

## STATUTORY INSTRUMENTS

# 1991 No. 2628

## The Child Support (Northern Ireland) Order 1991

### *Special cases*

#### **[<sup>F1</sup>Recovery of child support maintenance by deduction from benefit**

**40.**—(1) This Article applies where—

- (a) a non-resident parent is liable to pay a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1; and
- (b) such conditions as may be prescribed for the purposes of this Article are satisfied.

(2) The power of the Department to make regulations under section 5 of the Social Security Administration (Northern Ireland) Act 1992 by virtue of subsection (1)(q) (deductions from benefits) may be exercised in relation to cases to which this Article applies with a view to securing that payments in respect of child support maintenance are made or that arrears of child support maintenance are recovered.

(3) For the purposes of this Article, the benefits to which section 5 of that Act applies shall be taken as including war disablement pensions and war widows' pensions (within the meaning of section 146(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (interpretation)).]

**F1** Art. 40 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. 20, 68(2); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**

#### **[<sup>F2</sup>Contribution to maintenance by deduction from benefit** **N.I.**

**40.**—(1) This Article applies where—

- (a) by virtue of paragraph 5(4) of Schedule 1, [<sup>F3</sup>an absent parent] [<sup>F4</sup>a non-resident parent] is taken for the purposes of that Schedule to have no [<sup>F5</sup>assessable] [<sup>F6</sup>calculable] income; and
- (b) such conditions as may be prescribed for the purposes of this Article are satisfied.

(2) The power of the Department to make regulations under Article 52 of the Social Security (Northern Ireland) Order 1986<sup>F7</sup> by virtue of paragraph (1)(q) (deductions from benefits) may be exercised in relation to cases to which this Article applies with a view to securing that—

- (a) payments of prescribed amounts are made with respect to qualifying children in place of payments of child support maintenance; and
- (b) arrears of child support maintenance are recovered.

[<sup>F8</sup>(3) Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to any decision with respect to a person's liability under this Article, that is to say, his liability to make payments under regulations made by virtue of this Article.]

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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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- F2** Art. 40 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. 20, 68(2)**; S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, art. 3(1), **Sch.**
- F3** Words in art. 40(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.**
- F4** Words in art. 40(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** Word in art. 40(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)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F6** Word in art. 40(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)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F7** 1986 NI 18
- F8** 1998 NI 10

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

- [art. 40\(1\)\(2\)](#) substituted by [S.I. 2015/2006 \(N.I.\) art. 129](#)

**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)