

SCHEDULES

SCHEDULE 1

Section 8.

CHANGES TO THE CALCULATION OF MAINTENANCE

Introductory

1. Part 1 of Schedule 1 to the Child Support Order (calculation of weekly amount of child support maintenance) is amended as follows.

Calculation by reference to gross weekly income

2. In Part 1 (under which the weekly amount of child support maintenance payable is calculated by reference to the non-resident parent's net weekly income), for "net", in each place where it occurs, substitute "gross".

Change to basic rate

3. For paragraph 2 (basic rate) substitute—

"2.—(1) Subject to sub-paragraph (2), the basic rate is the following percentage of the non-resident parent's gross weekly income—

12% where the non-resident parent has one qualifying child;

16% where the non-resident parent has 2 qualifying children;

19% where the non-resident parent has 3 or more qualifying children.

(2) If the gross weekly income of the non-resident parent exceeds £800, the basic rate is the aggregate of the amount found by applying sub-paragraph (1) in relation to the first £800 of that income and the following percentage of the remainder—

9% where the non-resident parent has one qualifying child;

12% where the non-resident parent has 2 qualifying children;

15% where the non-resident parent has 3 or more qualifying children.

(3) If the non-resident parent also has one or more relevant other children, gross weekly income shall be treated for the purposes of sub-paragraphs (1) and (2) as reduced by the following percentage—

12% where the non-resident parent has one relevant other child;

16% where the non-resident parent has 2 relevant other children;

19% where the non-resident parent has 3 or more relevant other children.”.

Increase in flat rate and minimum amounts of liability

4. In the following provisions, for “£5” substitute “£7”—
- (a) paragraph 3(3) (minimum amount of liability in the case of reduced rate);
 - (b) paragraph 4(1) (amount of flat rate of liability);
 - (c) paragraph 7(7) (minimum amount of liability in the case of basic and reduced rates where reduction because of shared care applies).

*Applicable rate where non-resident parent
party to other maintenance arrangement*

5.—(1) In paragraph 1(1) (under which the weekly rate of child support maintenance is the basic rate unless a reduced rate, a flat rate or a nil rate applies), at the beginning insert “Subject to paragraph 5A.”.

(2) After paragraph 5 insert—

“Non-resident parent party to other maintenance arrangement

5A.—(1) This paragraph applies where—

- (a) the non-resident parent is a party to a qualifying maintenance arrangement with respect to a child of the non-resident parent who is not a qualifying child, and
- (b) the weekly rate of child support maintenance apart from this paragraph would be the basic rate or a reduced rate or calculated following agreement to a variation where the rate would otherwise be a flat rate or the nil rate.

(2) The weekly rate of child support maintenance is the greater of £7 and the amount found as follows.

(3) First, calculate the amount which would be payable if the non-resident parent’s qualifying children also included every child with respect to whom the non-resident parent is a party to a qualifying maintenance arrangement.

(4) Second, divide the amount so calculated by the number of children taken into account for the purposes of the calculation.

(5) Third, multiply the amount so found by the number of children who, for purposes other than the calculation under sub-paragraph (3), are qualifying children of the non-resident parent.

(6) For the purposes of this paragraph, the non-resident parent is a party to a qualifying maintenance arrangement with respect to a child if the non-resident parent is—

- (a) liable to pay maintenance for the child under a maintenance order, or
- (b) a party to an agreement of a prescribed description which provides for the non-resident parent to make payments for the benefit of the child, and the child is habitually resident in the United Kingdom.”.

Shared care

6. In paragraph 7(2) (circumstances in which decrease for shared care applies in cases where child support maintenance is payable at the basic rate or a reduced rate), for “If the care of a qualifying child is shared” substitute “If the care of a qualifying child is, or is to be, shared”.

7. In paragraph 8(2) (circumstances in which decrease for shared care applies in cases where child support maintenance payable at a flat rate), for “If the care of a qualifying child is shared” substitute “If the care of a qualifying child is, or is to be, shared”.

8.—(1) In paragraph 9 (regulations about shared care), the existing provision becomes sub-paragraph (1).

(2) In that sub-paragraph, before paragraph (a) insert—

“(za) for how it is to be determined whether the care of a qualifying child is to be shared as mentioned in paragraph 7(2);”.

(3) In that sub-paragraph, after paragraph (b) insert—

“(ba) for how it is to be determined how many nights count for those purposes;”.

(4) After that sub-paragraph add—

“(2) Regulations under sub-paragraph (1)(ba) may include provision enabling the Department to proceed for a prescribed period on the basis of a prescribed assumption.”.

Weekly income

9. In paragraph 10 (which confers power to make regulations about the manner in which weekly income is to be determined), for sub-paragraph (2) substitute—

“(2) The regulations may, in particular—

- (a) provide for determination in prescribed circumstances by reference to income of a prescribed description in a prescribed past period;

- (b) provide for the Department to estimate any income or make an assumption as to any fact where, in its view, the information at its disposal is unreliable or insufficient, or relates to an atypical period in the life of the non-resident parent.”.

10. In paragraph 10(3) (under which weekly income over £2,000 is to be ignored for the purposes of Schedule 1), for “£2,000” substitute “£3,000”.

SCHEDULE 2

Section 11.

MAINTENANCE CALCULATIONS: TRANSFER OF CASES TO NEW RULES

Power to require a decision about whether to stay in the statutory scheme

1.—(1) The Department may require the interested parties in relation to an existing case to choose whether or not to stay in the statutory scheme, so far as future accrual of liability is concerned.

(2) The reference in sub-paragraph (1) to an existing case is to any of the following—

- (a) a maintenance assessment,
- (b) an application for a maintenance assessment,
- (c) a maintenance calculation made under existing rules, and
- (d) an application for a maintenance calculation which will fall to be made under existing rules.

(3) For the purposes of this paragraph, a maintenance calculation is made (or will fall to be made) under existing rules if the amount of the periodical payments required to be paid in accordance with it is (or will be) determined otherwise than in accordance with Part 1 of Schedule 1 to the Child Support Order as amended by this Act.

2.—(1) The Department may by regulations make provision about the exercise of the power under paragraph 1(1).

(2) Regulations under sub-paragraph (1) may, in particular—

- (a) make provision about timing in relation to exercise of the power;
- (b) make provision for exercise of the power in stages;
- (c) specify principles for determining the order in which particular cases are to be dealt with under the power;
- (d) make provision about procedure in relation to exercise of the power.

3.—(1) The Department shall by regulations make such provision as it thinks fit about exercise of the right to make a choice required under paragraph 1(1).

(2) Regulations under sub-paragraph (1) shall, in particular—

- (a) make provision about the time within which the choice must be made;
- (b) make provision for a choice to stay in the statutory scheme to be made by means of an application to the Department for a maintenance calculation;
- (c) make provision about the form and content of any application required by provision under paragraph (b).

4. If, in a particular case, any of the interested parties chooses not to stay in the statutory scheme, that person's choice shall be disregarded if any of the other interested parties chooses to stay in the statutory scheme.

Effect on accrual of liability of exercise of power under paragraph 1.

5.—(1) Where the power under paragraph 1(1) is exercised in relation to a maintenance assessment or maintenance calculation, liability under the assessment or calculation shall cease to accrue with effect from such date as may be determined in accordance with regulations made by the Department.

(2) Where the power under paragraph 1(1) is exercised in relation to an application for a maintenance assessment or maintenance calculation, liability under any assessment or calculation made in response to the application shall accrue only in respect of the period ending with such date as may be determined in accordance with regulations made by the Department.

Additional powers

6.—(1) The Department may by regulations make such provision as appears to it to be necessary or expedient for the purposes of, or in connection with, giving effect to a decision not to leave the statutory scheme.

(2) Regulations under sub-paragraph (1) may, in particular—

- (a) make provision about procedure in relation to determination of an application made in pursuance of regulations under paragraph 3;
- (b) make provision about the application of the Child Support Order in relation to a maintenance calculation made in response to such an application;
- (c) prescribe circumstances in which liability under such a maintenance calculation is to be subject to a prescribed adjustment.

(3) The Department may by regulations make provision enabling the Department to treat an application of the kind mentioned in paragraph 1(2)(b) or (d) as withdrawn if none of the interested parties chooses to stay in the statutory scheme.

Interpretation

7. In this Schedule—

“interested parties” has such meaning as may be prescribed;

“maintenance assessment” means an assessment of maintenance made under the Child Support Order;

“maintenance calculation” means a calculation of maintenance made under that Order;

“prescribed” means prescribed by regulations made by the Department;

“statutory scheme” means the scheme for child support maintenance under that Order.

SCHEDULE 3

Section 34.

USE OF INFORMATION

1.—(1) This paragraph applies to information which is held for the purposes of functions relating to income tax, contributions, tax credits, child benefit or guardian’s allowance—

(a) by the Commissioners for Her Majesty’s Revenue and Customs, or

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

(2) Information to which this paragraph applies may be supplied—

(a) to the Department or the Department for Employment and Learning, or

(b) to a person providing services to either of those Departments,

for use for the purposes of functions relating to child support.

(3) In this paragraph, “contributions” means contributions under Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

2.—(1) This paragraph applies to information which is held for the purposes of functions relating to child support—

(a) by the Department or the Department for Employment and Learning, or

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

(2) Information to which this paragraph applies may be supplied—

(a) to the Commissioners for Her Majesty’s Revenue and Customs, or

(b) to a person providing services to them,

for use for the purposes of any of their functions.

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—
 - (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—

“(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)”.

(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.”.

(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”.

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.

(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.”.

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”.

SCHEDULE 5

Section 39.

REPEALS

Short Title	Extent of repeal
The Child Support (Northern Ireland) Order 1991 (NI 23).	<p>In Article 7—</p> <ul style="list-style-type: none"> (a) paragraphs (9) and (11); (b) in paragraph (10), sub-paragraph (b) and the word “or” immediately before it. <p>Article 9.</p> <p>In Article 10(1), the words “or treated as made”.</p> <p>In Article 11(6), sub-paragraphs (a) and (b) and the word “and” immediately preceding them.</p> <p>Article 13(3) to (5).</p> <p>In Article 14(2), the words from “(or” to “made)”.</p> <p>In Article 16(1), the words “or treated as made” and “(or application treated as made)”.</p> <p>Articles 18(1A)(b), 19(1)(c) and 22(1)(c), (2)(b) and (6).</p> <p>Article 22(1)(e) and (2)(d).</p> <p>In Article 27(1), the words “or treated as made”.</p> <p>In Article 27A(1)—</p> <ul style="list-style-type: none"> (a) in sub-paragraph (a), the words “or treated as made”; (b) in sub-paragraph (b), the words “or, as the case may be, treated as made”. <p>In Article 28(1)(a), the words “(or is treated as having been made)” and “or treated as made”.</p> <p>In Article 28ZA(1)(a), the words from “or with” to “Article 43”.</p>

Short Title	Extent of repeal
	<p>In Article 28ZC—</p> <p>(a) in paragraph (1)(b)(i), the words from “or one” to “benefit”;</p> <p>(b) in paragraph (3), the words “or the reduction of a person’s benefit”.</p> <p>In Article 28A—</p> <p>(a) in paragraph (1), the words “, or treated as made under Article 9,”;</p> <p>(b) in paragraph (3), the words from “(or” to “Article 9”.</p> <p>In Article 28F(4)(a), the words from “(including” to “made)”.</p> <p>In Article 28J(1)(a), the words from “, or is” to “Article 9”.</p> <p>In Article 29(1), sub-paragraph (a) and the word “or” at the end of it.</p> <p>Article 32(2)(a).</p> <p>Articles 33 and 34.</p> <p>Article 36A.</p> <p>In Article 38(1)(a), the words “or 9”.</p> <p>Articles 43, 44 and 46(5).</p> <p>In Article 48(2), the words “9(1), (9) or (10),” and “, 43”.</p> <p>In Schedule 1, in paragraph 9(a), the words from “or” to the end.</p> <p>In Schedule 4A, paragraph 5(2).</p> <p>In Schedule 4B, in paragraph 2(3)—</p> <p>(a) in paragraphs (a), (d) and (e), the words “(or treated as made)”;</p> <p>(b) in paragraph (c), the words “(or treated as having been applied for)”.</p>
The Social Security Administration (Northern Ireland) Act 1992 (c. 8).	<p>Section 102.</p> <p>In section 116(3), the word “or” at the end of paragraph (b).</p>

Status: This is the original version (as it was originally enacted).

Short Title	Extent of repeal
The Child Support (Northern Ireland) Order 1995 (NI 13).	In Schedule 3, paragraph 8.
The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11).	Article 71.
The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4).	Sections 3, 16(1), 18 and 27. In Schedule 3, paragraphs 13(b), 14(a), 15, 17, 18, 19(a), 21(a) and (d), 25 and 28(b).
The Employment Act 2002 (c. 22).	In Schedule 6, paragraphs 12(a) and 14(a).
The Civil Partnership Act 2004 (c. 33).	In Schedule 24, paragraph 7.
The Welfare Reform Act (Northern Ireland) 2007 (c. 2).	In Schedule 3, paragraph 2(3) to (6).