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STATUTORY INSTRUMENTS

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**1991 No. 2628**

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

*Collection and enforcement*

**[<sup>F1</sup>Repayment of overpaid child support maintenance**

**38B.**—(1) This Article applies where it appears to the Department that [<sup>F2</sup>an absent parent] [<sup>F3</sup>a non-resident parent] has made a payment by way of child support maintenance which amounts to an overpayment by him of that maintenance and that—

- (a) it would not be possible for the [<sup>F4</sup>absent parent] [<sup>F5</sup>non-resident parent] to recover the amount of overpayment by way of an adjustment of the amount payable under a [<sup>F6</sup>maintenance assessment] [<sup>F7</sup>maintenance calculation]; or
- (b) it would be inappropriate to rely on an adjustment of the amount payable under a [<sup>F8</sup>maintenance assessment] [<sup>F9</sup>maintenance calculation] as the means of enabling the [<sup>F10</sup>absent parent] [<sup>F11</sup>non-resident parent] to recover the amount of the overpayment.

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<sup>F12</sup>(1A) This Article also applies where the non-resident parent has made a voluntary payment and it appears to the Department—

- (a) that he is not liable to pay child support maintenance; or
- (b) that he is liable, but some or all of the payment amounts to an overpayment,

and, in a case falling within sub-paragraph (b), it also appears to the Department that paragraph (1) (a) or (b) applies.]

(2) The Department may make such payment to the [<sup>F13</sup>absent parent] [<sup>F14</sup>non-resident parent] by way of reimbursement, or partial reimbursement, of the overpayment as the Department considers appropriate.

(3) Where the Department has made a payment under this Article the Department may, in such circumstances as may be prescribed, require the relevant person to pay to it the whole, or a specified proportion, of the amount of that payment.

(4) Any such requirement shall be imposed by giving the relevant person a written demand for the amount which the Department wishes to recover from him.

(5) Any sum which a person is required to pay to the Department under this Article shall be recoverable from him by the Department as a debt due to the Crown.

(6) The Department may by regulations make provision in relation to any case in which—

- (a) one or more overpayments of child support maintenance are being reimbursed to the Department by the relevant person; and
- (b) child support maintenance has continued to be payable by the [<sup>F15</sup>absent parent] [<sup>F16</sup>non-resident parent] concerned to the person with care concerned, or again becomes so payable.

<sup>F17</sup>(7) For the purposes of this Article any payments made by a person under a maintenance assessment which was not validly made shall be treated as overpayment of child support maintenance made by an absent parent.]

[<sup>F18</sup>(7) For the purposes of this Article—

(a) a payment made by a person under a maintenance calculation which was not validly made; and

(b) a voluntary payment made in the circumstances set out in paragraph (1A)(a),

shall be treated as overpayments of child support maintenance made by a non-resident parent.]

(8) In this Article “relevant person”, in relation to an overpayment, means the person with care to whom the overpayment was made.

(9) Any sum recovered by the Department under this Article shall be paid by the Department into the Consolidated Fund.]

**F1** 1995 NI 13

**F2** Words in art. 38B(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

**F3** Words in art. 38B(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

**F4** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

**F5** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

**F6** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

**F7** Words in art. 38B(1)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

**F8** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

**F9** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

**F10** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

**F11** Words in art. 38B(1)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

**F12** Art. 38B(1A) inserted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 19(2)(3)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, arts. 3, 5, **Sch.**

**F13** Words in art. 38B(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**

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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) [View outstanding changes](#)

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- F14** Words in art. 38B(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F15** Words in art. 38B(6)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F16** Words in art. 38B(6)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F17** Art. 38B(7) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 19(2)(4)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, arts. 3, 5, **Sch.**
- F18** Art. 38B(7) substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 19(2)(4)**, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, arts. 3, 5, **Sch.**

### 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. 16Sch. 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)(ba) inserted by [2008 c. 10 \(N.I.\) Sch. 1 para. 8\(3\)](#)
- Sch. 1 para. 9(1)(za) inserted by [2008 c. 10 \(N.I.\) Sch. 1 para. 8\(2\)](#)
- 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](#)
- Sch. 1 Pt. 1 words substituted by [2008 c. 10 \(N.I.\) Sch. 1 para. 2](#)
- Sch. 1 Pt. 1 para. 10C(5A) omitted by [S.I. 2019/1514 reg. 64\(5\)\(b\)](#)
- Sch. 1 Pt. 1 para. 10C(5) substituted for Sch. 1 Pt. 1 para. 10C(5)(6) by [S.I. 2019/1514 reg. 64\(4\)](#)
- Sch. 1 Pt. 1 para. 6(5)(b)(i)(ii) substituted for Sch. 1 Pt. 1 para. 6(5)(b)(i)-(iii) by [S.I. 2019/1514 reg. 64\(5\)\(a\)](#)
- Sch. 1 Pt. 1 para. 5(4) words inserted by [2007 c. 2 \(N.I.\) Sch. 3 para. 2\(8\)](#)
- art. 2(3) added by [2008 c. 10 \(N.I.\) Sch. 4 para. 1\(3\)](#)
- art. 4(4)(ba) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 16](#)
- art. 7(2A) inserted by [S.I. 2015/2006 \(N.I.\) art. 127\(2\)\(b\)](#)
- art. 7(3A)-(3C) inserted by [2023 c. 24 s. 4\(2\)\(a\)](#)
- art. 7(4)(d) and word inserted by [2023 c. 24 s. 4\(2\)\(b\)\(ii\)](#)
- art. 11(2A) inserted by [S.I. 2015/2006 \(N.I.\) art. 126\(1\)](#)
- art. 11(6)(a)(b) and word repealed by [2008 c. 10 \(N.I.\) Sch. 5](#)
- 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. 19(1)(c) repealed by [2008 c. 10 \(N.I.\) Sch. 5](#)
- 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. 27(2)(b) words substituted by [S.I. 2019/1514 reg. 64\(2\)](#)
- art. 27(2)(b) words substituted by [S.I. 2019/1514 reg. 64\(2\)](#)
- 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. 32L(5) words inserted by S.I. 2019/1514 reg. 64(3)
- art. 32M32N 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. 41(4) omitted by S.I. 2019/519 Sch. para. 20(a)
- art. 41(5) omitted by S.I. 2019/519 Sch. para. 20(b)
- art. 45A inserted by 2008 c. 10 (N.I.) s. 25
- art. 45B45C 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)