
STATUTORY INSTRUMENTS

1995 No. 755

The Children (Northern Ireland) Order 1995

PART IV

SUPPORT FOR CHILDREN AND THEIR FAMILIES

Contributions towards maintenance of children looked after by an authority

Interpretation

38. In Articles 39 to 43—

“contribution notice” has the meaning given in Article 40(1);

“contribution order” has the meaning given in Article 41(2);

“contributor” has the meaning given in Article 39(1).

Liability to contribute

39.—(1) Where an authority is looking after a child (other than in the cases mentioned in paragraph (7)), the authority shall consider whether it should recover contributions towards the child’s maintenance from any person liable to contribute (a “contributor”).

(2) An authority may only recover contributions from a contributor if the authority considers it reasonable to do so.

(3) The persons liable to contribute are—

(a) where the child is under 16, each of his parents;

(b) where he has reached the age of 16, the child himself.

(4) A person shall not be liable to contribute during any period when he is in receipt of income support, family credit or disability working allowance.

(5) A person shall not be liable to contribute towards the maintenance of a child in the care of an authority in respect of any period during which the child is allowed by the authority (under Article 27(5)) to live with a parent of his.

(6) A contributor shall not be obliged to make any contribution towards a child’s maintenance except as agreed or determined in accordance with Articles 40 to 43.

(7) The cases referred to in paragraph (1) are where the child is looked after by an authority under—

(a) Article 23;

(b) an interim care order.

Agreed contributions

40.—(1) Contributions towards a child’s maintenance may only be recovered if the authority has served a notice (a “contribution notice”) on the contributor specifying—

- (a) the weekly sum which the authority considers that he should contribute; and
- (b) arrangements for payment.

(2) The contribution notice must be in writing and dated.

(3) Arrangements for payment shall, in particular, include—

- (a) the date on which liability to contribute begins (which must not be earlier than the date of the notice);
- (b) the date on which liability under the notice will end (if the child has not before that date ceased to be looked after by the authority); and
- (c) the date on which the first payment is to be made.

(4) The authority may specify in a contribution notice a weekly sum which is a standard contribution determined by the authority for all children looked after by it.

(5) The authority shall not specify in a contribution notice a weekly sum greater than that which the authority considers—

- (a) it would normally be prepared to pay if it had placed a similar child with authority foster parents; and
- (b) it is reasonably practicable for the contributor to pay (having regard to his means).

(6) An authority may at any time withdraw a contribution notice (without prejudice to the authority’s power to serve another).

(7) Where the authority and the contributor agree—

- (a) the sum which the contributor is to contribute; and
- (b) arrangements for payment,

(whether as specified in the contribution notice or otherwise) and the contributor notifies the authority in writing that he so agrees, the authority may recover summarily as a civil debt any contribution which is overdue and unpaid.

(8) A contributor may, by serving a notice in writing on the authority, withdraw his agreement in relation to any period of liability falling after the date of service of the notice.

(9) Paragraph (7) is without prejudice to any other method of recovery.

Contribution orders

41.—(1) Where a contributor has been served with a contribution notice and has—

- (a) failed to reach any agreement with the authority as mentioned in Article 40(7) within the period of one month beginning with the day on which the contribution notice was served; or
- (b) served a notice under Article 40(8) withdrawing his agreement,

the authority may apply to the court for an order under this Article.

(2) On such an application the court may make an order (a “contribution order”) requiring the contributor to contribute a weekly sum towards the child’s maintenance in accordance with arrangements for payment specified by the court.

(3) A contribution order—

- (a) shall not specify a weekly sum greater than that specified in the contribution notice; and

- (b) shall be made with due regard to the contributor's means.
- (4) A contribution order shall not—
 - (a) take effect before the date specified in the contribution notice; or
 - (b) have effect while the contributor is not liable to contribute (by virtue of Article 39); or
 - (c) remain in force after the child has ceased to be looked after by the authority which obtained the order.
- (5) An authority shall not apply to the court under paragraph (1) in relation to a contribution notice which the authority has withdrawn.
- (6) Where—
 - (a) a contribution order is in force;
 - (b) the authority serves another contribution notice; and
 - (c) the contributor and the authority reach an agreement under Article 40(7) in respect of that other contribution notice,the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect.
- (7) Where an agreement is reached under paragraph (6) the authority shall notify the court—
 - (a) of the agreement; and
 - (b) of the date on which it took effect.
- (8) A contribution order may be varied or revoked on the application of the contributor or the authority.
- (9) In proceedings for the variation of a contribution order, the authority shall specify—
 - (a) the weekly sum which, having regard to Article 40, the authority proposes that the contributor should contribute under the order as varied; and
 - (b) the proposed arrangements for payment.
- (10) Where a contribution order is varied, the order—
 - (a) shall not specify a weekly sum greater than that specified by the authority in the proceedings for variation; and
 - (b) shall be made with due regard to the contributor's means.
- (11) An appeal shall lie in accordance with rules of court from any order made under this Article.

Enforcement of contribution orders, etc.

42.—(1) A contribution order shall be an order to which Article 98(11) of the Magistrates' Courts (Northern Ireland) Order 1981(1) applies.

(2) Where a contributor has agreed, or has been ordered, to make contributions to an authority, any other authority within whose area the contributor is for the time being living may—

- (a) at the request of the authority which served the contribution notice; and
- (b) subject to agreement as to any sum to be deducted in respect of services rendered,

collect from the contributor any contributions due on behalf of the authority which served the notice.

(3) The power to collect sums under paragraph (2) includes power to—

- (a) receive and give a discharge from any contributions due; and
- (b) (if necessary) enforce payment of any contributions,

even though those contributions may have fallen due at a time when the contributor was living elsewhere.

(4) Any contribution collected under paragraph (2) shall be paid (subject to any agreed deduction) to the authority which served the contribution notice.

(5) In any proceedings under this Article, a document which purports to be—

- (a) a copy of an order made by a court under Article 41; and
- (b) certified as a true copy by the clerk of the court,

shall be evidence of the order.

(6) In any proceedings under this Article, a certificate which—

- (a) purports to be signed by an authorised officer of the authority which obtained the contribution order; and
- (b) states that any sum due to the authority under the order is overdue and unpaid,

shall be evidence that the sum is overdue and unpaid.

Regulations

43. The Department may make regulations—

- (a) as to the considerations which an authority must take into account in deciding—
 - (i) whether it is reasonable to recover contributions; and
 - (ii) what the arrangements for payment should be;
- (b) as to the procedures which an authority must follow in reaching agreements with—
 - (i) contributors (under Articles 40 and 41); and
 - (ii) any other authority (under Article 42).