

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.

Collection and enforcement

Section 20: Commitment to prison

Section 20 inserts three new *paragraphs* (2A), (2B) and (2C) into Article 37 of the Child Support (Northern Ireland) Order 1991. These provisions will enable the Department to make a separate application to a court of summary jurisdiction to commit a non-resident parent to prison for failure to pay child support maintenance.

The new *paragraph* (2A) enables the Department to apply to a court of summary jurisdiction for the issue of a warrant committing a non-resident parent to prison 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.

New *paragraph* (2B) requires the court to inquire about (in the presence of the non-resident parent against whom the liability order has been made) that person's means, and whether they have wilfully refused or culpably neglected to pay the child support maintenance for which they are liable.

New *paragraph* (2C) prevents a court, when considering an application for committal to prison, 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 (2) of *Section 20* replaces paragraph (10) of Article 37, and provides that the court may order the search of a non-resident parent in respect of whom a

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commitment to prison 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 money if it is satisfied that it does not belong to the non-resident parent.