
DRAFT STATUTORY INSTRUMENTS

2015 No.

The Welfare Reform (Northern Ireland) Order 2015

PART 7

Miscellaneous

Child support maintenance

Supporting maintenance agreements

126.—(1) In Article 11 of the Child Support (Northern Ireland) Order 1991 (maintenance agreements), after paragraph (2) insert—

“(2A) The Department may, with a view to reducing the need for applications under Article 7—

- (a) take such steps as it considers appropriate to encourage the making and keeping of maintenance agreements, and
- (b) in particular, before accepting an application under that Article, invite the applicant to consider with the Department whether it is possible to make such an agreement.”

(2) In Schedule 2 to the Child Maintenance Act (Northern Ireland) 2008 (maintenance calculations: transfer of cases to new rules), in paragraph 3, after sub-paragraph (2) insert—

“(3) The Department may before accepting an application required by provision under sub-paragraph (2)(b) invite the applicant to consider with the Department whether it is possible to make a maintenance agreement (within the meaning of Article 11 of the Child Support Order).”

Collection of child support maintenance

127.—(1) The Child Support (Northern Ireland) Order 1991 is amended as follows.

(2) In Article 7 (child support maintenance)—

- (a) in paragraph (2), the words from “or” to “made” are repealed;
- (b) after paragraph (2) insert—

“(2A) The Department may only make arrangements under paragraph (2)(a) if—

- (a) the non-resident parent agrees to the arrangements, or
- (b) the Department is satisfied that without the arrangements child support maintenance is unlikely to be paid in accordance with the calculation.”

(3) In Article 29 (collection of child support maintenance), in paragraph (1) after “may” insert “(subject to Article 7(2A))”.

Indicative maintenance calculations

128. After Article 11 of the Child Support (Northern Ireland) Order 1991 insert—

“Maintenance agreements: indicative calculations

11A.—(1) A person with care or non-resident parent in relation to any qualifying child or qualifying children may apply to the Department for an indicative calculation with respect to that child or any of those children.

(2) An indicative calculation is a calculation of the amount of child support maintenance which the Department considers would in accordance with Article 13 be fixed by a maintenance calculation if such a calculation were made with respect to the child or children in question.

(3) An indicative calculation does not create any liability on any person to pay child support maintenance.

(4) The Department may limit the number of applications it will accept under this Article in any particular case in such manner as it thinks fit.

(5) Where a person who is alleged to be the parent of a child with respect to whom an application for an indicative calculation has been made denies being one of the child’s parents, the Department shall not make the indicative calculation on the assumption that the person is one of the child’s parents unless the case falls within paragraph (b) of Case A3 in Article 27(2).”

Recovery of child support maintenance by deduction from benefit

129. In Article 40 of the Child Support (Northern Ireland) Order 1991 (as substituted by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000), for paragraphs (1) and (2) substitute—

“(1) 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) of that section may be exercised with a view to securing the making of payments in respect of child support maintenance by a non-resident parent.

(2) The reference in paragraph (1) to the making of payments in respect of child support maintenance includes the recovery of—

(a) arrears of child support maintenance; and

(b) fees payable under section 3 of the Child Maintenance Act (Northern Ireland) 2008.”

Fees

130.—(1) Section 3 of the Child Maintenance Act (Northern Ireland) 2008 (fees) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (d), at the end insert “(including provision for the apportionment of fees and the matters to be taken into account in determining an apportionment)”;

(b) in paragraph (g) “waiver,” is repealed;

(c) after paragraph (g) insert—

“(h) about waiver of fees (including the matters to be taken into account in determining a waiver).”

(3) After subsection (3) insert—

“(3A) The Department must review the effect of the first regulations made under subsection (1).

(3B) The review must take place before the end of the period of 30 months beginning with the day on which those regulations come into operation.

(3C) After the review, the Department must make and publish a report containing—

(a) the conclusions of the review; and

(b) a statement as to what the Department proposes to do in view of those conclusions.

(3D) The report must be laid before the Assembly by the Department.”

Exclusion from individual voluntary arrangements

131. In the Insolvency (Northern Ireland) Order 1989, in Article 9 (interpretation), at the end insert—

“(5) Liability under the Child Support (Northern Ireland) Order 1991 to pay child support maintenance to any person is not a debt or liability for the purposes of Part 8.”

Employment and training

Use of jobcentres by sex industry

132. In the Employment and Training Act (Northern Ireland) 1950, after section 1 (duty of Department to make arrangements as to employment and training) insert—

“Restriction on section 1 arrangements: sex industry

1A.—(1) Arrangements made by the Department under section 1 may not include arrangements in respect of employment for sexual purposes.

(2) For the purposes of this section employment is for sexual purposes if—

(a) it involves the employee engaging in an activity, and

(b) the employee’s activity, or the way in which it is performed, may reasonably be assumed to be intended solely or principally to stimulate one or more other persons sexually (by whatever means).

(3) The Department may by order subject to negative resolution specify exceptions to subsection (1).”

Reduced dog licence fees for those in receipt of income-related benefits

Reduced fee for dog licences

133.—(1) The Dogs (Northern Ireland) Order 1983 is amended as follows.

(2) In Article 7 (fees for dog licences)—

(a) for paragraph (3)(b) substitute—

“(b) a licence issued to a person who at the time of the application for the licence is—

(i) in receipt of an income-related benefit, or

(ii) a member of a couple in receipt of an income-related benefit;”.

(b) after paragraph (9), insert—

“(10) In this Article “income-related benefit” means—

- (a) universal credit under the Welfare Reform (Northern Ireland) Order 2015;
- (b) state pension credit under the State Pension Credit Act (Northern Ireland) 2002;
- (c) income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (d) housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (e) income-based jobseekers allowance under the Jobseeker’s (Northern Ireland) Order 1995;
- (f) income-related employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007;
- (g) working tax credit under the Tax Credits Act 2002.”

Rate relief schemes: application of housing benefit law

Rate relief schemes: application of housing benefit law

134. In Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief scheme in respect of dwellings) in paragraph (3) for sub-paragraph (a) substitute—

- “(a) provision for purposes corresponding to those of any statutory provision—
- (i) which has any application in relation to housing benefit or universal credit; or
 - (ii) which, at any time specified in the regulations (being a time before the coming into operation of the regulations), had any application in relation to housing benefit;”.

Discretionary support

Discretionary support

135.—(1) The Department may, in accordance with regulations under this Article—

- (a) make payments by way of grant or loan to prescribed persons;
- (b) provide, or arrange for the provision of, goods or services to prescribed persons.

(2) Anything done under paragraph (1)(a) or (b) is referred to in this Article as the provision of discretionary support.

(3) Regulations may make provision—

- (a) for the Department to provide discretionary support only in prescribed circumstances;
- (b) conferring a discretion on the Department (subject to any provision made by virtue of sub-paragraph (c) or (d))—
 - (i) as to whether or not to provide discretionary support in a particular case, and
 - (ii) as to the nature of the discretionary support and (in the case of support by way of payments) as to the amount of the payments and the period for or in respect of which they are made;

- (c) imposing a limit on the amount of the discretionary support that the Department may make in any particular case;
- (d) restricting the period for or in respect of which the Department may provide discretionary support in any particular case;
- (e) for claims for discretionary support to be made in the prescribed form and manner and for the procedure to be followed in dealing with and disposing of such claims;
- (f) imposing conditions on persons claiming or receiving discretionary support requiring them to provide to the Department such information as may be prescribed;
- (g) for the disclosure of information relating to discretionary support in prescribed circumstances or to prescribed persons;
- (h) authorising the Department in prescribed circumstances to recover by prescribed means discretionary payments made under this Article;
- (i) requiring or authorising reviews (whether by the Department or a prescribed person) of decisions made by the Department with respect to the provision of discretionary support or the recovery of payments made under this Article;
- (j) for such other matters as appear to the Department to be necessary or expedient in connection with the provision of discretionary support, including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.

(4) In this Article “prescribed” means prescribed by, or determined in accordance with, regulations under this Article.

(5) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(6) The Department shall, in respect of each financial year, prepare and lay before the Assembly a report on the operation of regulations made under this Article.

Discretionary support Commissioner

136.—(1) There shall be an officer known as “the discretionary support Commissioner”.

(2) The discretionary support Commissioner shall be appointed by the Department on such terms and conditions as the Department may determine.

(3) The discretionary support Commissioner—

- (a) shall appoint such discretionary support inspectors, and
- (b) may appoint such staff for the Commissioner and for discretionary support inspectors,

as the Commissioner thinks fit but with the consent of the Department.

(4) Appointments under paragraph (3) shall be made from persons made available to the Commissioner by the Department.

(5) Discretionary support inspectors have such functions as are conferred or imposed on them—

- (a) by regulations under Article 135, or
- (b) by any other statutory provision,

in relation to the review of decisions of the Department.

(6) It shall be the duty of the discretionary support Commissioner—

- (a) to monitor the quality of decisions of discretionary support inspectors and give them such advice and assistance as the Commissioner thinks fit to improve the standard of their decisions;

- (b) to arrange such training of discretionary support inspectors as the Commissioner considers necessary;
 - (c) to carry out such other functions in connection with the work of discretionary support inspectors as the Department may require;
 - (d) to report annually in writing to the Department on the standards of reviews by discretionary support inspectors.
- (7) The Department shall publish any report made under paragraph (6)(d).
- (8) In Part 1 of Schedule 4 to the Administration Act after the entries under the heading “The social fund” insert—

“Discretionary support officers

The discretionary support Commissioner.

A discretionary support inspector.

A member of any staff appointed under Article 136(3)(b) of the Welfare Reform (Northern Ireland) Order 2015.”

(9) In the Freedom of Information Act 2000, in Part 7 of Schedule 1 after the entry relating to the social fund Commissioner insert—

“The discretionary support Commissioner appointed under Article 136 of the Welfare Reform (Northern Ireland) Order 2015.”

Payments to persons suffering financial disadvantage

Payments to persons suffering financial disadvantage

137.—(1) The purpose of this Article is to enable the Department to make payments to persons who suffer financial disadvantage as a result of the changes to social security benefits and tax credits contained in this Order and the Welfare Reform Act 2012.

(2) The Department may by regulations make provision for the purpose mentioned in paragraph (1).

(3) Regulations under this Article may in particular make provision—

- (a) for determining whether a person has suffered financial disadvantage as a result of the changes mentioned in paragraph (1) and, if so, the amount of that disadvantage;
- (b) for determining eligibility for payments, including provision for payments to be made only in prescribed circumstances or only to persons who meet prescribed conditions;
- (c) for determining—
 - (i) the amount of payments;
 - (ii) the period or periods for or in respect of which payments are to be made;
- (d) for claims for payments to be made in prescribed cases and in the prescribed form and manner and for the procedures to be followed in dealing with and disposing of such claims;
- (e) for payments to be made in prescribed cases without any claim being made;
- (f) imposing conditions on persons claiming or receiving payments, including conditions requiring them to provide to the Department such information as may be prescribed;
- (g) for payments to cease to be made in prescribed circumstances;
- (h) for the disclosure of information relating to payments in prescribed circumstances or to prescribed persons;

- (i) for the recovery of payments by the Department in prescribed circumstances;
 - (j) requiring or authorising reviews (whether by the Department or by prescribed persons) of decisions made by the Department with respect to the making or recovery of payments;
 - (k) imposing functions on a statutory body other than the Department in connection with the administration of the regulations;
 - (l) for such other matters as appear to the Department to be necessary or appropriate in connection with the making of payments including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.
- (4) The Department shall, in respect of each financial year in which payments are made, prepare and lay before the Assembly a report on the payments made in that year.
- (5) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.
- (6) If regulations under this Article impose functions on any statutory body other than the Department, the Department must consult that body before making the regulations.
- (7) A power conferred by this Article to make regulations includes power—
- (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Department to be necessary or expedient for the purposes of those regulations;
 - (b) to provide for the Department to exercise a discretion in dealing with any matter.
- (8) In this Article—
- “prescribed” means prescribed by regulations under this Article;
 - “payment” means a payment under this Article;
 - “statutory body” means a body established by or under a statutory provision.

Duties of the Department

Duty to ensure availability of advice and assistance

138. The Department must ensure that advice and assistance are made available free of charge to persons making a claim under this Order in connection with that claim.

Duty to report on operation of this Order

139.—(1) The Department must, not later than 3 years after this Order is made, publish a report on the operation of this Order.

(2) The Department must lay the report before the Assembly.