)) a person who—

- (a) has not attained the age of 16, or
- (b) has not attained the age of 20 and satisfies such conditions as may be prescribed.

(2) A person who is or has been party to a marriage or civil partnership is not a child for the purposes of this Order.

(3) For the purposes of paragraph (2), “marriage” and “civil partnership” include a void marriage and a void civil partnership respectively.”.

Offence of failing to notify change of address

27.—(1) In Article 16A of the Child Support Order (information – offences), after paragraph (3) insert—

“(3A) In the case of regulations under Article 16 which require a person liable to make payments of child support maintenance to notify a change

of address, a person who fails to comply with the requirement is guilty of an offence.”.

(2) In that Article, in paragraph (4), after “paragraph (3)” insert “or (3A)”.

Additional special case

28. In Article 39(2) of the Child Support Order (examples of cases in relation to which the power under paragraph (1) to prescribe circumstances in which a case is to be treated as a special case for the purposes of the Order may be exercised), at the end add—

“(g) the same persons are the parents of 2 or more children and each parent is—

(i) a non-resident parent in relation to one or more of the children, and

(ii) a person with care in relation to one or more of the children.”.

Recovery of arrears from deceased’s estate

29. After Article 40 of the Child Support Order insert—

“Recovery of arrears from deceased’s estate

40A.—(1) The Department may by regulations make provision for the recovery from the estate of a deceased person of arrears of child support maintenance for which the deceased person was liable immediately before death.

(2) Regulations under paragraph (1) may, in particular—

(a) make provision for arrears of child support maintenance for which a deceased person was so liable to be a debt payable by the deceased’s executor or administrator out of the deceased’s estate to the Department;

(b) make provision for establishing the amount of any such arrears;

(c) make provision about procedure in relation to claims under the regulations.

(3) Regulations under paragraph (1) may include provision for proceedings (whether by appeal or otherwise) to be instituted, continued or withdrawn by the deceased’s executor or administrator.”.

Disclosure of information relating to family proceedings

30. After Article 45A of the Child Support Order (inserted by section 25), insert—

“Disclosure of information relating to family proceedings

45B.—(1) Where this Article applies, a disclosure of information relating to family proceedings, made to the Department, or to a person providing services to the Department, by a party to the proceedings is not (if it would otherwise be) a contempt of court or punishable as a contempt of court.

(2) This Article applies if—

- (a) the party is a person with care or non-resident parent in relation to a child,
- (b) child support maintenance is payable, or an application for a maintenance calculation has been made, in respect of the child, and
- (c) the party reasonably considers that the information is relevant to the exercise of the Department’s functions relating to child support in relation to the child.

(3) A disclosure by a party’s representative is to be treated for the purposes of this Article as a disclosure by the party, if the representative is instructed by the party to make the disclosure.

(4) In this Article, “representative” means—

- (a) a barrister or solicitor who has been instructed to act for a party in relation to the proceedings; or
- (b) such other persons as may be prescribed in regulations made by the Department with the consent of the Lord Chancellor.

(5) This Article does not apply if the court dealing with the proceedings so directs.

Meaning of “family proceedings”

45C.—(1) In Article 45B, “family proceedings” means any of the following proceedings commenced on or after the day on which that Article comes into operation—

- (a) proceedings for ancillary relief (within the meaning of paragraph (2));
- (b) proceedings under section 17 of the Married Women’s Property Act 1882 (questions between husband and wife as to property);
- (c) proceedings under any of the following provisions of the 1978 Order—
 - (i) Article 29 (financial provision in cases of neglect to maintain);
 - (ii) Article 37 (alteration of maintenance agreements);

- (d) proceedings under the Domestic Proceedings (Northern Ireland) Order 1980 (powers of court to make orders for financial provision);
 - (e) proceedings under Part 4 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland after overseas divorce etc.);
 - (f) proceedings under Articles 11 to 19 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (occupation orders);
 - (g) proceedings under any of the following provisions of the 2004 Act—
 - (i) section 191 (disputes between civil partners about property);
 - (ii) paragraph 36 of Schedule 15 (orders where failure to maintain);
 - (iii) paragraph 62 of Schedule 15 (alteration of maintenance agreements by the court);
 - (iv) Schedule 16 (financial relief in courts of summary jurisdiction etc.);
 - (v) Schedule 17 (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership).
- (2) In paragraph (1)(a), “ancillary relief” means any of the following—
- (a) an order under Article 39(2)(b) or (c) of the 1978 Order or paragraph 67(3) or (4) of Schedule 15 to the 2004 Act (avoidance of disposition orders);
 - (b) any of the orders mentioned in Article 23(1) of the 1978 Order (except an order under Article 29(6) of that Order) or any of the orders mentioned in paragraph 2(1) of Schedule 15 to the 2004 Act (financial provision orders) made under Part 1 of that Schedule;
 - (c) an order under Article 24 of the 1978 Order (orders for maintenance pending suit);
 - (d) an order under paragraph 33 of Schedule 15 to the 2004 Act (orders for maintenance pending outcome of proceedings);
 - (e) any of the orders mentioned in Article 23(2) of the 1978 Order or any of the orders mentioned in paragraph 7(1) of Schedule 15 to the 2004 Act (property adjustment orders);
 - (f) an order under Article 33 of the 1978 Order or an order under Part 10 of Schedule 15 to the 2004 Act (variation orders);

Status: This is the original version (as it was originally enacted).

(g) an order under Article 26B of the 1978 Order or an order under paragraph 10 of Schedule 15 to the 2004 Act (pension sharing orders).

(3) The Department may by order amend this Article so as to provide that “family proceedings” in Article 45B includes proceedings of a description specified in the order, other than proceedings commenced before the day on which the order comes into operation.

(4) An order under paragraph (3) may be made only with the consent of the Lord Chancellor.

(5) In this Article—

“the 1978 Order” means the Matrimonial Causes (Northern Ireland) Order 1978;

“the 2004 Act” means the Civil Partnership Act 2004.”.

Disclosure of information to credit reference agencies

31. After Article 45C of the Child Support Order (inserted by section 30) insert—

“Disclosure of information to credit reference agencies

45D.—(1) Subject to paragraph (3), the Department may supply qualifying information to a credit reference agency for use for the purpose of furnishing information relevant to the financial standing of individuals.

(2) The reference in paragraph (1) to qualifying information is to information which—

- (a) is held by the Department for the purposes of this Order,
- (b) relates to a person who is liable to pay child support maintenance, and
- (c) is of a prescribed description.

(3) Information may not be supplied under paragraph (1) without the consent of the person to whom it relates, unless a liability order against that person is in force.

(4) No provision may be made under Article 16(3) authorising the supply of information by the Department to credit reference agencies.

(5) In this Article, “credit reference agency” has the same meaning as in the Consumer Credit Act 1974.”.

Pilot schemes

32. After Article 47 of the Child Support Order insert—

“Pilot schemes

47A.—(1) Any regulations made under this Order may be made so as to have effect for a specified period not exceeding 24 months.

(2) Regulations which, by virtue of paragraph (1), are to have effect for a limited period are referred to in this Article as a “pilot scheme”.

(3) A pilot scheme may provide that its provisions are to apply only in relation to—

- (a) one or more specified areas or localities;
- (b) one or more specified classes of person;
- (c) persons selected by reference to prescribed criteria, or on a sampling basis.

(4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.

(5) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.”.

Extinction of liability in respect of interest and fees

33. Any outstanding liability in respect of the following is extinguished—

- (a) interest under the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations (Northern Ireland) 1992 ([SR 1992/342](#));
- (b) fees under the Child Support Fees Regulations (Northern Ireland) 1993 ([SR 1993/73](#))

Use of information

34. Schedule 3 (which makes provision about the use of information for purposes of public administration) has effect.

Liable relative provisions: exclusion of parental duty to maintain

35.—(1) In section 100 of the Social Security Administration (Northern Ireland) Act [1992 \(c. 8\)](#) (failure to maintain), for subsection (3) substitute—

“(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.”.

(2) In that section, in subsection (4), for the words from “a person” to the end, substitute “subsection (3)(b) shall not apply”.