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SCHEDULES

SCHEDULE 3

AMENDMENT OF STATUTORY PROVISIONS RELATING TO CHILD SUPPORT

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

11. For “absent parent” or “absent parent's”, wherever they occur, there shall be substituted “non-resident parent” or “non-resident parent's” preceded, where appropriate, by “a” instead of “an”.

12. In Article 2(2) (interpretation)—

- (a) in the definition of “application for a departure direction” for “departure direction” there shall be substituted “variation” and after “28A” there shall be inserted “or 28G”;
- (b) the definitions of “assessable income”, “current assessment”, “departure direction” and “maintenance requirement” shall cease to have effect;
- (c) after the definition of “deduction from earnings order” there shall be inserted—

““default maintenance decision” has the meaning given in Article 14;”;
- (d) in the definition of “interim maintenance assessment” for “assessment” there shall be substituted “decision”;
- (e) for the definition of “maintenance assessment” there shall be substituted—

““maintenance calculation” means a calculation of maintenance made under this Order and, except in prescribed circumstances, includes a default maintenance decision and an interim maintenance decision;”;

and
- (f) after the definition of “statutory provision” there shall be added—

““voluntary payment” has the meaning given in Article 28J.”.

13. In Article 7 (child support maintenance)—

- (a) in paragraph (4)(a), after “be” there shall be inserted “identified or”; and
- (b) in paragraph (9), after “an application” there shall be inserted “treated as made”.

14. In Article 10 (role of the courts with respect to maintenance for children)—

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- (a) in paragraph (1), after “duly made” there shall be inserted “or treated as made”;
 - (b) in paragraph (3), at the beginning there shall be inserted “Except as provided in paragraph (3A),”;
 - (c) for paragraph (3A) there shall be substituted—
 - “(3A) Unless a maintenance calculation has been made with respect to the child concerned, paragraph (3) does not prevent a court from varying a maintenance order in relation to that child and the non-resident parent concerned—
 - (a) if the maintenance order was made on or after the date prescribed for the purposes of Article 7(10)(a); or
 - (b) where the order was made before then, in any case in which Article 7(10) prevents the making of an application for a maintenance calculation with respect to or by that child.”; and
 - (d) in paragraph (6), for sub-paragraph (b) there shall be substituted—
 - “(b) the non-resident parent’s net weekly income exceeds the figure referred to in paragraph 10(3) of Schedule 1 (as it has effect from time to time pursuant to regulations made under paragraph 10A(1)(b)); and”.
- 15.** In Article 11 (agreements about maintenance), in paragraph (6), for sub-paragraphs (a) and (b) there shall be substituted—
 - “(a) no parent has been treated under Article 9(3) as having applied for a maintenance calculation with respect to the child; or
 - (b) a parent has been so treated but no maintenance calculation has been made.”.
- 16.** In Article 16 (information required by the Department), in paragraph (1), after “any application” there shall be inserted “made or treated as made”.
- 17.** In Article 27 (disputes about parentage), in paragraph (1), after “made” there shall be inserted “or treated as made”.
- 18.** In Article 27A (recovery of fees for scientific tests)—
 - (a) in paragraph (1)(a), after “made” there shall be inserted “or treated as made”; and
 - (b) in paragraph (1)(b), after “made” there shall be inserted “or, as the case may be, treated as made”.
- 19.** In Article 28ZA (decisions involving issues that arise on appeal in other cases), in paragraph (1)—

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- (a) in sub-paragraph (a), for “in relation to a maintenance assessment” there shall be substituted “or with respect to a reduced benefit decision under Article 43”; and
- (b) in sub-paragraph (b), for “maintenance assessment” there shall be substituted “matter”.

20. In Article 28ZB (appeals involving issues that arise on appeal in other cases)

- (a) in paragraph (1), for sub-paragraph (a) there shall be substituted—
 - “(a) an appeal (“appeal A”) in relation to a decision or the imposition of a requirement falling within Article 22(1) is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner;” and
- (b) in paragraph (4), for “or assessment” there shall be substituted “or the imposition of the requirement”.

21. In Article 28ZC (restrictions on liability in certain cases of error)—

- (a) in paragraph (1)(b)(i), at the end there shall be added “or one treated as having been so made, or under Article 43 as to the reduction of benefit”;
- (b) in paragraph (1)(b)(ii), for the words from “a decision” to the end there shall be substituted “any decision (made after the commencement date) referred to in Article 18(1A)”;
- (c) in paragraph (1)(b)(iii), for the words from “a decision” to the end there shall be substituted “any decision (made after the commencement date) referred to in Article 19(1)”;
- (d) in paragraph (3), after “liability” there shall be inserted “or the reduction of a person’s benefit”; and
- (e) in paragraph (6), in the definition of “adjudicating authority”, at the end there shall be added “or, in the case of a decision made on a referral under Article 28D(1)(b), an appeal tribunal”.

22. Articles 28H (departure directions: decisions and appeals) and 28I (transitional provisions) shall cease to have effect.

23. In Article 30 (collection and enforcement of other forms of maintenance), for paragraph (2) there shall be substituted—

“(2) The Department may, except in prescribed cases, arrange for the collection of any periodical payments, or secured periodical payments, of a prescribed kind which are payable for the benefit of a child even though the Department is not arranging for the collection of child support maintenance with respect to that child.”.

24. In Article 32 (regulations about deduction from earnings orders), in paragraph (2), after sub-paragraph (b) there shall be inserted—

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“(bb) for the amount or amounts which are to be deducted from the liable person’s earnings not to exceed a prescribed proportion of his earnings (as determined by the employer);”.

25. In Article 33 (liability orders), after paragraph (4) there shall be added—

“(5) Where regulations have been made under Article 29(3)(a)—

(a) the liable person fails to make a payment (for the purposes of paragraph (1)(a)); and

(b) a payment is not paid (for the purposes of paragraph (3)),

unless the payment is made to, or through, the person specified in or by virtue of those regulations for the case of the liable person in question.”.

26. In Article 44 (fees), after paragraph (2) there shall be added—

“(3) 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 (with any necessary modifications) to fees payable by virtue of regulations made under this Article.”.

27. In Article 47 (supplementary powers to make regulations), in paragraph (2)

(a) for sub-paragraph (a)(ii) and (iii) there shall be substituted—

“(ii) the making of decisions under Article 13;

(iii) the making of decisions under Article 18 or 19;”;

(b) for sub-paragraph (b) there shall be substituted—

“(b) extending the categories of case to which Article 18, 19 or 22 applies;”.

28. In Schedule 1 (maintenance assessments)—

(a) paragraph 13 (assessments where amount of child support is nil) shall cease to have effect;

(b) in paragraph 14 (consolidated applications and assessments), the existing text shall be sub-paragraph (1) of that paragraph, and after that sub-paragraph there shall be added—

“(2) In sub-paragraph (1), the references (however expressed) to applications for maintenance calculations include references to applications treated as made.”; and

(c) in paragraph 16 (termination of assessments)—

(i) in sub-paragraph (1), heads (d) and (e) shall cease to have effect;

(ii) sub-paragraphs (2) to (10) shall cease to have effect; and

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(iii) in sub-paragraph (11), the words “, or should be cancelled” shall cease to have effect.