

SCHEDULES

SCHEDULE 3

Minor and Consequential Amendments

Child Support (Northern Ireland) Order 1991 (NI 23)

1. The Order of 1991 shall be amended as follows.
2. In Article 2(2) (interpretation)—
 - (a) insert the following definitions in the appropriate places—
 - ““application for a departure direction” means an application under Article 28A;
 - “current assessment”, in relation to an application for a departure direction, means (subject to any regulations made under paragraph 10 of Schedule 4A) the maintenance assessment with respect to which the application is made;
 - “departure direction” has the meaning given in Article 28A; and
 - “parent with care” means a person who is, in relation to a child, both a parent and a person with care;”;
 - (b) in the definition of “benefit Acts” for “Social Security (Northern Ireland) Acts 1975 to 1991” substitute “Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security Administration (Northern Ireland) Act 1992”.
- 3.—(1) In Article 16 (information required by the Department), after paragraph (1) insert—

“(1A) Regulations under paragraph (1) may make provision for notifying any person who is required to furnish any information or evidence under the regulations of the possible consequences of failing to do so.”

(2) In Article 16, after paragraph (2) insert—

“(2A) Where the Department has in its possession any information acquired by it in connection with its functions under this Order, it may—

 - (a) make use of that information for purposes of any of the benefit Acts or of the Jobseekers (Northern Ireland) Order 1995; or
 - (b) disclose it to the Secretary of State for purposes of any enactment corresponding to any of those Acts or to that Order, and having effect with respect to Great Britain.”
4. In Article 20 (review of decisions by child support officers), after paragraph (6)(b) insert “or”.
5. In Article 22 (appeals to child support appeal tribunals), after paragraph (2) insert—

“(2A) A tribunal hearing an appeal under this Article may, at the request of any party to the appeal, take into account—

 - (a) any later maintenance assessment made with respect to the same parties;
 - (b) any change in the circumstances of the case.”

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6. In Article 23 (1) (functions of child support appeal tribunals), add at the end “and have such other functions as are conferred by this Order”.

7.—(1) Article 25 (appeal to Child Support Commissioner) shall be amended as follows.

(2) After paragraph (1) insert—

“(1A) The Department may appeal to a Child Support Commissioner on a question of law in relation to any decision of a child support appeal tribunal made in connection with an application for a departure direction.”

(3) In paragraph (3), for sub-paragraph (c) substitute—

“(c) on an appeal by the Department, refer the case to a child support appeal tribunal with directions for its determination; or

(d) on any other appeal, refer the case to a child support officer or, if he considers it appropriate, to a child support appeal tribunal with directions for its determination.”

8. In Article 30 (collection and enforcement of maintenance payments other than child support maintenance), at the end add—

“(4A) Regulations made under paragraph (1) or (2) prescribing payments which may be collected by the Department may make provision for the payment to the Department by such person or persons as may be prescribed of such fees as may be prescribed.”

9. In Article 38 (retention by Department of arrears recovered by it in benefit cases) for paragraph (2) substitute—

“(2) Where the Department recovers any such arrears it may, in such circumstances as may be prescribed and to such extent as may be prescribed, retain them if it is satisfied that the amount of any benefit paid to or in respect of the person with care of the child or children in question would have been less had the absent parent made the payment or payments of child support maintenance in question.

(2A) In determining for the purposes of paragraph (2) whether the amount of any benefit paid would have been less at any time than the amount which was paid at that time, in a case where the maintenance assessment had effect from a date earlier than that on which it was made, the assessment shall be taken to have been in force at that time.”

10. In Article 43(5) (circumstances in which a child support officer may give a reduced benefit direction), after “may” insert “, except in prescribed circumstances,”.

11. In Article 44 (fees), in paragraph (1) after “takes” insert “, or proposes to take,”.

12. In Article 45 (conduct of proceedings), for “person authorised” substitute “officers of the Department who is authorised”.

13. In Article 48(2) (statutory rules subject to confirmatory procedure)—

(a) after “14(2),” insert “28C(2)(b), 28F(3), 30(4A)”;

(b) after “or (4)” insert “38A 38B(6)”;

(c) after “Schedule 1” insert “or under Schedule 4B”.

14. In paragraph 2 of Schedule 3 (constitution of child support appeal tribunals), add at the end—

“(4) This paragraph is subject to the provisions of any regulations made under paragraph 9 of Schedule 4A.”

15. In Schedule 4 (matters concerning Child Support Commissioners), after paragraph 3 insert—

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“Expenses of persons required to attend proceedings

3A.—(1) The Lord Chancellor may pay to any person required to attend at any proceedings before a Child Support Commissioner such travelling and other allowances as, with the consent of the Treasury, he may determine.

(2) In sub-paragraph (1), references to travelling and other allowances include references to compensation for loss of remunerative time.

(3) No compensation for loss of remunerative time shall be paid to any person under this paragraph in respect of any time during which he is in receipt of other remuneration so paid.”