

*Status: This version of this provision is prospective.*

**Changes to legislation:** *Child Maintenance Act (Northern Ireland) 2008, Section 18 is up to date with all changes known to be in force on or before 01 October 2023. 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*



## 2008 CHAPTER 10

### PART 2

#### CHILD SUPPORT ETC.

##### *Collection and enforcement*

PROSPECTIVE

#### **Disqualification for holding or obtaining travel authorisation**

**18** Before Article 37 of the Child Support Order insert—

##### **“Disqualification for holding or obtaining travel authorisation**

**36B.**—(1) The Department may apply to the court for an order under this Article against a person where—

- (a) it has sought to recover an amount from the person by virtue of Article 35;
- (b) the whole or any part of the amount remains unpaid; and
- (c) the Department is of the opinion that there has been wilful refusal or culpable neglect on the part of the person.

(2) A person against whom an order under this Article is made is disqualified for holding or obtaining a travel authorisation while the order has effect.

(3) On an application under paragraph (1) for an order against a person the court shall (in the presence of that person) inquire as to—

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- (a) whether the person needs a travel authorisation to earn a living;
  - (b) the person's means;
  - (c) whether there has been wilful refusal or culpable neglect on the part of the person.
- (4) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the person, it may make an order under this Article.
- (5) The court may not take action under both this Article and Article 37.
- (6) On an application under paragraph (1) the court shall not question—
- (a) the liability order by reference to which the Department acted as mentioned in sub-paragraph (a) of that paragraph; or
  - (b) the maintenance calculation by reference to which that liability order was made.
- (7) An order under this Article shall specify the amount in respect of which it is made, which shall be the aggregate of—
- (a) the amount sought to be recovered as mentioned in paragraph (1) (a), or so much of it as remains unpaid; and
  - (b) an amount (determined in accordance with regulations made by the Department) in respect of the costs of the application under this Article.
- (8) A court which makes an order under this Article shall require the person to whom it relates to produce any travel authorisation that the person holds.
- (9) The court shall send to the prescribed person any travel authorisation produced to the court under paragraph (8)
- (10) Where a court—
- (a) makes an order under this Article, or
  - (b) allows an appeal against such an order,
- it shall send notice of that fact to the Department; and the notice shall contain such particulars and be sent in such manner and to such address as the Department may determine.
- (11) In this Article “travel authorisation” means—
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971);
  - (b) an ID card issued under the Identity Cards Act 2006 that records that the person to whom it has been issued is a British citizen.
- (12) In this Article (except for the purposes of paragraph (10)(b)) and in Articles 36C to 36E, “court” means a court of summary jurisdiction.

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### **Period for which orders under Article 36B are to have effect**

**36C.**—(1) Disqualification by an order under Article 36B shall be for such period not exceeding 2 years as the court may specify in the order.

(2) On making an order under Article 36B, the court may include in the order provision suspending the running of the period for which the order is to have effect until such day and on such conditions (if any) as the court thinks just.

(3) After making such an order the court may by order suspend the running of the period for which it has effect until such day and on such conditions (if any) as the court thinks just.

(4) The powers conferred by paragraphs (2) and (3) may be exercised by the court only—

- (a) if the person against whom the order under Article 36B is made agrees to pay the amount specified in the order; or
- (b) if the court is satisfied that the suspension in question is justified by exceptional circumstances.

(5) The Department may make a further application under Article 36B if the amount specified in an order under that Article has not been paid in full by the end of the period for which the order has effect.

### **Power to order search**

**36D.**—(1) On making an order under Article 36B the court may order the person against whom the order is made to be searched.

(2) Any money found on such a search shall, unless the court otherwise directs, be applied towards payment of the amount specified under Article 36B(7); and the balance (if any) shall be returned to the person searched.

(3) The court shall not allow the application under paragraph (2) of money found on a search under paragraph (1) if it is satisfied that the money does not belong to the person searched

### **Variation and revocation of orders following payment**

**36E.**—(1) If part of the amount specified in an order under Article 36B is paid to any person authorised to receive it, the court may, on an application made by the Department or the person against whom the order is made, by order—

- (a) reduce the period for which the order under Article 36B is to have effect; or
- (b) revoke the order under Article 36B.

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(2) If the whole of the amount specified in an order under Article 36B is paid to any person authorised to receive it, the court shall, on an application made by the Department or the person against whom the order is made, by order revoke the order under Article 36B.

(3) The Department may make representations to the court as to the amount which should be paid before it would be appropriate to make an order under paragraph (1) revoking an order under Article 36B, and the person against whom the order was made may reply to those representations.

(4) The court may exercise the powers conferred on it by paragraph (1) or (2) without the need for an application where money found on a search under Article 36D(1) is applied towards payment of the amount specified in the order under Article 36B.

(5) Where a court makes an order under this Article, it shall send notice of that fact to the Department; and the notice shall contain such particulars and be sent in such manner and to such address as the Department may determine.

#### **Power to make supplementary provision**

**36F** The Department may by regulations—

- (a) make provision in relation to orders under Article 36B corresponding to the provision that may be made under Article 37(11);
- (b) make provision for Articles 36C to 36E to have effect with prescribed modifications in cases where a person against whom an order under Article 36B has effect is outside the United Kingdom.”.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SR 2012/440 art. 3 by [S.R. 2014/194 art. 4](#)
- specified provision(s) amendment to earlier commencing SR 2013/201 art. 3 by [S.R. 2014/194 art. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 2 para. 3(3) inserted by [S.I. 2015/2006 \(N.I.\) art. 126\(2\)](#)