

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.

Miscellaneous

Section 35: Liable relative provisions: exclusion of parental duty to maintain

This section replaces subsection (3) and amends subsection (4) of section 100 of the Social Security Administration (Northern Ireland) Act 1992 (“the Administration Act”).

Section 100 provides that it is a criminal offence for a person to persistently refuse or neglect to maintain themselves or a person whom they are liable to maintain, if the result of that refusal or neglect is that income support is payable to or in respect of any of those persons. Section 74(6) of the Administration Act provides that a person is liable to maintain their spouse or civil partner, their children and sponsored immigrants. Section 101 enables the Department to apply to a court of summary jurisdiction to secure the recovery of benefit from a liable person who fails to maintain.

When income-based jobseeker’s allowance was introduced in 1996, the extent to which section 101 applied for that benefit was limited to failure to maintain spouses (and later, civil partners) only.

Under Article 9 of the Child Support (Northern Ireland) Order 1991, parents with care in receipt of income support or income-based jobseeker’s allowance were treated as having applied for child support maintenance. As a result, action to pursue maintenance for children under section 101, in order to offset income support expenditure, fell into disuse, although it is still available to pursue spousal maintenance.

Since the Act provides for the repeal of Article 9 of the Child Support (Northern Ireland) Order 1991, parents with care claiming income support or income-based jobseeker’s allowance will no longer be treated as applying for child support

maintenance and will have the freedom to make arrangements outside of the statutory scheme.

Section 100, as it currently stands, would allow the Department to pursue non-resident parents for child support maintenance where the person with care is in receipt of income support. The amendment to section 101 ensures that the legislation is consistent in its approach and allows parents to have a choice.

These amendments will result in a consistent approach to child support maintenance for both income support and income-based jobseeker's allowance.