

SCHEDULES

[^{F1}F²SCHEDULE 4C

DECISIONS AND APPEALS: DEPARTURE DIRECTIONS AND REDUCED BENEFIT DIRECTIONS, ETC.

Annotations:

- F1** 1998 NI 10
F2 prosp. in pt. rep. by 2000 c. 4 (NI)

Revision of decisions

1. Article 18 shall apply in relation to—
- (a) any decision of the Department with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40;
 - (b) any decision of the Department under Article 19 as extended by paragraph 2; and
 - (c) any decision of an appeal tribunal on a referral under Article 28D(1)(b),
- as it applies in relation to any decision of the Department under Article 13, 14 or 19.

Decisions superseding earlier decisions

- 2.—(1) Article 19 shall apply in relation to—
- (a) any decision of the Department with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40;
 - (b) any decision of the Department under Article 19 as extended by this sub-paragraph; and
 - (c) any decision of an appeal tribunal on a referral under Article 28D(1)(b),
- whether as originally made or as revised under Article 18 as extended by paragraph 1, as it applies in relation to any decision of the Department under Article 13, 14 or 19, whether as originally made or as revised under Article 18.
- (2) Article 19 shall apply in relation to any decision of an appeal tribunal under Article 22 as extended by paragraph 3 as it applies in relation to any decision of an appeal tribunal under Article 22.

Appeals to appeal tribunals

- 3.—(1) Subject to sub-paragraphs (2) and (3), Article 22 shall apply—
- (a) in relation to a qualifying person who is aggrieved by any decision of the Department with respect to a departure direction; and
 - (b) in relation to any person who is aggrieved by a decision of the Department—
 - (i) with respect to a reduced benefit direction; or
 - (ii) with respect to a person's liability under Article 40,

as it applies in relation to a person whose application for a [^{F3}maintenance assessment] [^{F4}maintenance calculation] is refused or to such a person as is mentioned in paragraph (2) of Article 22.

(2) On an appeal under Article 22 as extended by sub-paragraph (1)(a), the appeal tribunal shall—

(a) consider the matter—

(i) as if it were exercising the powers of the Department in relation to the application in question; and

(ii) as if it were subject to the duties imposed on the Department in relation to that application;

(b) have regard to any representations made to it by the Department; and

(c) confirm the decision or replace it with such decision as the tribunal considers appropriate.

(3) No appeal shall lie under Article 22 as extended by sub-paragraph (1)(b)(i) unless the amount of the person's benefit is reduced in accordance with the reduced benefit direction; and the time within which such an appeal may be brought shall run from the date of the notification of the reduction.

(4) In sub-paragraph (1) “qualifying person” means the person with care, or [^{F5}absent parent] [^{F6}non-resident parent] , with respect to whom the current [^{F7}assessment] [^{F8}calculation] was made.

Annotations:

- F3** Words in Sch. 4C para. 3(1) 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.
- F4** Words in Sch. 4C para. 3(1) 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.
- F5** Words in Sch. 4C para. 3(4) 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 Sch. 4C para. 3(4) 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.
- F7** Word in Sch. 4C para. 3(4) 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.
- F8** Word in Sch. 4 para. 3(4) 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.

Decisions and appeals dependent on other cases

4.—(1) Article 28ZA shall also apply where—

(a) a decision falls to be made—

(i) with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40, by the Department; or

(ii) with respect to a departure direction, by an appeal tribunal on a referral under Article 28D(1)(b); and

(b) an appeal is pending against a decision given with respect to a different direction by a Child Support Commissioner or a court.

(2) Article 28ZA as it applies by virtue of sub-paragraph (1) shall have effect as if the reference in paragraph (3) to Article 18 were a reference to that Article as extended by paragraph 1.

(3) Article 28ZA as it applies by virtue of sub-paragraph (1)(a)(ii) shall have effect as if—

(a) in paragraph (2), for the words “the Department”, in each place where they occur, there were substituted the words “ the appeal tribunal ”; and

(b) in paragraph (3)—

(i) for the words “the Department” there were substituted the words “ the appeal tribunal ”;

(ii) for the word “it” there were substituted the words “ the Department ”; and

(iii) for the word “its” there were substituted the words “ the tribunal's ”.

5.—(1) Article 28ZB shall also apply where—

(a) an appeal is made to an appeal tribunal under Article 22 as extended by paragraph 3; and

(b) an appeal is pending against a decision given in a different case by a Child Support Commissioner or a court.

(2) Article 28ZB as it applies by virtue of sub-paragraph (1) shall have effect as if any reference to Article 18 or Article 19 were a reference to that Article as extended by paragraph 1 or, as the case may be, paragraph 2.

Cases of error

6.—(1) Subject to sub-paragraph (2), Article 28ZC shall also apply where—

(a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that the adjudicating authority's decision out of which the appeal arose was erroneous in point of law; and

(b) after the date of the relevant determination a decision falls to be made by the Department in accordance with that determination (or would, apart from this paragraph, fall to be so made)—

(i) in relation to an application for a departure direction (made after the commencement date);

(ii) as to whether to revise, under Article 18 as extended by paragraph 1, a decision (made after the commencement date) in relation to a departure direction, a reduced benefit direction or a person's liability under Article 40; or

(iii) on an application made under Article 19 as extended by paragraph 2 before the date of the relevant determination (but after the commencement date) for a decision in relation to a departure direction, a reduced benefit direction or a person's liability under Article 40 to be superseded.

(2) Article 28ZC shall not apply where the decision of the Department mentioned in sub-paragraph (1)(b)—

(a) is one which, but for Article 28ZA(2)(a) as it applies by virtue of paragraph 4(1), would have been made before the date of the relevant determination; or

(b) is one made in pursuance of Article 28ZB(3) or (5) as it applies by virtue of paragraph 5(1).

(3) Article 28ZC as it applies by virtue of sub-paragraph (1) shall have effect as if in paragraph (4), in the definition of “adjudicating authority”, at the end there were added the words “ or, in the case of a decision made on a referral under Article 28D(1)(b), an appeal tribunal ”.

(4) In this paragraph “adjudicating authority”, “the commencement date” and “the court” have the same meanings as in Article 28ZC.]

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.

Changes and effects yet to be applied to :

- Sch. 4C para. 3(1)(b)(i) and word repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(c)(ii)
- Sch. 4C para. 3(3) repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(c)(ii)
- Sch. 4C para. 1(a) words repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(c)(i)
- Sch. 4C para. 2(1)(a) words repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(c)(i)
- Sch. 4C para. 4(1)(a)(i) words repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(c)(iii)
- Sch. 4C para. 6(1)(b)(ii) (iii) words repealed by 2008 c. 10 (N.I.) Sch. 4 para. 1(29)(c)(iii)

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.))