

STATUTORY INSTRUMENTS

1991 No. 2628

The Child Support (Northern Ireland) Order 1991

The basic principles

The duty to maintain

5.—(1) For the purposes of this Order, each parent of a qualifying child is responsible for maintaining him.

(2) For the purposes of this Order, [^{F1}an absent parent] [^{F2}a non-resident parent] shall be taken to have met his responsibility to maintain any qualifying child of his by making periodical payments of maintenance with respect to the child of such amount, and at such intervals, as may be determined in accordance with the provisions of this Order.

(3) Where a [^{F3}maintenance assessment] [^{F4}maintenance calculation] made under this Order requires the making of periodical payments, it shall be the duty of the [^{F5}absent parent] [^{F6}non-resident parent] with respect to whom the [^{F7}assessment] [^{F8}calculation] was made to make those payments.

- F1** Words in art. 5(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F2** Words in art. 5(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F3** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F4** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F5** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F6** Words in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F7** Word in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F8** Word in art. 5(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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Welfare of children: the general principle

6. Where in any case which falls to be dealt with under this Order, the Department^{F9} . . . is considering the exercise of any discretionary power conferred by this Order, the Department^{F9} . . . shall have regard to the welfare of any child likely to be affected by its^{F9} . . . decision.

F9 1998 NI 10

Child support maintenance

7.—(1) A person who is, in relation to any qualifying child or any qualifying children, either the person with care or the [^{F10}absent parent] [^{F11}non-resident parent] may apply to the Department for a [^{F12}maintenance assessment] [^{F13}maintenance calculation] to be made under this Order with respect to that child, or any of those children.

(2) Where a [^{F14}maintenance assessment] [^{F15}maintenance calculation] has been made in response to an application under this Article the Department may, if the persons with care or [^{F16}absent parent] [^{F17}non-resident parent] with respect to whom the [^{F18}assessment] [^{F19}calculation] was made applies to it under this paragraph, arrange for—

- (a) the collection of the child support maintenance payable in accordance with the [^{F20}assessment] [^{F21}calculation];
- (b) the enforcement of the obligation to pay child support maintenance in accordance with the [^{F22}assessment] [^{F23}calculation].

(3) Where an application under paragraph (2) for the enforcement of the obligation mentioned in paragraph (2)(b) authorises the Department to take steps to enforce that obligation whenever it considers it necessary to do so, the Department may act accordingly.

(4) A person who applies to the Department under this Article shall, so far as that person reasonably can, comply with such regulations as may be made by the Department with a view to the Department^{F24} . . . being provided with the information which is required to enable—

- (a) the [^{F25}absent parent] [^{F26}non-resident parent] to be [^{F27} identified or] traced (where that is necessary);
- (b) the amount of child support maintenance payable by the [^{F28}absent parent] [^{F29}non-resident parent] to be [^{F30}assessed] [^{F31}calculated]; and
- (c) that amount to be recovered from the [^{F32}absent parent] [^{F33}non-resident parent].

(5) Any person who has applied to the Department under this Article may at any time request it to cease acting under this Article.

(6) It shall be the duty of the Department to comply with any request made under paragraph (5) (but subject to any regulations made under paragraph (8)).

(7) The obligation to provide information which is imposed by paragraph (4)—

- (a) shall not apply in such circumstances as may be prescribed; and
- (b) may, in such circumstances as may be prescribed, be waived by the Department.

(8) The Department may by regulations make such incidental, supplemental or transitional provision as it thinks appropriate with respect to cases in which it is requested to cease to act under this Article.

(9) No application may be made under this Article if there is in force with respect to the person with care and [^{F34}absent parent] [^{F35}non-resident parent] in question a [^{F36}maintenance assessment] [^{F37}maintenance calculation] made in response to an application[^{F38} treated as made] under Article 9.

[^{F39}(10) No application may be made at any time under this Article with respect to a qualifying child or any qualifying children if—

(a) there is in force a written maintenance agreement made before 5th April 1993, or a maintenance order[^{F40} made before a prescribed date], in respect of that child or those children and the person who is, at that time, the [^{F41}absent parent] [^{F42}non-resident parent]; or

[a maintenance order made on or after the date prescribed for the purposes of sub-^{F43}(aa) paragraph (a) is in force in respect of them, but has been so for less than the period of one year beginning with and including the date on which it was made; or]

(b) benefit is being paid to, or in respect of, a parent with care of that child or those children.

(11) In paragraph (10) “benefit” means any benefit which is mentioned in, or prescribed by regulations under, Article 9(1).]

- F10** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F11** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F12** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F13** Words in art. 7(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F14** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F15** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F16** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F17** Words in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F18** Word in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F19** Word in art. 7(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F20** Word in art. 7(2)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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- F21** Word in art. 7(2)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F22** Word in art. 7(2)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F23** Word in art. 7(2)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F24** 1998 NI 10
- F25** Words in art. 7(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F26** Words in art. 7(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F27** Words in art. 7(4)(a) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 13(a)**; S.R. 2003/53, art. 3(1), **Sch.**
- F28** Words in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F29** Words in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F30** Word in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F31** Word in art. 7(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F32** Words in art. 7(4)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F33** Words in art. 7(4)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F34** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F35** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F36** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F37** Words in art. 7(9) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F38** Words in art. 7(9) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 13(b)**; S.R. 2003/53, art. 3(1), **Sch.**
- F39** 1995 NI 13

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- F40** Words in art. 7(10)(a) inserted (7.2.2003 for certain purposes and 3.3.2003 for further certain purposes and otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 2(1)(2), 68(2); S.R. 2003/53, arts. 2, 3(1), **Sch.**
- F41** Words in art. 7(10)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F42** Words in art. 7(10)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F43** Art. 7(10)(aa) inserted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 2(3), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

Child support maintenance: supplemental provisions

8.—(1) Where—

- (a) there is more than one person with care of a qualifying child; and
- (b) one or more, but not all, of them have parental responsibility for the child;

no application may be made for a [^{F44}maintenance assessment] [^{F45}maintenance calculation] with respect to the child by any of those persons who do not have parental responsibility for the child.

(2) Where more than one application for a [^{F46}maintenance assessment] [^{F47}maintenance calculation] is made with respect to the child concerned, only one of them may be proceeded with.

(3) The Department may by regulations make provision as to which of two or more applications for a [^{F48}maintenance assessment] [^{F49}maintenance calculation] with respect to the same child is to be proceeded with.

- F44** Words in art. 8(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F45** Words in art. 8(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F46** Words in art. 8(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F47** Words in art. 8(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F48** Words in art. 8(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F49** Words in art. 8(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), **Sch.**

^{X1}Applications by those receiving benefit

^{X2F50X1F50}9.—(1) Where income support, [^{F51}an income-based jobseeker's allowance]^{F52}. . . of any other benefit of a prescribed kind is claimed by or in respect of, or paid to or in respect of the parent of a qualifying child that parent shall, if—

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- (a) that parent is a person with care of the child; and
- (b) that parent is required to do so by the Department,

authorise the Department to take action under this Order to recover child support maintenance from the absent parent.

(2) The Department shall not require a person (“the parent”) to give it the authorisation mentioned in paragraph (1) if it considers that there are reasonable grounds for believing that—

- (a) if the parent were to be required to give that authorisation; or
- (b) if that parent were to give it,

there would be a risk of that parent, or of any child living with that parent, suffering harm or undue distress as a result.

(3) Paragraph (2) shall not apply if the parent requests the Department to disregard it.

(4) The authorisation mentioned in paragraph (1) shall extend to all children of the absent parent in relation to whom the parent first mentioned in paragraph (1) is a person with care.

(5) That authorisation shall be given, without unreasonable delay, by completing and returning to the Department an application—

- (a) for the making of a maintenance assessment with respect to the qualifying child or qualifying children; and
- (b) for the Department to take action under this Order to recover, on that parent's behalf, the amount of child support maintenance so assessed.

(6) Such an application shall be made on a form (“a maintenance application form”) provided by the Department.

(7) A maintenance application form shall indicate in general terms the effect of completing and returning it.

(8) Paragraph (1) has effect regardless of whether any of the benefits mentioned there is payable with respect to any qualifying child.

(9) A person who is under the duty imposed by paragraph (1) shall, so far as that person reasonably can, comply with such regulations as may be made by the Department with a view to the Department^{F53} . . . being provided with the information which is required to enable—

- (a) the absent parent to be traced;
- (b) the amount of child support maintenance payable by the absent parent to be assessed; and
- (c) that amount to be recovered from the absent parent.

(10) The obligation to provide information which is imposed by paragraph (9)—

- (a) shall not apply in such circumstances as may be prescribed; and
- (b) may, in such circumstances as may be prescribed, be waived by the Department.

(11) A person with care who has authorised the Department under paragraph (1) but who subsequently ceases to fall within that paragraph may request the Department to cease acting under this Article.

(12) It shall be the duty of the Department to comply with any request made under paragraph (11) (but subject to any regulations made under paragraph (13)).

(13) The Department may by regulations make such incidental or transitional provision as it thinks appropriate with respect to cases in which it is requested under paragraph (11) to cease to act under this Article.

(14) The fact that a maintenance assessment is in force with respect to a person with care shall not prevent the making of a new maintenance assessment with respect to that person in response to an application under this Article.

^{X2F50X1F509}9.—^{F50X2}(1) This Article applies where income support, an income-based jobseeker's allowance or any other benefit of a prescribed kind is claimed by or in respect of, or paid to or in respect of, the parent of a qualifying child who is also a person with care of the child.

(2) In this Article, that person is referred to as the parent.

(3) The Department may—

- (a) treat the parent as having applied for a maintenance calculation with respect to the qualifying child and all other children of the non-resident parent in relation to whom the parent is also a person with care; and
- (b) take action under this Order to recover from the non-resident parent, on the parent's behalf, the child support maintenance so determined.

(4) Before doing what is mentioned in paragraph (3), the Department shall notify the parent in writing of the effect of paragraphs (3) and (5) and Article 43.

(5) The Department may not act under paragraph (3) if the parent asks it not to (a request which need not be in writing).

(6) Paragraph (1) has effect regardless of whether any of the benefits mentioned there is payable with respect to any qualifying child.

(7) Unless the parent has made a request under paragraph (5), that parent shall, so far as that parent reasonably can, comply with such regulations as may be made by the Department with a view to its being provided with the information which is required to enable—

- (a) the non-resident parent to be identified or traced;
- (b) the amount of child support maintenance payable by the non-resident parent to be calculated; and
- (c) that amount to be recovered from the non-resident parent.

(8) The obligation to provide information which is imposed by paragraph (7)—

- (a) does not apply in such circumstances as may be prescribed; and
- (b) may, in such circumstances as may be prescribed, be waived by the Department.

(9) If the parent ceases to fall within paragraph (1), that parent may ask the Department to cease acting under this Article, but until then it may continue to do so.

(10) The Department shall comply with any request under paragraph (9) (but subject to any regulations made under paragraph (11)).

(11) The Department may by regulations make such incidental or transitional provision as it thinks appropriate with respect to cases in which it is asked under paragraph (9) to cease acting under this Article.

(12) The fact that a maintenance calculation is in force with respect to a person with care does not prevent the making of a new maintenance calculation with respect to that person as a result of the Department acting under paragraph (3).]

Editorial Information

- X1** This version shows the text of Article 9 prior to its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000](#) (c. 4), **ss. 3, 68(2)**; S.R. 2000/358, **art. 2(b)**, **Sch. Pt. II**; S.R. 2003/53, **art. 4**

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- X2** This version shows the text of Article 9 after its substitution (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 3, 68\(2\)](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, **art. 4**
- F50** Art. 9 substituted (22.11.2000 for certain purposes and 3.3.2003 for further certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 3, 68\(2\)](#); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2003/53, **art. 4**
- F51** 1995 NI 15
- F52** 1999 c. 10
- F53** 1998 NI 10

Role of the courts with respect to maintenance for children

10.—(1) This paragraph applies in any case where^[F54] the Department] would have jurisdiction to make a ^[F55]maintenance assessment] ^[F56]maintenance calculation] with respect to a qualifying child and ^[F57]an absent parent] ^[F58]a non-resident parent] of his on an application duly made^[F59] or treated as made] by a person entitled to apply for such ^[F60]an assessment] ^[F61]a calculation] with respect to that child.

(2) Paragraph (1) applies even though the circumstances of the case are such that^[F54] the Department] would not make ^[F62]an assessment] ^[F63]a calculation] if it were applied for.

(3) ^[F64]Except as provided in paragraph (3A),] in any case where paragraph (1) applies, no court shall exercise any power which it would otherwise have to make, vary or revive any maintenance order in relation to the child and ^[F65]absent parent] ^[F66]non-resident parent] concerned.

^[F67](3A) In any case in which Article 7(10) prevents the making of an application for a maintenance assessment, and—

- (a) no application has been made for a maintenance assessment under Article 9, or
- (b) such an application has been made but no maintenance assessment has been made in response to it, paragraph (3) shall have effect with the omission of the word "vary".]

^[F68](3A) Unless a maintenance calculation has been made with respect to the child concerned, paragraph (3) does not prevent a court from varying a maintenance order in relation to that child and the non-resident parent concerned—

- (a) if the maintenance order was made on or after the date prescribed for the purposes of Article 7(10)(a); or
 - (b) where the order was made before then, in any case in which Article 7(10) prevents the making of an application for a maintenance calculation with respect to or by that child.]
- (4) Paragraph (3) does not prevent a court from revoking a maintenance order.

(5) The Lord Chancellor may^{F69} by order provide that, in such circumstances as may be specified by the order, this Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—

- (a) a written agreement (whether or not enforceable) provides for the making, or securing, by ^[F70]an absent parent] ^[F71]a non-resident parent] of the child of periodical payments to or for the benefit of the child; and
- (b) the maintenance order which the court makes is, in all material respects, in the same terms as that agreement.

^{F69}(6) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—

- (a) a [^{F72}maintenance assessment] [^{F73}maintenance calculation] is in force with respect to the child;
- ^{F74}(b) the amount of the child support maintenance payable in accordance with the assessment was determined by reference to the alternative formula mentioned in paragraph 4(3) of Schedule 1; and]
- ^{F75}(b) the non-resident parent's net weekly income exceeds the figure referred to in paragraph 10(3) of Schedule 1 (as it has effect from time to time pursuant to regulations made under paragraph 10A(1)(b)); and]
- (c) the court is satisfied that the circumstances of the case make it appropriate for the [^{F76}absent parent] [^{F77}non-resident parent] to make or secure the making of periodical payments under a maintenance order in addition to the child support maintenance payable by him in accordance with the [^{F78}maintenance assessment] [^{F79}maintenance calculation].
- (7) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) the child is, will be or (if the order were to be made) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation (whether or not while in gainful employment); and
- (b) the order is made solely for the purposes of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of the expenses incurred in connection with the provision of the instruction or training.
- (8) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) a disability living allowance is paid to or in respect of him; or
- (b) no such allowance is paid but he is disabled,
- and the order is made solely for the purpose of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of any expenses attributable to the child's disability.
- (9) For the purposes of paragraph (8), a child is disabled if he is blind, deaf or dumb or is substantially and permanently handicapped by illness, injury, mental disorder or congenital deformity or such other disability as may be prescribed.
- (10) This Article shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if the order is made against a person with care of the child.
- (11) In this Order “maintenance order”, in relation to any child, means an order which requires the making or securing of periodical payments to or for the benefit of the child and which is made under—
- Sub#para.(a) rep. by 1995 NI 2*
- (b) Part III of the Matrimonial Causes (Northern Ireland) Order 1978^{F80};
- (c) the Domestic Proceedings (Northern Ireland) Order 1980^{F81};
- (d) Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989^{F82, F83} . . .
- ^{F84}(da) Schedule 15, 16 or 17 to the Civil Partnership Act 2004; or]
- ^{F83}(dd) Schedule 1 to the Children (Northern Ireland) Order 1995,^{F85} . . .]
- (e) any other prescribed statutory provision,
- and includes any order varying or reviving such an order.

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- F55** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F56** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F57** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F58** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F59** Words in art. 10(1) inserted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(a); S.R. 2003/53, art. 3(1), **Sch.**
- F60** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F61** Words in art. 10(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F62** Words in art. 10(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F63** Words in art. 10(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(b)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F64** Words in art. 10(3) inserted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(b); S.R. 2003/53, art. 3(1), **Sch.**
- F65** Words in art. 10(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F66** Words in art. 10(3) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F67** 1995 NI 13
- F68** Art. 10(3A) substituted (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(c); S.R. 2003/53, art. 3(1), **Sch.**
- F69** prosp. insertion by 2005 c. 4
- F70** Words in art. 10(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F71** Words in art. 10(5)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F72** Words in art. 10(6)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F73** Words in art. 10(6)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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- F74** Art. 10(6)(b) substituted (3.3.2003 for certain purposes, otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(d); S.R. 2003/53, art. 3(1), **Sch.**
- F75** Art. 10(6)(b) substituted (3.3.2003 for certain purposes, otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#) (N.I.), ss. 25, 68(2)(a), Sch. 3 para. 14(d); S.R. 2003/53, art. 3(1), **Sch.**
- F76** Words in art. 10(6)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F77** Words in art. 10(6)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), ss. 25, 68(2), **Sch. 3 para. 11**; S.R. 2003/53, art. 3(1), **Sch.**
- F78** Words in art. 10(6)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F79** Words in art. 10(6)(c) substituted (3.3.2003 for certain purposes otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\)](#), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F80** 1978 NI 15
- F81** 1980 NI 5
- F82** 1989 NI 4
- F83** 1995 NI 2
- F84** 2004 c.33
- F85** 2004 c.33

Agreements about maintenance

11.—(1) In this Article “maintenance agreement” means any agreement for the making, or for securing the making, of periodical payments by way of maintenance to or for the benefit of any child.

(2) Nothing in this Order shall be taken to prevent any person from entering into a maintenance agreement.

(3) [^{F86}Subject to Article 7(10)(a)] the existence of a maintenance agreement shall not prevent any party to the agreement, or any other person, from applying for a maintenance assessment with respect to any child to or for whose benefit periodical payments are to be made or secured under the agreement.

(4) Where any agreement contains a provision which purports to restrict the right of any person to apply for a maintenance assessment, that provision shall be void.

(5) Where Article 10 would prevent any court from making a maintenance order in relation to a child and an absent parent of his, no court shall exercise any power that it has to vary any agreement so as—

- (a) to insert a provision requiring that absent parent to make or secure the making of periodical payments by way of maintenance to or for the benefit of that child; or
- (b) to increase the amount payable under such a provision.

[^{F86}(6) In any case in which Article 7(10) prevents the making of an application for a maintenance assessment, and—

[no application has been made for a maintenance assessment under Article 9, or

^{F87}(a)

- (b) such an application has been made but no maintenance assessment has been made in response to it,]

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- [^{F88}(a) no parent has been treated under Article 9(3) as having applied for a maintenance calculation with respect to the child; or
- (b) a parent has been so treated but no maintenance calculation has been made.]
- paragraph (5) shall have effect with the omission of sub-paragraph (b).]

F86 1995 NI 13

F87 Art. 11(6)(a)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 15**; S.R. 2003/53, art. 3(1), **Sch.**

F88 Art. 11(6)(a)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 25, 68(2), **Sch. 3 para. 15**; S.R. 2003/53, art. 3(1), **Sch.**

Relationship between maintenance [^{F89}assessments] [^{F90}calculations] and certain court orders and related matters

12.—(1) Where an order of a kind prescribed for the purposes of this paragraph is in force with respect to any qualifying child with respect to whom a [^{F91}maintenance assessment] [^{F92}maintenance calculation] is made, the order—

- (a) shall, so far as it relates to the making or securing of periodical payments, cease to have effect to such extent as may be determined in accordance with regulations made by the Department; or
- (b) where the regulations so provide, shall, so far as it so relates, have effect subject to such modifications as may be so determined.

(2) Where an agreement of a kind prescribed for the purposes of this paragraph is in force with respect to any qualifying child with respect to whom a [^{F93}maintenance assessment] [^{F94}maintenance calculation] is made, the agreement—

- (a) shall, so far as it relates to the making or securing of periodical payments, be unenforceable to such extent as may be determined in accordance with regulations made by the Department; or
- (b) where the regulations so provide, shall, so far as it so relates, have effect subject to such modifications as may be so determined.

(3) Any regulations under this Article may, in particular, make such provision with respect to—

- (a) any case where any person with respect to whom an order or agreement of a kind prescribed for the purposes of paragraph (1) or (2) has effect applies to the prescribed court, before the end of the prescribed period, for the order or agreement to be varied in the light of the [^{F95}maintenance assessment] [^{F96}maintenance calculation] and of the provisions of this Order;
- (b) the recovery of any arrears under the order or agreement which fell due before the coming into force of the [^{F97}maintenance assessment] [^{F98}maintenance calculation],

as the Department considers appropriate and may provide that, in prescribed circumstances, an application to any court which is made with respect to an order of a prescribed kind relating to the making or securing of periodical payments to or for the benefit of a child shall be treated by the court as an application for the order to be revoked.

(4) The Department may by regulations make provision for—

- (a) notification to be given by the [^{F99}the Department] to the prescribed person in any case where [^{F99}it] considers that the making of a [^{F100}maintenance assessment] [^{F101}maintenance

calculation] has affected, or is likely to affect, any order of a kind prescribed for the purposes of this paragraph;

- (b) notification to be given by the prescribed person to the Department in any case where a court makes an order which it considers has affected, or is likely to affect, a [F102 maintenance assessment] [F103 maintenance calculation].

(5) Magistrates' courts rules may be made requiring any person who, in prescribed circumstances, makes an application to a court of summary jurisdiction for a maintenance order to furnish the court with a statement in a prescribed form, and signed by [F99 an officer of the Department], as to whether or not, at the time when the statement is made, there is a [F104 maintenance assessment] [F105 maintenance calculation] in force with respect to that person or the child concerned.

- (6) In paragraph (5)—

“maintenance order” means an order of a prescribed kind for the making or securing of periodical payments to or for the benefit of a child; and

“prescribed” means prescribed by the rules.

- F89** Word in art. 12 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F90** Word in art. 12 heading substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(b), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F91** Words in art. 12(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F92** Words in art. 12(1) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F93** Words in art. 12(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F94** Words in art. 12(2) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F95** Words in art. 12(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F96** Words in art. 12(3)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F97** Words in art. 12(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F98** Words in art. 12(3)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.
- F99** 1998 NI 10
- F100** Words in art. 12(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 1(2)(a), 68(2); S.R. 2003/53, art. 3(1), Sch.

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- F101** Words in art. 12(4)(a) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F102** Words in art. 12(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F103** Words in art. 12(4)(b) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F104** Words in art. 12(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**
- F105** Words in art. 12(5) substituted (3.3.2003 for certain purposes otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), **ss. 1(2)(a)**, 68(2); S.R. 2003/53, art. 3(1), **Sch.**

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