

2008 No. 399 (C. 22)

FAMILY LAW

CHILD SUPPORT

The Child Maintenance (2008 Act) (Commencement No. 3 and Transitional and Savings Provisions) Order (Northern Ireland) 2008

Made - - - -

26th September 2008

The Department for Social Development makes the following Order in exercise of the powers conferred by section 41(1) and (2) of the Child Maintenance Act (Northern Ireland) 2008.

Citation and interpretation

1.—(1) This Order may be cited as the Child Maintenance (2008 Act) (Commencement No. 3 and Transitional and Savings Provisions) Order (Northern Ireland) 2008.

(2) In this Order—

“the 1991 Order” means the Child Support (Northern Ireland) Order 1991.

(3) In this Order, unless the context requires otherwise, any reference to a numbered section or Schedule is a reference to a section of, or Schedule to, the Child Maintenance Act (Northern Ireland) 2008.

Appointed days

2.—(1) The day appointed for the coming into operation of—

(a) section 12 (use of deduction from earnings orders as basic method of payment); and

(b) section 27 (offence of failing to notify change of address);

for the purpose of making regulations is 29th September 2008, and for all other purposes is 27th October 2008.

(2) In so far as not already in operation, the day appointed for the coming into operation of the following provisions is 27th October 2008—

(a) section 7(a) (repeal of Articles 9 and 43);

(b) sections 38(1) and 39, so far as relating to the paragraphs and entries referred to in sub-paragraphs (c) and (d) below;

- (c) paragraphs 2(1) and (2) of Schedule 4 (minor and consequential amendments); and
- (d) in Schedule 5 (repeals), the entries relating to repeals in—
 - (i) Articles 7, 10, 11, 13, 14, 16, 22(1)(e) and 2(d), 27, 27A, 28, 28A, 28F, 28J, 29, 38, and 48 of, and Schedules 4A and 4B to, the 1991 Order,
 - (ii) sections 102 and 116(3) of the Social Security Administration (Northern Ireland) Act 1992, and
 - (iii) section 3 of, and paragraphs 13(b), 14(a), 15, 17, 18 and 28 of Schedule 3 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000.

Transitional and savings provisions

3.—(1) Any existing case, as defined in paragraph (2), shall be treated from 27th October 2008 as though the person with care had made an application under Article 7 of the 1991 Order.

(2) In paragraph (1), an existing case is one in which, immediately before 14th July 2008, Article 9 of the 1991 Order applied in relation to a parent with care and—

- (a) a maintenance assessment or calculation was in force as a result of the Department acting under that Article; or
- (b) no maintenance assessment or calculation had been made but the Department had given notice in accordance with regulation 5 of the Child Support (Maintenance Assessment Procedure) Regulations (Northern Ireland) 1992 or regulation 5 of the Child Support (Maintenance Calculation Procedure) Regulations (Northern Ireland) 2001.

(3) Paragraph (1) shall not apply in any case where the maintenance assessment or calculation ceases to have effect, or would have ceased to have effect had it been made, before 27th October 2008.

(4) The repeal of Article 9 of the 1991 Order shall not prevent the Department from exercising any powers that otherwise it would have had under Article 38 of that Order to recover and retain arrears of child support maintenance accrued in relation to any period before 27th October 2008.

Sealed with the Official Seal of the Department for Social Development on 26th September 2008

(L.S.)

John O'Neill
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation provisions of the Child Maintenance Act (Northern Ireland) 2008 (c. 10 (N.I.)) (“the Act”) as follows:

Article 2 brings into operation sections 12 and 27 of the Act on 29th September 2008 for the purpose of making regulations, and on 27th October 2008 for all other purposes. It also brings various other provisions fully into operation on 27th October 2008. These include section 7(a), which repeals Article 9 of the Child Support (Northern Ireland) Order 1991 (“the 1991 Order”), and Schedules 4 and 5, which contain consequential provisions and repeals.

Article 3 makes transitional and savings provisions in relation to the repeal of Article 9 of the 1991 Order. Existing cases (those where a maintenance calculation is in operation or an effective date has been set) are treated from 27th October 2008 as though the person with care had applied to the Department under Article 7 of the 1991 Order. Cases in which a maintenance assessment or calculation has ceased, or would have ceased had one been made, before 27th October 2008 shall not be treated as applied for under Article 7 of the 1991 Order. Article 3(4) preserves the power of the Department to recover and retain arrears of child support maintenance for periods before 27th October 2008 when the parent with care was being paid a benefit.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Child Maintenance Act (Northern Ireland) 2008 have been brought into operation by earlier commencement orders as from the date shown.

<i>Provision</i>	<i>Date Commencement</i>	<i>of S.R. No.</i>
Section 7 (partially)	14th July 2008	2008 No. 291 (C.15)
Section 33	5th August 2008	2008 No. 331 (C.17)
Section 35	14th July 2008	2008 No. 291 (C.15)
Section 37 (partially)	9th July 2008	2008 No. 291 (C.15)
Section 38 (partially)	9th July 2008	2008 No. 291 (C.15)
Section 40 (partially)	9th July 2008	2008 No. 291 (C.15)
Schedule 4 (partially)	14th July 2008	2008 No. 291 (C.15)

THE CHILD MAINTENANCE (2008 ACT) (COMMENCE NO. 3 AND TRANSITIONAL AND SAVINGS PROVISIONS) ORDER (NORTHERN IRELAND) 2008 (S.R. 2008 No. 339 C. 22)

Schedule 5 (partially)

14th July 2008

2008 No. 291

5th August 2008

(C.15)

2008 No. 331

(C.17)