



# Child Support, Pensions and Social Security Act (Northern Ireland) 2000

## 2000 CHAPTER 4

An Act to amend the law relating to child support; to amend the law relating to occupational and personal pensions; to amend the law relating to social security benefits and social security administration; to amend Part III of the Family Law Reform (Northern Ireland) Order 1977 and Part V of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989; and for connected purposes.  
[20th November 2000]

### Modifications etc. (not altering text)

- C1** Act: certain provisions applied (with modifications) (1.10.2010) [Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/312\)](#), regs. 1, **16**, Sch. 2

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## PART I

### CHILD SUPPORT

#### *Maintenance calculations and default and interim maintenance decisions*

#### **Maintenance calculations and terminology**

**1.—**(1) In the Child Support (Northern Ireland) Order 1991 (NI 23) (in this Act referred to as the Child Support Order), for Article 13 (maintenance assessments) there shall be substituted—

#### **“Maintenance calculations**

**13.—**(1) An application for a maintenance calculation made to the Department shall be dealt with by it in accordance with the provision made by or under this Order.

(2) The Department shall (unless it decides not to make a maintenance calculation in response to the application, or makes a decision under Article 14) determine the application by making a decision under this Article about whether any child support maintenance is payable and, if so, how much.

(3) Where—

- (a) a parent is treated under Article 9(3) as having applied for a maintenance calculation; but
- (b) the Department becomes aware before determining the application that the parent has ceased to fall within Article 9(1),

it shall, subject to paragraph (4), cease to treat that parent as having applied for a maintenance calculation.

(4) If it appears to the Department that paragraph (10) of Article 7 would not have prevented the parent with care concerned from making an application for a maintenance calculation under that Article it shall—

- (a) notify that parent of the effect of this paragraph; and
- (b) if, before the end of the period of one month beginning with and including the day on which notice was sent to the parent with care, that parent asks the Department to do so, treat that parent as having applied not under Article 9 but under Article 7.

(5) Where paragraph (3) applies but paragraph (4) does not, the Department shall notify—

- (a) the parent with care concerned; and
- (b) the non-resident parent (or alleged non-resident parent), where it appears to the Department that that person is aware that the parent

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with care has been treated as having applied for a maintenance calculation.

(6) The amount of child support maintenance to be fixed by a maintenance calculation shall be determined in accordance with Part I of Schedule 1 unless an application for a variation has been made and agreed.

(7) If the Department has agreed to a variation, the amount of child support maintenance to be fixed shall be determined on the basis it determines under Article 28F(4).

(8) Part II of Schedule 1 makes further provision with respect to maintenance calculations.”.

(2) In the Child Support Order—

- (a) for maintenance assessment, wherever it occurs, there shall be substituted “maintenance calculation”; and
- (b) for assessment (or any variant of that term), wherever it occurs, there shall be substituted “calculation” (or the corresponding variant) preceded, where appropriate, by a instead of an.

*Subs. (3)—Amendments*

### Applications under Article 7 of the Child Support Order

2.—(1) Article 7(10) of the Child Support Order (child support maintenance) shall be amended as follows.

(2) In sub-paragraph (a), after maintenance order there shall be inserted “made before a prescribed date”.

(3) After sub-paragraph (a), there shall be inserted—

- “(aa) a maintenance order made on or after the date prescribed for the purposes of sub-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” .

### Applications by persons claiming or receiving benefit

3. <sup>F1</sup> .....

**F1** S. 3 repealed (27.10.2008) by [Child Maintenance Act \(Northern Ireland\) 2008 \(c. 10\)](#), ss. 39, 41(1), [Sch. 5](#); S.R. 2008/399, [art. 2\(2\)\(b\)\(d\)](#)

### Default and interim maintenance decisions

4. For Article 14 of the Child Support Order (interim maintenance assessments) there shall be substituted—

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### **“Default and interim maintenance decisions**

#### **14.—(1) Where the Department—**

- (a) is required to make a maintenance calculation; or
- (b) is proposing to make a decision under Article 18 or 19,

and it appears to the Department that it does not have sufficient information to enable it to do so, it may make a default maintenance decision.

(2) Where an application for a variation has been made under Article 28A(1) in connection with an application for a maintenance calculation (or in connection with such an application which is treated as having been made), the Department may make an interim maintenance decision.

(3) The amount of child support maintenance fixed by an interim maintenance decision shall be determined in accordance with Part I of Schedule 1.

(4) The Department may by regulations make provision as to default and interim maintenance decisions.

#### **(5) The regulations may, in particular, make provision as to—**

- (a) the procedure to be followed in making a default or an interim maintenance decision; and
- (b) a default rate of child support maintenance to apply where a default maintenance decision is made.”.

### *Applications for a variation*

### **Departure from usual rules for calculating maintenance**

#### **5.—(1) The Child Support Order shall be amended as follows.**

(2) For Articles 28A to 28C (application for a departure direction, preliminary consideration of applications and the imposition of a regular payments condition) there shall be substituted—

### *“Variations*

### **Application for variation of usual rules for calculating maintenance**

**28A.—(1)** Where an application for a maintenance calculation is made under Article 7, or treated as made under Article 9, the person with care or the non-resident parent may apply to the Department for the rules by which the calculation is made to be varied in accordance with this Order.

(2) Such an application is referred to in this Order as an application for a variation.

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(3) An application for a variation may be made at any time before the Department has made a decision (under Article 13 or 14(1)) on the application for a maintenance calculation (or the application treated as having been made under Article 9).

(4) A person who applies for a variation—

(a) need not make the application in writing unless the Department directs in any case that he must; and

(b) shall say upon what grounds the application is made.

(5) In other respects an application for a variation shall be made in such manner as may be prescribed.

(6) Schedule 4A shall have effect in relation to applications for a variation.

### **Preliminary consideration of applications**

**28B.**—(1) Where an application for a variation has been duly made to the Department, it may give it a preliminary consideration.

(2) Where the Department does so it may, on completing the preliminary consideration, reject the application (and proceed to make its decision on the application for a maintenance calculation without any variation) if it appears to it—

(a) that there are no grounds on which it could agree to a variation;

(b) that it has insufficient information to make a decision on the application for the maintenance calculation under Article 13 (apart from any information needed in relation to the application for a variation), and therefore that its decision would be made under Article 14(1); or

(c) that other prescribed circumstances apply.

### **Imposition of regular payments condition**

**28C.**—(1) Where—

(a) an application for a variation is made by the non-resident parent; and

(b) the Department makes an interim maintenance decision,

it may also, if it has completed its preliminary consideration (under Article 28B) of the application for a variation and has not rejected it under that Article, impose on the non-resident parent one of the conditions mentioned in paragraph (2) (a regular payments condition).

(2) The conditions are that—

(a) the non-resident parent shall make the payments of child support maintenance specified in the interim maintenance decision;