

*These notes refer to the Child Maintenance Act (Northern Ireland) 2008 (c.10) which received Royal Assent on 2 July 2008*

# Child Maintenance Act (Northern Ireland) 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Child Support etc.**

#### **Collection and enforcement**

#### ***Section 16: Orders preventing avoidance***

This section inserts *Article 32L* into the Child Support (Northern Ireland) Order 1991. The Article will provide the Department with power to apply for a freezing order where it appears that a non-resident parent is about to dispose of assets with the intention of avoiding child maintenance payments.

*Paragraph (1)* provides that the Department may apply to the courts for a restraining order where a person has failed to pay an amount of child support maintenance and is about to make a disposition or transfer out of the jurisdiction.

*Paragraph (2)* provides that the Department may apply for the reversal of an asset disposition where that has already occurred and where the disposition was done specifically for the purpose of avoiding a child maintenance payment.

*Paragraph (3)* provides the court with the power to make an order under *paragraphs (1) or (2)* if it is satisfied that the purpose of the disposition is to avoid payment of child maintenance.

*Paragraph (4)* allows the court to deal with any consequential matters it thinks fit to give effect to the order, such as ordering payments or disposal of the asset.

*Paragraph (5)* provides that the disposal of an asset is reviewable, except where the asset has been acquired by someone who acted in good faith, and who was unaware that the asset was being disposed of for the purpose of avoiding a child maintenance payment.

*Paragraphs (6) and (7)* allow the court to presume that, where it is satisfied an asset has been disposed of, or is about to be disposed of, for the specific purpose of making ineffective a step which has been taken to recover an amount outstanding, the person did so with the intention of making the recovery

ineffective. The court can make this presumption unless the contrary has been demonstrated.

*Paragraph (8)* excepts any disposition made in a will or a codicil to a will.

*Paragraph (9)* stipulates that *Article 32L* will not apply to any disposition made before the Child Maintenance Act (Northern Ireland) 2008 comes into operation.

*Paragraph (10)* stipulates that the relevant court for dealing with orders preventing avoidance shall be the High Court.