

These notes refer to the Child Maintenance Act (Northern Ireland) 2008 (c.10) which received Royal Assent on 2 July 2008

Child Maintenance Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Child Support etc.

Maintenance calculations

Section 8: Changes to the calculation of maintenance

This section introduces *Schedule 1* which amends legislation regarding how maintenance calculations are performed. Changes to how maintenance is calculated include:

- A move from using net to using gross weekly income to determine maintenance liability. Information required to calculate maintenance will be taken directly from Revenue and Customs instead of the non-resident parent.
- Changes to the percentages used to calculate basic rate maintenance.
- Treating certain existing child maintenance obligations which fall outside of the statutory scheme, as though they were within the scheme, for the purposes of calculating liability.
- An increase in flat rate maintenance from £5 to £7 per week.

Section 9: Power to regulate supersession

This section replaces Articles 19(2) and 19(3) of the Child Support (Northern Ireland) Order 1991. Article 19 allows a maintenance decision to be superseded by a new decision, where, for example, there has been a change of circumstances.

These changes provide a regulation-making power to the Department in relation to the supersession of decisions.

Newparagraph (3) sets out that regulations may include:

- Provision about the cases and circumstances in which a decision may be superseded, which may include a restriction on superseding a decision as a result of certain changes of circumstance. This change enables the introduction of fixed term annual awards, where a change in circumstance will only be actioned

during the year if there has been a large change in income, or where the change is fundamental to the maintenance calculation. This will also enable regulations to contain provisions which set out the circumstances in which earlier changes of circumstances (which had not led to a supersession) can be taken into account.

- Procedural aspects of supersessions.

Section 10: Determination of applications for a variation

This section introduces two new paragraphs, (2A) and (2B), to Article 28D of the Child Support (Northern Ireland) Order 1991. Presently, either the parent with care or the non-resident parent may apply to the Department for a variation of maintenance. However, the Department may not necessarily proceed to make further enquiries to examine the circumstances surrounding the application. The new paragraphs will place a duty on the Department to carry out investigations where, on an application by the parent with care, it is clear that further enquiries would help the Department to decide if a variation should be given.

Section 11: Transfer of cases to new rules

This section introduces *Schedule 2* which makes provision for the movement of existing cases onto the new calculation rules. The Department may require the parties in existing cases to choose whether to remain in the statutory scheme under the new calculation rules or to leave the scheme as far as future liability is concerned.