

Status: Point in time view as at 16/05/2014.

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2000 CHAPTER 4

PART I CHILD SUPPORT

Miscellaneous

Voluntary payments

19.—(1) After Article 28I of the Child Support Order there shall be inserted—

“Voluntary payments

Voluntary payments

28J.—(1) This Article applies where—

- (a) a person has applied for a maintenance calculation under Article 7(1), or is treated as having applied for one by virtue of Article 9;
- (b) the Department has neither made a decision under Article 13 or 14 on the application, nor decided not to make a maintenance calculation; and
- (c) the non-resident parent makes a voluntary payment.

(2) A voluntary payment is a payment—

- (a) on account of child support maintenance which the non-resident parent expects to become liable to pay following the determination of the application (whether or not the amount of the payment is based on any estimate of his potential liability which the Department has agreed to give); and

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- (b) made before the maintenance calculation has been notified to the non-resident parent or (as the case may be) before the Department has notified the non-resident parent that it has decided not to make a maintenance calculation.
- (3) In such circumstances and to such extent as may be prescribed—
 - (a) the voluntary payment may be set off against arrears of child support maintenance which accrued by virtue of the maintenance calculation taking effect on a date earlier than that on which it was notified to the non-resident parent;
 - (b) the amount payable under a maintenance calculation may be adjusted to take account of the voluntary payment.
- (4) A voluntary payment shall be made to the Department unless it agrees, on such conditions as it may specify, that that payment may be made to the person with care, or to or through another person.
- (5) The Department may by regulations make provision as to voluntary payments, and the regulations may in particular—
 - (a) prescribe what payments or descriptions of payment are, or are not, to count as voluntary payments;
 - (b) prescribe the extent to which and circumstances in which a payment, or a payment of a prescribed description, counts.”.
- (2) Article 38B of the Child Support Order (repayment of overpaid child support maintenance) shall be amended as follows.
- (3) After paragraph (1) there shall be inserted—
 - “(1A) This Article also applies where the non-resident parent has made a voluntary payment and it appears to the Department—
 - (a) that he is not liable to pay child support maintenance; or
 - (b) that he is liable, but some or all of the payment amounts to an overpayment,and, in a case falling within sub-paragraph (b), it also appears to the Department that paragraph (1)(a) or (b) applies.”.
- (4) For paragraph (7) there shall be substituted—
 - “(7) For the purposes of this Article—
 - (a) a payment made by a person under a maintenance calculation which was not validly made; and
 - (b) a voluntary payment made in the circumstances set out in paragraph (1A)(a),shall be treated as overpayments of child support maintenance made by a non-resident parent.”.

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Recovery of child support maintenance by deduction from benefit

20. For Article 40 of the Child Support Order (contribution to maintenance by deduction from benefit) there shall be substituted—

“Recovery of child support maintenance by deduction from benefit

40.—(1) This Article applies where—

- (a) a non-resident parent is liable to pay a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1; and
- (b) such conditions as may be prescribed for the purposes of this Article are satisfied.

(2) 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) (deductions from benefits) may be exercised in relation to cases to which this Article applies with a view to securing that payments in respect of child support maintenance are made or that arrears of child support maintenance are recovered.

(3) For the purposes of this Article, the benefits to which section 5 of that Act applies shall be taken as including war disablement pensions and war widows' pensions (within the meaning of section 146(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (interpretation)).”.

Jurisdiction

21.—(1) Article 41 of the Child Support Order (jurisdiction) shall be amended as follows.

(2) In paragraph (1), after United Kingdom there shall be added “, except in the case of a non-resident parent who falls within paragraph (2A)”.

(3) After paragraph (2) there shall be inserted—

“(2A) A non-resident parent falls within this paragraph if he is not habitually resident in the United Kingdom, but is—

- (a) employed in the civil service of the Crown, including Her Majesty's Diplomatic Service and Her Majesty's Overseas Civil Service;
- (b) a member of the naval, military or air forces of the Crown, including any person employed by an association established for the purposes of Part XI of the Reserve Forces Act 1996;

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- (c) employed by a company of a prescribed description registered under the Companies (Northern Ireland) Order 1986 or under the Companies Act 1985 in England and Wales or in Scotland; or
 - (d) employed by a body of a prescribed description.” .
- (4) Paragraph (3) shall cease to have effect.

Abolition of the child maintenance bonus

22. Article 4 of the Child Support (Northern Ireland) Order 1995 (NI 13) (the child maintenance bonus) shall cease to have effect.

Commencement Information

- II** S. 22 wholly in operation at 27.10.2008; s. 22 not in operation at Royal Assent see s. 68(2); s. 22 in operation for certain purposes at different dates by S.R. 2003/53, art. 6 (as substituted by S.R. 2003/92, art. 2); s. 22 in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/402, art. 2(c)

Periodical reviews

23. Article 3(3) of the Social Security (1998 Order) (Commencement No. 2) Order (Northern Ireland) 1998 (No. 395 (C. 19)) (which saved Article 18 of the Child Support Order for certain purposes) is revoked; and accordingly Article 18 shall cease to have effect for all purposes.

Regulations

24.—(1) In Article 48 of the Child Support Order (regulations and orders), for paragraph (2) there shall be substituted—

“(2) A statutory rule containing (whether alone or with other provisions) regulations made under—

- (a) Article 9(1), 14(4) (so far as the regulations make provision for the default rate of child support maintenance mentioned in Article 14(5)(b)), 28C(2)(b), 28F(2)(b), 30(4A), 38(2), 38A, 38B(6), 40(1), 41(2A)(d), 43 or 44;
- (b) paragraph 3(2) or 10A(1) of Part I of Schedule 1; or
- (c) Schedule 4B,

shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

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(2A) A statutory rule containing (whether alone or with other provisions) the first set of regulations made under paragraph 10(1) of Part I of Schedule 1 (as substituted by section 1(3) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000) shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.” .

(2) In Article 48(3)(a) of that Order after paragraph (2) there shall be inserted “or (2A)”.

Commencement Information

I2 S. 24 in operation at 16.5.2014 in so far as not already in operation by S.R. 2014/138, art. 2

Section 25—Amendments

Temporary compensation payment scheme

26.—(1) This section applies where—

- (a) a maintenance assessment is made before a prescribed date following an application for one under Article 7 or 9 of the Child Support Order; or
- (b) a fresh maintenance assessment has been made following either a periodic review under Article 18 of the Child Support Order or a review under Article 19 of that Order (as they had effect before their substitution by Article 40 or 41 respectively of the Social Security (Northern Ireland) Order 1998 (NI 10)) (in this Act referred to as the 1998 Order),

and the effective date of the assessment is earlier than the date on which the assessment was made, with the result that arrears of child support maintenance have become due under the assessment.

(2) The Department may by regulations provide for this section to have effect as if it were modified so as—

- (a) to apply to cases of arrears of child support maintenance having become due additional to those referred to in subsection (1);
- (b) not to apply to any such case as is referred to in subsection (1).

(3) If this section applies, the Department may in prescribed circumstances agree with the absent parent, on terms specified in the agreement, that—

- (a) the absent parent shall not be required to pay the whole of the arrears, but only some lesser amount; and

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(b) the Department shall not, while the agreement is complied with, take action to recover any of the arrears.

(4) The terms which may be specified shall be prescribed by or determined in accordance with regulations made by the Department.

(5) ^{F1} An agreement may be entered into only if it is made before 1st April 2002 and expires before 1st April 2003.

(6) If the absent parent enters into such an agreement, the Department may, while the absent parent complies with it, refrain from taking action under the Child Support Order to recover the arrears.

(7) On the expiry of the agreement, if the absent parent has complied with it—

(a) he ceases to be liable to pay the arrears; and

(b) the Department may make payments of such amounts and at such times as it may determine to the person with care.

(8) If the absent parent fails to comply with the agreement he shall become liable to pay the full amount of any outstanding arrears (as well as any other amount payable in accordance with the assessment).

(9) The Department may by regulations provide for this section to have effect as if there were substituted for the dates in subsection (5) such later dates as shall be prescribed.

(10) In this section, prescribed means prescribed by regulations made by the Department.

(11) Regulations under subsection (9) shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly; but otherwise regulations under this section shall be subject to negative resolution.

F1 mod. by SR 2002/247

Pilot schemes

^{F2}27.

F2 S. 27 (never in operation) repealed (29.7.2013) by [Child Maintenance Act \(Northern Ireland\) 2008 \(c. 10\)](#), s. 41(1), [Sch. 5](#); S.R. 2013/201, art. 2(2)

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Transitional provisions, savings, etc.

28.—(1) The Department may by regulations make such transitional and transitory provisions, and such incidental, supplementary, savings and consequential provisions, as it considers necessary or expedient in connection with the coming into operation of this Part or any provision of it.

(2) The regulations may, in particular—

- (a) provide for the amount of child support maintenance payable by or to any person to be at a transitional rate (or more than one such rate successively) resulting from the phasing-in by way of prescribed steps of any increase or decrease in the amount payable following the coming into operation of this Part or any provision of it;
- (b) provide for a departure direction or any finding in relation to a previous determination of child support maintenance to be taken into account in a decision as to the amount of child support maintenance payable by or to any person.

(3) Article 74(3), (4) and (6) of the 1998 Order (regulations and orders) shall apply to any power to make regulations under this section as it applies to any power to make regulations under that Order.

(4) Regulations under this section shall be subject to negative resolution.

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