

*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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Child Support etc.**

#### **Collection and enforcement**

#### ***Section 21: Disqualification for driving***

*Section 21* amends Article 37A of the Child Support (Northern Ireland) Order 1991, to enable the Department to make a separate application to a court of summary jurisdiction to disqualify a non-resident parent for holding or obtaining a driving licence if they fail to pay child support maintenance.

*Paragraph (A1)* of the revised *Article 37A* enables the Department to apply to a court of summary jurisdiction for an order disqualifying a non-resident parent for holding or obtaining a driving licence if:

- it has sought to recover an amount through the use of the Enforcement of Judgments Office;
- the whole or any part of the amount due remains unpaid; and
- it is of the opinion that the non-resident parent has wilfully refused or culpably neglected to pay maintenance.

*Paragraph (A2)* provides that the court may specify the length of the disqualification order, but that it will not exceed two years.

*Paragraph (A3)* requires the court to inquire about (in the presence of the non-resident parent against whom the liability order has been made) whether that person requires a driving licence to earn a living, that person's means, and whether they have wilfully refused or culpably neglected to pay the child support maintenance for which they are liable.

*Paragraph (A4)* prevents a court, when considering an application made under this section, from questioning the liability order on which an application has been made, or the original maintenance calculation which is the basis of the liability order.

*Paragraph (1)* provides that only if the court finds that there has been wilful refusal or culpable neglect on the part of the non-resident parent, it may make a disqualification order against the non-resident parent, or make such an order but suspend it until such time and on such conditions as it thinks just.

*Paragraph (2)* replaces paragraph (10) of Article 37A, to enable the court to order a search of a non-resident parent in respect of whom a disqualification order has been made. During a search, any money found on a non-resident parent can be taken by the court and put towards the amount specified in the order (the balance, if any, would be returned to the non-resident parent). The court is prevented from taking any money if it is satisfied that it does not belong to the non-resident parent.