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STATUTORY INSTRUMENTS

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**1995 No. 2702**

**The Child Support (Northern Ireland) Order 1995**

*Miscellaneous*

**Child support maintenance: arrears and overpayments**

16. In the Order of 1991, after Article 38 there shall be inserted—

**“Arrears: alternative to interest payments**

**38A.**—(1) The Department may by regulations make provision for the payment by absent parents who are in arrears with payments of child support maintenance of sums determined in accordance with the regulations.

(2) A sum payable under any such regulations is referred to in this Article as an “additional sum”.

(3) Any liability of an absent parent to pay an additional sum shall not affect any liability of his to pay the arrears of child support maintenance concerned.

(4) The Department shall exercise its powers under this Article and those under Article 38(3) in such a way as to ensure that no absent parent is liable to pay both interest and an additional sum in respect of the same period (except by reference to different maintenance assessments).

(5) Regulations under paragraph (1) may, in particular, make provision—

- (a) as to the calculation of any additional sum;
- (b) as to the time at which, and person to whom, any additional sum shall be payable;
- (c) as to the circumstances in which, in a case where the Department has been acting under Article 9, any additional sum may be retained by it;
- (d) for the Department, in a case where it has been acting under Article 9 and in such circumstances as may be prescribed, to waive any additional sum (or part of any additional sum).

(6) The provisions of this Order with respect to—

- (a) the collection of child support maintenance;
- (b) the enforcement of any obligation to pay child support maintenance,

shall apply equally to additional sums payable by virtue of regulations made under this Article.

(7) Any sum retained by the Department by virtue of this Article shall be paid by the Department into the Consolidated Fund.

### **Repayment of overpaid child support maintenance**

**38B.**—(1) This Article applies where it appears to the Department that an absent 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 absent parent to recover the amount of overpayment by way of an adjustment of the amount payable under a maintenance assessment; or
- (b) it would be inappropriate to rely on an adjustment of the amount payable under a maintenance assessment as the means of enabling the absent parent to recover the amount of the overpayment.

(2) The Department may make such payment to the absent 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 absent parent concerned to the person with care concerned, or again becomes so payable.

(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.

(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.”