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STATUTORY INSTRUMENTS

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**1991 No. 2628**

**The Child Support (Northern Ireland) Order 1991**

*[<sup>F1</sup>Departure from usual rules for determining maintenance assessments]*

**[<sup>F1F2F3</sup>Departure directions**

**28F.**—(1) The Department may give a departure direction if—

- (a) the Department is satisfied that the case is one which falls within one or more of the cases set out in Part I of Schedule 4B or in regulations made under that Part; and
- (b) it is the Department's opinion that, in all the circumstances of the case, it would be just and equitable to give a departure direction.

(2) In considering whether it would be just and equitable in any case to give a departure direction, the Department shall have regard, in particular, to—

- (a) the financial circumstances of the absent parent concerned,
- (b) the financial circumstances of the person with care concerned, and
- (c) the welfare of any child likely to be affected by the direction.

(3) The Department may by regulations make provision—

- (a) for factors which are to be taken into account in determining whether it would be just and equitable to give a departure direction in any case;
- (b) for factors which are not to be taken into account in determining such a question.

(4) The Department shall not give a departure direction if it is satisfied that the difference between the current amount and the revised amount is less than an amount to be calculated in accordance with regulations made by the Department for the purposes of this paragraph and Article 28B(2).

(5) In paragraph (4)—

“the current amount” means the amount of the child support maintenance fixed by the current assessment, and

“the revised amount” means the amount of child support maintenance which would be fixed if a fresh maintenance assessment were to be made as a result of the departure direction which the Department would give in response to the application but for paragraph (4).

(6) A departure direction shall—

- (a) require<sup>F4</sup> the making of] one or more fresh maintenance assessments; and
- (b) specify the basis on which the amount of child support maintenance is to be fixed by any assessment made in consequence of the direction.

(7) In giving a departure direction, the Department shall comply with the provisions of regulations made under Part II of Schedule 4B.

(8) Before the end of such period as may be prescribed, the Department shall notify the applicant for a departure direction, and such other persons as may be prescribed—

- (a) of its decision in relation to the application, and

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**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Child Support (Northern Ireland) Order 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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(b) of the reasons for its decision.]

**Annotations:**

**F1** 1995 NI 13

**F2** prosp. in pt. subst. [2000 c. 4 \(NI\)](#)

**F3** see SR 2001/24 which am. and rep. for the purpose only of making regulations

**F4** 1998 NI 10

### Changes to legislation:

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### Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Order applied by S.R. 2014/191 reg. 7(1)
- Order applied in part (with modifications) by S.R. 2010/312 reg. 16 Sch. 2
- Order power to apply (with modifications) conferred by 2008 c. 10 (N.I.) s. 3(4)
- Order transfer of functions by S.I. 2010/976 Sch. 17 para. 42
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(a)
- Order words substituted by 2009 c. 1 (N.I.) Sch. 6 para. 1(1)(b)

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

- Sch. 1 para. 9(1) Sch. 1 para. 9 renumbered as Sch. 1 para. 9(1) by 2008 c. 10 (N.I.) Sch. 1 para. 8(1)
- Sch. 1 para. 9(2) added by 2008 c. 10 (N.I.) Sch. 1 para. 8(4)
- Sch. 1 para. 5A and cross-heading inserted by 2008 c. 10 (N.I.) Sch. 1 para. 5(2)
- Sch. 1 para. 9(1)(za) inserted by 2008 c. 10 (N.I.) Sch. 1 para. 8(2)
- Sch. 1 para. 9(1)(ba) inserted by 2008 c. 10 (N.I.) Sch. 1 para. 8(3)
- Sch. 1 para. 5A(2) modified by S.R. 2012/428 reg. 3
- Sch. 1 para. 5A(2) modified by S.R. 2013/190 reg. 2
- art. 2(3) added by 2008 c. 10 (N.I.) Sch. 4 para. 1(3)
- art. 7(2A) inserted by S.I. 2015/2006 (N.I.) art. 127(2)(b)
- art. 11(2A) inserted by S.I. 2015/2006 (N.I.) art. 126(1)
- art. 11A inserted by S.I. 2015/2006 (N.I.) art. 128
- art. 16A(3A) inserted by 2008 c. 10 (N.I.) s. 27(1)
- art. 16A(3A) substituted by 2010 c. 13 (N.I.) s. 32(2)
- art. 16A(6) added by 2010 c. 13 (N.I.) s. 32(3)
- art. 22(1)(ba) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(5)
- art. 22(2)(aa) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(6)
- art. 22(2A)-(2C) inserted by S.I. 2015/2006 (N.I.) Sch. 11 para. 2
- art. 22(3A)-(3C) inserted by S.I. 2015/2006 (N.I.) Sch. 11 para. 3
- art. 22(5A) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(7)
- art. 22(7A) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(8)
- art. 28D(2A) (2B) inserted by 2008 c. 10 (N.I.) s. 10(2)
- art. 28F(4)(a) words repealed by 2008 c. 10 (N.I.) Sch. 5
- art. 29(3)(c) (ca) substituted for art. 29(3)(c) by 2010 c. 13 (N.I.) s. 31(2)
- art. 29(3A) inserted by 2010 c. 13 (N.I.) s. 31(3)
- art. 29(4)-(7) added by 2008 c. 10 (N.I.) s. 12
- art. 29(4)-(7) excluded by S.R. 2016/390 reg. 6(1)
- art. 31(8) (9) substituted for art. 31(8) by 2008 c. 10 (N.I.) s. 13
- art. 32A-32D inserted by 2008 c. 10 (N.I.) s. 14
- art. 32E-32K inserted by 2008 c. 10 (N.I.) s. 15
- art. 32G(1) restricted by SR 1992/390 reg. 25N (as inserted) by S.R. 2009/286 reg. 2
- art. 32H(2)(b) restricted by SR 1992/390 reg. 25N (as inserted) by S.R. 2009/286 reg. 2
- art. 32L inserted by 2008 c. 10 (N.I.) s. 16
- art. 32M 32N inserted by 2008 c. 10 (N.I.) s. 17
- art. 36B-36F inserted by 2008 c. 10 (N.I.) s. 18
- art. 36G-36O inserted by 2008 c. 10 (N.I.) s. 19
- art. 37(2A)-(2C) inserted by 2008 c. 10 (N.I.) s. 20(1)
- art. 37(10)-(10C) substituted for art. 37(10) by 2008 c. 10 (N.I.) s. 20(2)
- art. 37(12) added by 2008 c. 10 (N.I.) Sch. 4 para. 1(14)
- art. 37A(A1)-(A4) (1) substituted for art. 37A(1) by 2008 c. 10 (N.I.) s. 21(1)

- art. 37A(10)-(10C) substituted for art. 37A(10) by 2008 c. 10 (N.I.) s. 21(2)
- art. 37A(12) added by 2008 c. 10 (N.I.) Sch. 4 para. 1(17)
- art. 38A(5)(c) (d) repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(a)
- art. 38C inserted by 2008 c. 10 (N.I.) s. 22
- art. 38D inserted by 2008 c. 10 (N.I.) s. 23
- art. 38E inserted by 2008 c. 10 (N.I.) s. 24
- art. 39(2)(g) added by 2008 c. 10 (N.I.) s. 28
- art. 40A inserted by 2008 c. 10 (N.I.) s. 29
- art. 41(4)(5) inserted by S.I. 2011/1484 Sch. 7 para. 22
- art. 45A inserted by 2008 c. 10 (N.I.) s. 25
- art. 45B 45C inserted by 2008 c. 10 (N.I.) s. 30
- art. 45D inserted by 2008 c. 10 (N.I.) s. 31
- art. 46(1A)-(1C) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(19)
- art. 47A inserted by 2008 c. 10 (N.I.) s. 32
- art. 47A(6) inserted by S.I. 2015/2006 (N.I.) Sch. 11 para. 4
- art. 48(2B) inserted by 2008 c. 10 (N.I.) Sch. 4 para. 1(22)

**Commencement Orders yet to be applied to the The Child Support (Northern Ireland) Order 1991**

Commencement Orders bringing legislation that affects this Order into force:

- S.I. 2009/479 art. 2-6 commences (2008 c. 22)
- S.I. 2009/1604 art. 2 commences (2005 c. 4)
- S.I. 2010/987 art. 2 commences (2008 c. 22)
- S.R. 2008/276 art. 2 commences (2007 c. 2 (N.I.))
- S.R. 2008/291 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2008/399 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2008/402 art. 2 commences (2000 c. 4 (N.I.))
- S.R. 2008/419 art. 2 3 commences (2008 c. 10 (N.I.))
- S.R. 2008/489 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2009/216 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2009/380 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2010/370 art. 2 Sch. commences (S.I. 2007/916 (N.I.))
- S.R. 2010/416 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2012/423 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2012/424 art. 2 commences (2010 c. 13 (N.I.))
- S.R. 2012/440 art. 2 3 commences (2008 c. 10 (N.I.))
- S.R. 2013/201 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2013/276 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2014/138 art. 2 commences (2000 c. 4 (N.I.))
- S.R. 2015/57 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2016/215 art. 2 3 commences (S.I. 2015/2006 (N.I.))