

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Child Maintenance Act (Northern Ireland) 2008, Cross Heading: Debt management powers is up to date with all changes known to be in force on or before 30 January 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



## 2008 CHAPTER 10

### PART 2

#### CHILD SUPPORT ETC.

##### *Debt management powers*

#### **Power to treat liability as satisfied**

**22.** After Article 38B of the Child Support Order insert—

#### **“Power to treat liability as satisfied**

**38C.—**(1) The Department may by regulations—

- (a) make provision enabling the Department in prescribed circumstances to set off liabilities to pay child support maintenance to which this Article applies;
- (b) make provision enabling the Department in prescribed circumstances to set off against a person's liability to pay child support maintenance to which this Article applies a payment made by the person which is of a prescribed description.

(2) Liability to pay child support maintenance shall be treated as satisfied to the extent that it is the subject of setting off under regulations under paragraph (1).

(3) In paragraph (1), the references to child support maintenance to which this Article applies are to child support maintenance for the collection of which the Department is authorised to make arrangements.”.

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**Annotations:**

**Commencement Information**

- I1** S. 22 wholly in operation at 25.1.2010; s. 22 not in operation at Royal Assent see s. 41(1); s. 22 in operation for certain purposes at 26.11.2009 and wholly in operation at 25.1.2010 by S.R. 2009/380, art. 2(1)

**Power to accept part payment of arrears in full and final satisfaction**

**23.** After Article 38C of the Child Support Order (inserted by section 22) insert—

**“Power to accept part payment of arrears in full and final satisfaction**

**38D.**—(1) The Department may, in relation to any arrears of child support maintenance, accept payment of part in satisfaction of liability for the whole.

(2) The Department must by regulations make provision with respect to the exercise of the power under paragraph (1).

(3) The regulations must provide that unless one of the conditions in paragraph (4) is satisfied the Department may not exercise the power under paragraph (1) without the written consent of the person with care with respect to whom the maintenance calculation was made.

(4) The conditions are—

- (a) that the Department would be entitled to retain the whole of the arrears under Article 38(2) if it recovered them;
- (b) that the Department would be entitled to retain part of the arrears under Article 38(2) if it recovered them, and the part of the arrears that the Department would not be entitled to retain is equal to or less than the payment accepted under paragraph (1).”.

**Annotations:**

**Commencement Information**

- I2** S. 23 in operation at 3.12.2012 for specified purposes by S.R. 2012/423, art. 2(2)(b)
- I3** S. 23 in operation at 10.12.2012 in so far as not already in operation by S.R. 2012/440, art. 2(2)(a) (with art. 4)

**Power to write off arrears**

**24.** After Article 38D of the Child Support Order (inserted by section 23) insert—

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### “Power to write off arrears

**38E.**—(1) The Department may extinguish liability in respect of arrears of child support maintenance if it appears to it—

- (a) that the circumstances of the case are of a description specified in regulations made by the Department, and
- (b) that it would be unfair or otherwise inappropriate to enforce liability in respect of the arrears.

(2) The Department may by regulations make provision with respect to the exercise of the power under paragraph (1).”.

#### Annotations:

#### Commencement Information

- I4** S. 24 in operation at 3.12.2012 for specified purposes by S.R. 2012/423, **art. 2(2)(b)**
- I5** S. 24 in operation at 10.12.2012 in so far as not already in operation by S.R. 2012/440, **art. 2(2)(a)** (with **art. 4**)

PROSPECTIVE

### Transfer of arrears

**25.** After Article 45 of the Child Support Order insert—

#### “Transfer of arrears

**45A.**—(1) The Department may by regulations make provision enabling the Department in prescribed circumstances to enter into arrangements (“transfer arrangements”) under which liability in respect of arrears of child support maintenance becomes debt due to the person with whom the arrangements are entered into (“the transferee”).

- (2) Liability which is the subject of transfer arrangements—
  - (a) ceases to be liability in relation to which the Department's functions with respect to collection and enforcement are exercisable, and
  - (b) becomes debt in which only the transferee has an interest.

(3) Regulations under paragraph (1) must provide that unless one of the conditions in paragraph (4) is satisfied the Department may not enter into transfer arrangements in relation to arrears of child support maintenance without the written consent of the person with care with respect to whom the maintenance calculation was made.

- (4) The conditions are—

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- (a) that the Department would be entitled to retain the whole of the arrears under Article 38(2) if it recovered them;
  - (b) that the Department would be entitled to retain part of the arrears under Article 38(2) if it recovered them, and the part of the arrears that the Department would not be entitled to retain is equal to or less than the transfer payment.
- (5) In paragraph (4)(b), “transfer payment” means—
- (a) the payment that the Department would receive from the transferee on the arrangements taking effect, and
  - (b) such other payments under the transfer arrangements as may be prescribed
- (6) Regulations under paragraph (1) may, in particular—
- (a) specify when arrears of child support maintenance may be the subject of transfer arrangements;
  - (b) specify the descriptions of person with whom transfer arrangements may be entered into;
  - (c) specify terms and conditions which transfer arrangements must include;
  - (d) provide that a payment made to the Department under transfer arrangements may be treated for prescribed purposes as if it were a payment of child support maintenance.
- (7) Regulations under paragraph (1) may include—
- (a) provision with respect to the recovery of debt to which a person is entitled by virtue of transfer arrangements;
  - (b) provision enabling the Department in prescribed circumstances to prevent a person entitled to debt by virtue of transfer arrangements from taking steps to recover it;
  - (c) provision enabling the Department to supply information of a prescribed description to a person entitled to debt by virtue of transfer arrangements for the purpose of enabling the debt to be recovered.”.

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**Changes to legislation:**

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

- specified provision(s) amendment to earlier commencing SR 2012/440 art. 3 by [S.R. 2014/194 art. 4](#)
- specified provision(s) amendment to earlier commencing SR 2013/201 art. 3 by [S.R. 2014/194 art. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

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

- Sch. 2 para. 3(3) inserted by [S.I. 2015/2006 \(N.I.\) art. 126\(2\)](#)