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SCHEDULES

SCHEDULE 4

Section 38.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Child Support (Northern Ireland) Order 1991 (NI 23)

- 1.—(1) The Child Support Order is amended as follows.
 - (2) In Article 2(2) (interpretation)—
 - (a) at the appropriate places insert—
 - ““curfew order” has the meaning given in Article 36G(1);
 - “deposit taker” means a person who, in the course of a business, may lawfully accept deposits in the United Kingdom;”;
 - (b) in the definition of “liability order” for “Article 33(2)” substitute “ Article 32M(2) ”.
 - (3) In that Article, after paragraph (2) add—
 - “(3) The definition of “deposit-taker” in paragraph (2) is to be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.”.
 - (4) In Article 10 (role of the courts with respect to maintenance for children), in paragraph (6)(b) (which refers to the non-resident parent's net weekly income), for “net” substitute “ gross ”.
 - (5) In Article 22 (appeals to appeal tribunals), in paragraph (1), after sub-paragraph (b) insert—
 - “(ba) a decision of the Department to make a liability order under Article 32M;”.
 - (6) In paragraph (2) of that Article, after sub-paragraph (a) insert—
 - “(aa) in relation to sub-paragraph (ba), the person against whom the order is made;”.
 - (7) After paragraph (5) of that Article insert—
 - “(5A) An appeal lies by virtue of paragraph (1)(ba) only on the following grounds—

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- (a) that the person has not failed to pay an amount of child support maintenance;
 - (b) that the amount in respect of which the liability order is made exceeds the amount of child support maintenance which the person has failed to pay.”.
- (8) After paragraph (7) of that Article insert
- “(7A) In deciding an appeal against a decision of the Department to make a liability order, an appeal tribunal shall not question the maintenance calculation by reference to which the liability order was made.”.
- (9) In Article 30 (collection and enforcement of other forms of maintenance), in paragraph (4) for “which it is authorised to collect under this Article” substitute “for the collection of which it is authorised under this Article to make arrangements ”.
- (10) In Article 32(2)(i) (regulations about deduction from earnings orders), for “the liable person is in the employment” substitute “ any earnings are paid to the liable person by or on behalf ”.
- (11) In Article 32(7) (regulations about appeals), after “include” insert “—
- (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
 - (b)”.
- (12) For Article 35 substitute—

“Enforcement of liability orders

35 Where a liability order has been made against a person—

- (a) the order shall be enforceable by the Enforcement of Judgments Office on an application to it by the Department; and
- (b) the Judgments Enforcement (Northern Ireland) Order 1981 shall apply with the necessary modifications in relation to the amount in respect of which the order was made, to the extent that it remains unpaid, as it applies in relation to a sum due under a money judgment (within the meaning of that Order).”.

(13) For Article 36 substitute—

“Enforcement in Northern Ireland of English and Scottish liability orders

36 The Department may by regulations make provision for the enforcement in Northern Ireland of any order made in England and Wales or Scotland under provision corresponding to Article 32M or the repealed Article 33.”.

(14) At the end of Article 37 (commitment to prison), add—

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“(12) In this Article and Article 37A (except for the purposes of paragraph (8)(c) of that Article) “the court” means a court of summary jurisdiction.”.

(15) In Article 37A (disqualification for driving), in paragraph (3)(b), for “Article 36A” substitute “ this Article ”.

(16) In paragraph (7) of that Article, for “Article 36A” substitute “ this Article ”.

(17) At the end of that Article, add—

“(12) In this Article “driving licence” means a licence to drive a motor vehicle granted under Part 2 of the Road Traffic (Northern Ireland) Order 1981.”

(18) In Article 46 (unauthorised disclosure of information), in paragraph (1) (offence of unauthorised disclosure), for “this Article” substitute “ this paragraph ”.

(19) In that Article, after paragraph (1) insert—

“(1A) Paragraph (1) applies to employment as—

- (a) the Chief Child Support Officer;
- (b) any other child support officer;
- (c) any clerk to, or other officer of, an appeal tribunal or a child support appeal tribunal;
- (d) any member of the staff of such a tribunal;
- (e) a civil servant in connection with the carrying out of any functions under this Order,

and to employment of any other kind which is prescribed for the purposes of this Article.

(1B) Any person who is, or has been, employed in employment to which this paragraph applies is guilty of an offence if, without lawful authority, he discloses any information which—

- (a) was acquired by him in the course of that employment;
- (b) is information which is, or is derived from, information acquired or held for the purposes of this Order; and
- (c) relates to a particular person.

(1C) Paragraph (1B) applies to any employment which—

- (a) is not employment to which paragraph (1) applies; and
- (b) is of a kind prescribed for the purposes of this paragraph.”.

(20) In Article 48 (regulations and orders), in paragraph (2)(a) (regulations subject to confirmatory procedure)—

- (a) after “30(4A),” insert “ 32A to 32C, 32E to 32J, ”;
- (b) after “38B(6),” insert “ 38E(1)(a) ”.

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(21) In that Article, for paragraph (2A) substitute—

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

- (a) the first regulations under Article 19(2) to make provision of the kind mentioned in Article 19(3)(a) or (b);
- (b) the first regulations under Article 36F, 36L(4), 36O, 38D(2), 38E(2) or 45A;
- (c) the first regulations under paragraph 5A(6)(b) of Schedule 1;
- (d) the first regulations under paragraph 9(1)(ba) of Schedule 1 to make provision of the kind mentioned in sub-paragraph (2) of that paragraph; or
- (e) the first regulations under paragraph 10(1) of Schedule 1 to make provision of the kind mentioned in sub-paragraph (2)(a) or (b) of that paragraph

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 6 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.”.

(22) After that paragraph insert—

“(2B) A statutory rule containing (whether alone or with other provisions) regulations which by virtue of Article 47A are to have effect for a limited period 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 6 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.”.

(23) In Article 50(4) (application to Crown), for “a liable person is in the employment” substitute “any sums which are defined as earnings for the purposes of Articles 31 and 32 are paid to a liable person by or on behalf”.

(24) In Schedule 1 (maintenance calculations), in paragraph 5(b) (weekly rate of child support maintenance to be nil if the non-resident parent has a weekly income below £5), for “£5” substitute “£7”.

(25) In that Schedule, in paragraph 7 (reduction of basic and reduced rates for shared care), for sub-paragraph (1) substitute—

“(1) This paragraph applies where the rate of child support maintenance payable is the basic rate or a reduced rate or is determined under paragraph 5A.”.

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(26) In that Schedule, in paragraph 10A(1)(b) (regulations about amounts set out in Schedule 1)—

- (a) after “paragraph” insert “ 2(2), ”;
- (b) after “5,” insert “ 5A(2), ”.

(27) In that Schedule, in paragraph 10C(1) (references to “qualifying children” to be read as references to those qualifying children with respect to whom the maintenance calculation falls to be made), at end insert “ or with respect to whom a maintenance calculation in respect of the non-resident parent has effect ”.

(28) In that Schedule for paragraph 14 substitute—

“14 The Department may by regulations provide—

- (a) for 2 or more applications for maintenance calculations to be treated, in prescribed circumstances, as a single application; and
- (b) for the replacement, in prescribed circumstances, of a maintenance calculation made on the application of one person by a later maintenance calculation made on the application of that or any other person.”

(29) In the Order as it has effect apart from the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), the following (which relate to Article 9 or 43) are repealed—

- (a) Articles 13(1A) to (1C), 38(4)(c) and (d) and 38A(5)(c) and (d);
- (b) paragraph 16(3) and (5)(b) of Schedule 1;
- (c) in Schedule 4C—
 - (i) in paragraphs 1(a) and 2(1)(a), the words “, a reduced benefit direction”;
 - (ii) in paragraph 3, in sub-paragraph (1)(b), sub-paragraph (i) and the word “or” at the end of it, and sub-paragraph (3);
 - (iii) in paragraphs 4(1)(a)(i) and 6(1)(b)(ii) and (iii), the words “, a reduced benefit direction”.

Commencement Information

- I1** Sch. 4 para. 1 partly in operation; Sch. 4 para. 1 not in operation at Royal Assent see s. 41(1); Sch. 4 para. 1(29) in operation for certain purposes at 14.7.2008 by S.R. 2008/291, art. 2(2)(b) (with art. 2(3)(4)) and wholly in operation at 27.10.2008 by S.R. 2008/419, art. 2; Sch. 4 para. 1(18)(19) in operation at 1.11.2008 by S.R. 2008/419, art. 3(c); Sch. 4 para. 1(20)(a) in operation for certain purposes at 1.6.2009 and wholly in operation at 3.8.2009 by S.R. 2009/216, art. 2(1)(d); Sch. 4 para. 1(3)(9)(11)(28) in operation at 1.6.2009 by S.R. 2009/216, art. 2(2)(b)(i); Sch. 4 para. 1(2)(a) in operation for certain purposes at 1.6.2009 by S.R. 2009/216, art. 2(2)(b)(ii)
- I2** Sch. 4 para. 1(1) in operation at 3.12.2012 for specified purposes by S.R. 2012/423, art. 2(1)(c)

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13 Sch. 4 para. 1(20)(b)(21)(22)(26)(27) in operation at 3.12.2012 by S.R. 2012/423, art. 2(1)(c)

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

2.—(1) The Social Administration (Northern Ireland) Act 1992 is amended as follows.

(2) In section 103 (certain maintenance orders to be enforceable by the Department), for subsection (8) substitute—

“(8) In this section “maintenance order” means an order for the making of periodical payments under any statutory provision prescribed for the purposes of this subsection.”.

(3) In section 115D (supply of information held by Revenue and Customs to the Department or the Secretary of State for use for the purposes of functions relating, inter alia, to child support), for subsection (2) substitute—

“(2) Information to which this section applies may, and subject to subsection (2A), must if an authorised officer so requires, be supplied—

(a) to the Department, or

(b) to a person providing services to the Department,

for use for the purposes of functions relating to social security, child support or employment or training.

(2ZA) Information to which this section applies may, and subject to subsection (2A), must if an authorised officer so requires, be supplied—

(a) to the Secretary of State, or

(b) to a person providing services to the Secretary of State,

for use for the purposes of functions relating to social security or employment or training.”.

(4) In that section, in subsection (2A) (exclusion of power to require supply in case of information for use for the purposes of functions relating to employment or training), after “subsection (2)” insert “ or (2ZA) ”.

(5) In section 115E (supply to Revenue and Customs of information held by Department or Secretary of State, including information held for the purposes of functions relating to child support), for subsection (1) substitute

“(1) This section applies to information which is held for the purposes of functions relating to social security, child support or employment or training—

(a) by the Department, or

(b) by a person providing services to the Department, in connection with the provision of those services.

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(1A) This section also applies to information which is held for the purposes of functions relating to social security or employment or training—

- (a) by the Secretary of State, or
- (b) by a person providing services to the Secretary of State, in connection with the provision of those services.”.

(6) In section 116 (supply of information held by tax authorities for fraud prevention and verification), in subsection (3) (prohibition of onward supply by recipient, except in specified circumstances), at the end of paragraph (c) add “or

- (d) it is supplied under paragraph 1 of Schedule 3 to the Child Maintenance Act (Northern Ireland) 2008.”.

Commencement Information

- I4** Sch. 4 para. 2 wholly in operation at 1.6.2009; Sch. 4 para. 2 not in operation at Royal Assent see s. 41(1); Sch. 4 para. 2(1)(2) in operation at 27.10.2008 by S.R. 2008/399, art. 2(2)(c); Sch. 4 para. 2(3)-(6) in operation at 1.6.2009 by S.R. 2009/216, art. 2(2)(b)(i)

PROSPECTIVE

The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)

3 In Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (social security: amendments following certain orders), at the end of paragraph (2) add “ the Child Maintenance and Other Payments Act 2008 ”.

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