

*Status: This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Child Maintenance Act (Northern Ireland) 2008 is up to date with all changes known to be in force on or before 04 October 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



# Child Maintenance Act (Northern Ireland) 2008

2008 CHAPTER 10

An Act to amend the law relating to child support; and for connected purposes. [2nd July 2008]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

## **PART 1**

### **ADDITIONAL FUNCTIONS OF THE DEPARTMENT**

#### **Promotion of child maintenance**

**1** The Department must take such steps as it thinks appropriate for the purpose of raising awareness among parents of the importance of—

- (a) taking responsibility for the maintenance of their children, and
- (b) making appropriate arrangements for the maintenance of children of theirs who live apart from them.

#### **Provision of information and guidance**

**2.—(1)** The Department must provide to parents such information and guidance as it thinks appropriate for the purpose of helping to secure the existence of effective maintenance arrangements for children who live apart from one or both of their parents.

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: Child Maintenance Act (Northern Ireland) 2008 is up to date with all changes known to be in force on or before 04 October 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) The Department may provide information for other purposes in the course of exercising its function under subsection (1).

### Fees

3.—(1) The Department may by regulations make provision about the charging of fees by the Department in connection with the exercise of its functions relating to child support.

(2) Regulations under subsection (1) may, in particular, make provision

- (a) about when a fee may be charged;
- (b) about the amount which may be charged;
- (c) for the supply of information needed for the purpose of determining the amount which may be charged;
- (d) about who is liable to pay any fee charged [<sup>F1</sup>(including provision for the apportionment of fees and the matters to be taken into account in determining an apportionment)] ;
- (e) about when any fee charged is payable;
- (f) about the recovery of fees charged;
- (g) about <sup>F2</sup>... reduction or repayment of fees.

[<sup>F3</sup>(h) about waiver of fees (including the matters to be taken into account in determining a waiver).]

(3) The power conferred by subsection (1) includes power to make provision for the charging of fees which are not related to costs.

[<sup>F4</sup>(3A) The Department must review the effect of the first regulations made under subsection (1).

(3B) The review must take place before the end of the period of 30 months beginning with the day on which those regulations come into operation.

(3C) After the review, the Department must make and publish a report containing—

- (a) the conclusions of the review; and
- (b) a statement as to what the Department proposes to do in view of those conclusions.

(3D) The report must be laid before the Assembly by the Department.]

(4) The Department may by regulations provide that the provisions of the Child Support (Northern Ireland) Order 1991 (NI 23) (in this Act referred to as “the Child Support Order”) with respect to—

- (a) the collection of child support maintenance,
- (b) the enforcement of any obligation to pay child support maintenance,

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: Child Maintenance Act (Northern Ireland) 2008 is up to date with all changes known to be in force on or before 04 October 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

shall apply equally (with any necessary modifications) to fees payable by virtue of regulations under subsection (1).

(5) The Department may by regulations make provision for a person affected by a decision of the Department under regulations under subsection (1) to have a right of appeal against the decision to an appeal tribunal.

(6) Paragraphs (3) to (5), (7) and (8) of Article 22 of the Child Support Order (appeals to appeal tribunals) apply to appeals under regulations under subsection (5) as they apply to appeals under that Article.

#### Textual Amendments

- F1** Words in s. 3(2)(d) inserted (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **130(2)(a)**; S.R. 2016/46, art. 3(5)(b)
- F2** Word in s. 3(2)(g) repealed (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **130(2)(b)**; S.R. 2016/46, art. 3(5)(b)
- F3** S. 3(2)(h) inserted (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **130(2)(e)**; S.R. 2016/46, art. 3(5)(b)
- F4** S. 3(3A)-(3D) inserted (17.2.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **130(3)**; S.R. 2016/46, art. 3(5)(b)

#### Agency arrangements and provision of services

4.—(1) Arrangements may be made between the Department and any relevant authority for—

- (a) any functions of one of them to be exercised on their behalf by, or by members of staff of, the other;
- (b) the provision of administrative, professional or technical services by one of them for the other.

(2) The reference in subsection (1)(a) to functions does not include functions of making, confirming or approving statutory rules.

(3) The Department may make arrangements under this section on such terms and conditions as it thinks fit.

(4) In this section “relevant authority” means—

- (a) any Northern Ireland department;
- (b) a public body specified in regulations made by the Department for the purposes of this section.

(5) For the purposes of this section, functions of the Department are functions relating to child support.

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: Child Maintenance Act (Northern Ireland) 2008 is up to date with all changes known to be in force on or before 04 October 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### Contracting out

5.—(1) Any function relating to child support may be exercised by, or by employees of, such person (if any) as the Department may authorise for the purpose.

(2) An authorisation given by virtue of subsection (1) may authorise the exercise of the function concerned—

- (a) either wholly or to such extent as may be specified in the authorisation,
- (b) either generally or in such cases or areas as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

(3) An authorisation given by virtue of subsection (1)—

- (a) may specify its duration,
- (b) may be revoked at any time by the Department, and
- (c) shall not prevent the Department or any other person from exercising the function to which the authorisation relates.

(4) Where a person is authorised to exercise any function by virtue of subsection (1), anything done or omitted to be done by or in relation to that person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by or in relation to the Department.

(5) Subsection (4) shall not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Department as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).

(6) Where—

- (a) a person is authorised to exercise any function by virtue of subsection (1), and
- (b) the authorisation is revoked at a time when a relevant contract is subsisting, the authorised person shall be entitled to treat the relevant contract as repudiated by the Department (and not as frustrated by reason of the revocation).

(7) In subsection (6), the reference to a relevant contract is to so much of any contract made between the authorised person and the Department as relates to the exercise of the function.

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: Child Maintenance Act (Northern Ireland) 2008 is up to date with all changes known to be in force on or before 04 October 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### Supplementary provisions

6.—(1) In this Part, “child” has the same meaning as in the Child Support Order.

(2) The Department may by regulations make provision about when a child is, or is not, to be regarded for the purposes of this Part as living apart from a parent.

(3) In this Part, “functions relating to child support” means functions of the Department under

- (a) this Act or under any provision made under this Act;
- (b) the Child Support Order or under any provision made under that Order;
- (c) the Child Support (Northern Ireland) Order 1995 (NI 13) or under any provision made under that Order.

## PART 2

### CHILD SUPPORT ETC.

#### *Removal of compulsion for benefit claimants*

### Repeal of Articles 9 and 43

7 The following provisions of the Child Support Order cease to have effect—

- (a) Article 9 (under which the claim of benefit by or in respect of a parent with care, or the payment of benefit to or in respect of such a person, triggers an application by her or him for child support maintenance), and
- (b) Article 43 (which enables the Department in certain circumstances to reduce the benefit of a person in relation to whom Article 9 triggers the making of an application for child support maintenance).

#### Commencement Information

- II** S. 7 wholly in operation at 27.10.2008; s. 7 not in operation at Royal Assent see s. 41(1); s. 7(b) in operation at 14.7.2008 by S.R. 2008/291, art. 2(1)(a); s. 7(a) in operation at 14.7.2008 by S.R. 2008/291, art. 2(2)(a) (with art. 2(3)(4)); s. 7(a) in operation at 27.10.2008 in so far as not already in operation by S.R. 2008/399, art. 2(2)(a) (with art. 3(4))