



An Bille um Chothabháil Linbh, 2026
Child Maintenance Bill 2026

Mar a tionscnaíodh

As initiated



AN BILLE UM CHOTHABHÁIL LINBH, 2026
CHILD MAINTENANCE BILL 2026

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ACTS REFERRED TO

Assisted Decision-Making (Capacity) Act 2015 (No. 64)
Children and Family Relationships Act 2015 (No. 9)
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)
Data Protection Act 2018 (No. 7)
Defence Act 1954 (No. 18)
Domestic Violence Act 2018 (No. 6)
Family Law (Divorce) Act 1996 (No. 33)
Family Law (Maintenance of Spouses and Children) Act 1976 (No. 11)
Family Law Act 1995 (No. 26)
Guardianship of Infants Act 1964 (No. 7)
Powers of Attorney Act 1996 (No. 12)
Social Welfare Consolidation Act 2005 (No. 26)
Statistics Act 1993 (No. 21)
Taxes Consolidation Act 1997 (No. 39)



AN BILLE UM CHOTHABHÁIL LINBH, 2026
CHILD MAINTENANCE BILL 2026

Bill

entitled

An Act to provide for the administrative assessment, by the Revenue Commissioners, of 5
liabilities of certain persons to pay periodic maintenance in respect of a child; to provide
for a standard methodology for making such an assessment; to provide for the
enforceability of such assessments in certain circumstances; to empower the Revenue
Commissioners to depart from a standard methodology for making an assessment of
child maintenance in certain circumstances; to provide for updated assessments of child 10
maintenance in certain circumstances; to prohibit, in the interests of the common good,
the making of certain applications to court unless certain circumstances apply; to
provide for appeals from certain determinations and decisions of the Revenue
Commissioners; and to provide for related matters.

Be it enacted by the Oireachtas as follows: 15

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Child Maintenance Act 2026.
- (2) This Act comes into operation 12 months after the date of its passing or such earlier 20
date than the said 12 months as the Minister may appoint by order.

Application

2. This Act applies to any person who is a parent or non-parent carer in respect of a
qualifying child.

Definitions 25

3. In this Act—
“Act of 1976” means the Family Law (Maintenance of Spouses and Children) Act 1976;
“Act of 1995” means the Family Law Act 1995;

“Act of 1996” means the Family Law (Divorce) Act 1996;	
“Act of 1997” means the Taxes Consolidation Act 1997 ;	
“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;	
“Act of 2015” means the Assisted Decision-Making (Capacity) Act 2015;	5
“adjusted income” shall be read in accordance with <i>section 16(3)</i> ;	
“allowable deduction” has the meaning given to it in <i>section 18</i> ;	
“annual amount of child maintenance” means the amount payable in a child maintenance year by a liable parent in respect of a qualifying child;	
“Appeals Commissioner” means a member of the Child Maintenance Assessment Appeals Commission;	10
“applicant”, in respect of an application for a child maintenance assessment in respect of a child, means the parent or non-parent carer of that child who makes the application;	
“application” means an application for a child maintenance assessment made under <i>section 10</i> ;	15
“average weekly earnings” means average weekly earnings as determined in the manner prescribed under <i>section 33</i> ;	
“capacity”, in relation to any decision that may be required to be made for the purposes of a child maintenance assessment, has the meaning given to it in the Act of 2015;	
“care cost percentage” means the percentage of costs incurred by a parent or non-parent carer providing ongoing daily care to a child, calculated in accordance with <i>section 22</i> ;	20
“child expenditure amount” has the meaning given to it in <i>section 32</i> ;	
“child maintenance” means any payment that is required to be made under the law of the State or another jurisdiction, or any payment that is made pursuant to a voluntary agreement, by any person towards the support of a child;	25
“child maintenance assessment” means an assessment made by the Commissioners under <i>section 25</i> and, where the context admits, includes a determination under <i>section 15</i> ;	
“child maintenance group”, in relation to a parent who, at a particular time, has more than one qualifying child, means the qualifying children of that parent who all share the same other parent and in relation to whom any of the following applies:	30
(a) child maintenance for that time has been assessed or is being assessed under this Act;	
(b) any person is required under the law of the State or another jurisdiction to make payments in respect of the child where such payments are of the same nature as child maintenance payable under an order to pay;	35
(c) any person makes payments in respect of the child, where such payments are of the same nature as child maintenance payable under an order to pay, pursuant to a voluntary agreement;	
“child maintenance year” means—	

- (a) the period commencing on the date of commencement of this Act and ending on 31 December next following that date, and
 - (b) after the period referred to in *paragraph (a)*, every period of 12 months ending on 31 December;
- “civil partner” means a person in a civil partnership or legal relationship to which section 3 of the Act of 2010 applies; 5
- “cohabitant” has the meaning given to it in Part 15 of the Act of 2010;
- “combined adjusted income” means the combined adjusted income of the parents of a child assessed in accordance with *section 16(1)(b)*;
- “Commissioners” means the Revenue Commissioners; 10
- “default assessment” means a child maintenance assessment made in accordance with *section 13*;
- “dependent child” shall be read in accordance with *section 20(2)*;
- “dependent child deduction” has the meaning given to it in *section 20*;
- “income percentage” means, in relation to a parent of a qualifying child, that parent’s percentage of the combined adjusted income, assessed under *section 16*; 15
- “liable parent” means a parent of a qualifying child who the Commissioners determine under *section 15* is liable to pay child maintenance in respect of that child;
- “living allowance deduction” has the meaning given to it in *section 19*;
- “minimum care cost percentage” has the meaning given to it in *section 15*; 20
- “Minister” means the Minister for Justice, Home Affairs and Migration;
- “multiple child maintenance group deduction” has the meaning given to it in *section 21*;
- “multiple child maintenance group cap” has the meaning given to it in *section 26*;
- “multiple group cost”, in relation to a child maintenance assessment, means the multiple group cost of each child in a child maintenance group of a parent concerned (other than the child maintenance group of the child in respect to whom the child maintenance assessment is being made), as determined under *section 21(2)(a)*; 25
- “non-parent carer” shall be read in accordance with *section 4(3)*;
- “notice of assessment” has the meaning given to it in *section 35*;
- “order to pay” has the meaning given to it in *section 37*; 30
- “parent” shall be read in accordance with *section 4(2)*;
- “prescribed” means prescribed by regulations made under *section 5*;
- “proportion of ongoing daily care”, in relation to a qualifying child, means the proportion of ongoing daily care that a parent or non-parent carer provides to that child, determined in accordance with *section 22*; 35
- “qualifying child” shall be read in accordance with *section 4(1)*;
- “receiving carer” means a parent or non-parent carer of a qualifying child who the

Commissioners determine under *section 15(1)(b)* is a receiving carer of the child;

“relevant order” means an order directing a person to make periodical payments for the maintenance of a qualifying child under any of the following provisions:

- (a) section 7(6)(b) or 11(2)(b) of the Guardianship of Infants Act 1964,
- (b) section 5, 5A, 5B, 5C or 7 of the Act of 1976, 5
- (c) section 7, 8 or 24 of the Act of 1995,
- (d) section 12 or 13 of the Act of 1996,
- (e) section 45, 47, 116 or 117 of the Act of 2010;

“standard formula assessment” means a child maintenance assessment made in accordance with *Part 3*; 10

“total income” means the total income of a parent calculated in the manner specified under *section 17* for the purposes of *section 16(3)*;

“valid application” means an application in respect of which the Commissioners determine under *section 10* that a child maintenance assessment may be carried out under this Act. 15

“Qualifying child”, “parent” and “non-parent carer” for purposes of Act

4. (1) For the purposes of this Act the following persons are qualifying children:

- (a) persons who have not reached the age of 18 years;
- (b) persons who have reached the age of 18 years and who—
 - (i) (I) are or will be or, if an order to pay was issued under this Act providing for periodical payments for the maintenance of such persons, would be receiving full-time education or instruction at any university, college, school or other educational establishment, and 20
 - (II) have not reached the age of 23 years,
- or 25
- (ii) are suffering from a mental or physical disability to such extent that it is not reasonably possible for such persons to maintain themselves fully.

(2) For the purposes of this Act a person is a parent in respect of a qualifying child if any of the following applies:

- (a) subject to *paragraph (b)*, the person is a father or mother of the child; 30
- (b) where the child is a donor-conceived child, within the meaning of Part 2 of the Children and Family Relationships Act 2015, the person is a parent of that child under section 5 of that Act;
- (c) the person is a person to whom section 5B or 5C of the Act of 1976 applies.

(3) For the purposes of this Act a person, other than a parent of the child, is a non-parent carer in respect of a qualifying child if either of the following applies: 35

- (a) the person is appointed a guardian of the child under the Guardianship of Infants

Act 1964 or under the law of another jurisdiction that corresponds to that Act;

- (b) the person is a member of a class of persons that are prescribed as non-parent carers for the purpose of this Act.

Regulations

5. (1) The Minister may, for the purposes of this Act, including providing ease of access for child maintenance assessments, increasing efficiency in the administration of this Act and allowing for appropriate child maintenance assessments to be made by the Commissioners, by regulations provide for any matter— 5
- (a) referred to in this Act as prescribed or to be prescribed, or
 - (b) for the purposes of enabling any provision of this Act to have full effect. 10
- (2) Without prejudice to *subsection (1)*, regulations under that subsection may provide for such matter as the Minister considers appropriate in relation to—
- (a) the procedure for making child maintenance assessments,
 - (b) default assessments made under *section 13*,
 - (c) departures made under *Part 5* from standard formula assessments, 15
 - (d) updated or amended child maintenance assessments made under *Part 6*, or
 - (e) the manner in which any dispute of fact in relation to a child maintenance assessment is to be resolved,
- and for such other matter as the Minister considers appropriate.
- (3) Without prejudice to any provision of this Act, regulations under this section may— 20
- (a) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations, and
 - (b) make different provision for different circumstances or cases, classes or types.
- (4) In making regulations under this section the Minister shall—
- (a) consult with such persons as the Minister considers appropriate, and 25
 - (b) without prejudice to any other considerations specified in this Act, have regard to the following:
 - (i) the principle that in making a child maintenance assessment the best interests of the child shall be the paramount consideration;
 - (ii) the principle that, in so far as is reasonably practicable, having regard to such factors as may be relevant to calculating the expected cost of providing ongoing care to a particular child, regulations under this section should ensure equal treatment between all of the qualifying children of a parent; 30
 - (iii) such other matter as the Minister considers appropriate.
- (5) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that 35

House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

Delegation of functions of Commissioners

6. Any function of the Commissioners under this Act, other than the authorisation of officers under this section, may be performed by any one or more of their officers acting under their authority. 5

Electronic means

7. (1) The functions of the Commissioners under this Act may, if appropriate, be performed through such electronic means as the Commissioners may put in place or approve for the time being for any such purpose. 10
- (2) Any act that the Commissioners require a person to perform under this Act may be performed by electronic means where this facility is made available by the Commissioners.
- (3) Any document authorised or required to be sent or given under this Act may be sent by post or by electronic means. 15

Provisions in respect of persons lacking capacity

8. (1) Any act that the Commissioners may require a parent or non-parent carer to perform under this Act may, where the parent or carer lacks capacity to make a decision relating to that act, be performed by any of the following, as may be applicable: 20
- (a) where there is a co-decision-making agreement, the parent or carer concerned jointly with the co-decision-maker concerned;
- (b) where a person has been appointed a decision-making representative on behalf of the parent or carer concerned, that representative;
- (c) where a person has been appointed pursuant to an enduring power of attorney on behalf of the parent or carer concerned, the attorney so appointed; 25
- (d) where a person or persons are otherwise duly authorised to act on behalf of the parent or carer concerned in respect of the decision concerned, the person or persons concerned acting individually or jointly in accordance with that authorisation. 30
- (2) For the purpose of *subsection (1)*, any document authorised or required to be sent or given to a parent or non-parent carer under this Act shall be sent or given to the following persons, as may be applicable:
- (a) where the Commissioners are aware of a co-decision-making agreement to which *paragraph (a)* of that subsection applies, the parent or carer concerned and the co-decision-maker concerned; 35
- (b) where the Commissioners are aware of the appointment of a decision-making representative to which *paragraph (b)* of that subsection applies, the representative concerned;

- (c) where the Commissioners are aware of the appointment of a person to which *paragraph (c)* of that subsection applies, the person concerned;
 - (d) where the Commissioners are aware of any other authorisation to which *paragraph (d)* of that subsection applies, such persons that are authorised to act, whether individually or jointly with other persons, on behalf of the parent or carer concerned. 5
- (3) Where it comes to the attention of the Commissioners that a parent or non-parent carer may not have capacity to make a particular decision for the purposes of this Act, the Commissioners may request that person to provide a certificate from a registered medical practitioner confirming that the person has the necessary capacity to make the decision in the circumstances. 10
- (4) In this section—
- “co-decision-maker”, “co-decision-making agreement” and “decision-making representative” have the meanings respectively given to them in the Act of 2015;
- “enduring power of attorney” means— 15
- (a) an enduring power of attorney within the meaning of the Act of 2015, or
 - (b) an enduring power referred to in section 4 of the Powers of Attorney Act 1996 which was created in accordance with the provisions of that Act.

Expenses

9. The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, be paid out of moneys provided by the Oireachtas. 20

PART 2

APPLICATION FOR CHILD MAINTENANCE ASSESSMENT

Application for child maintenance assessment 25

10. (1) Any parent or non-parent carer of a qualifying child may apply to the Commissioners for a child maintenance assessment under this Act in relation to such a child.
- (2) An application under this section shall—
- (a) be in such form as may be prescribed,
 - (b) identify each parent and non-parent carer of the child concerned, and 30
 - (c) include such information and documentation as may be prescribed.
- (3) Upon receipt of an application under this section, the Commissioners shall—
- (a) determine whether the application is a valid application, and
 - (b) if the application is a valid application, make a notification in accordance with *section 12*. 35

- (4) For the purpose of *subsection (3)(a)*—
 - (a) subject to *section 11*, the Commissioners shall determine that an application is a valid application where each of the following applies:
 - (i) the application is in accordance with *subsection (2)*;
 - (ii) the application is in relation to a child who is a qualifying child, 5
 - and
 - (b) the Commissioners may request additional information or documentation from the applicant.
- (5) For the purposes of an application under this section, the Commissioners shall not charge a fee in relation to any matter relating to the making of a child maintenance 10 assessment.

Refusal to make child maintenance assessment

- 11. (1) For the purpose of *section 10(3)(a)*, an application shall be an invalid application if any of the following applies:
 - (a) the applicant is not a parent or non-parent carer of the child concerned; 15
 - (b) subject to *subsection (2)*, the applicant is a spouse, civil partner or cohabitant of a parent of the child concerned and they are not living separately;
 - (c) the applicant is a non-parent carer whose care cost percentage in relation to the child concerned is, in the opinion of the Commissioners having regard to the information provided by the applicant under *section 10*, less than the minimum 20 care cost percentage;
 - (d) subject to *section 73*, there is in force a court order directing any person to make payments in respect of the child concerned where such payments are of the same nature as child maintenance payable under an order to pay;
 - (e) a parent or non-parent carer of the child concerned is aged under 18 years; 25
 - (f) subject to *subsection (3)*, a parent or non-parent carer of the child concerned lacks capacity to make any decision that may be required to be made for the purposes of a child maintenance assessment;
 - (g) the application is not an application to which *section 10(4)(a)* applies;
 - (h) the child concerned is a spouse, civil partner or cohabitant. 30
- (2) *Subsection (1)(b)* does not apply if—
 - (a) the applicant is a parent of the child concerned, and
 - (b) the child concerned has—
 - (i) another parent in respect of whom the applicant is not a spouse, civil partner or cohabitant or in respect of whom the applicant is living separately, or 35
 - (ii) a non-parent carer—
 - (I) in respect of whom the applicant is not a spouse, civil partner or

- cohabitant or in respect of whom the applicant is living separately, and
- (II) whose care cost percentage in relation to the child is, in the opinion of the Commissioners having regard to the information provided by the applicant under *section 10*, equal to or more than the minimum care cost percentage. 5
- (3) *Subsection (1)(f)* does not apply if—
- (a) the parent or non-parent carer concerned is a person in respect of whom *paragraph (a), (b), (c) or (d) of section 8(1)* applies, or
- (b) the parent or non-parent carer concerned has appointed another person as the parent or carer’s decision-making assistant within the meaning of the Act of 2015. 10
- (4) The Commissioners shall, as soon as is reasonably practicable after determining that an application is an invalid application—
- (a) give notice to the applicant of the determination by the Commissioners that the application is an invalid application and the reasons for that determination, 15
- (b) where the determination is made under *paragraph (b) or (c) of subsection (1)*, issue to the applicant an authorisation referred to in *subsection (5)*, and
- (c) in respect of each parent and non-parent carer other than the applicant, give notice of the following:
- (i) the application; 20
- (ii) the determination by the Commissioners that the application is an invalid application and the reasons for that determination;
- (iii) where applicable, the authorisation issued to the applicant under *paragraph (b)*.
- (5) An authorisation under *subsection (4)(b)* shall state that the applicant is authorised, 25
and shall operate to authorise the applicant, to make an application for a relevant order.

Notification of other parents and non-parent carers in respect of a qualifying child

12. (1) Where the Commissioners determine that an application is a valid application, they shall, as soon as practicable after making that determination, give notice of the application to each parent and non-parent carer, other than the applicant, who is identified in the application together with the following: 30
- (a) a copy of the application concerned;
- (b) details of the information required from the parent or non-parent carer concerned;
- (c) a statement that, should each parent and non-parent carer concerned consent in writing to the Commissioners making a child maintenance assessment or fail to object to the making of a child maintenance assessment, the Commissioners will conduct a child maintenance assessment; 35
- (d) a statement that, should any parent or non-parent carer concerned object in

- writing to the Commissioners making a child maintenance assessment, the Commissioners will issue authorisations for the purpose of *subsection (5)(b)* to make an application for a relevant order;
- (e) a statement that the Commissioners may conduct a default assessment, in accordance with *section 13* if either of the following occurs: 5
- (i) any parent or non-parent carer concerned fails to respond to the notice;
 - (ii) any parent who has consented to the making of a child maintenance assessment fails to provide the information necessary to conduct that assessment;
- (f) such other matter as may be prescribed. 10
- (2) Where a parent or non-parent carer is notified under *subsection (1)*, the parent or carer may, by notice in writing, do either of the following:
- (a) consent to the making of a child maintenance assessment in respect of the child concerned;
 - (b) object to the making of a child maintenance assessment. 15
- (3) A notification under *subsection (2)* shall—
- (a) be in such form as may be prescribed, and
 - (b) include such information and documentation as may be prescribed.
- (4) Where each parent and non-parent carer, in respect of a child, who is notified under this section consents to the making of a child maintenance assessment under *subsection (2)(a)*— 20
- (a) subject to *section 13*, the Commissioners shall make a child maintenance assessment in respect of the child concerned,
 - (b) for the purpose of *paragraph (a)* the Commissioners may request such additional information or documentation from any parent or non-parent carer concerned as the Commissioners consider necessary to make a child maintenance assessment, and 25
 - (c) subject to *section 43, Part 4* shall apply in respect of the assessment concerned.
- (5) Where any parent or non-parent carer in respect of a child who is notified under this section objects to the making of a child maintenance assessment under *subsection (2)(b)*, the following provisions shall apply: 30
- (a) the Commissioners shall notify each parent and non-parent carer in respect of the child concerned that one or more parents or non-parent carers have objected to the making of an assessment;
 - (b) the Commissioners shall issue an authorisation referred to in *subsection (6)* to each of the following: 35
 - (i) the applicant;
 - (ii) each parent and non-parent carer of the child concerned who has consented to the making of an assessment under *subsection (2)(a)*.

- (6) An authorisation under *subsection (5)(b)* shall state that the parent or non-parent carer concerned is authorised, and shall operate to authorise the parent or carer, to make an application for a relevant order.

Default assessment

13. (1) This section applies where any parent or non-parent carer identified in an application— 5
- (a) fails to respond to a notification under *section 12(1)* within the period of 2 weeks after the making of that notification, or
 - (b) having received a request for additional information or documentation under *section 12(4)(b)*, fails to provide such information or documentation within 2 weeks of the request concerned. 10
- (2) For the purposes of an application to which this section applies—
- (a) subject to *subsection (4)*, the Commissioners shall make a default assessment in accordance with *Part 3* and this section, and
 - (b) subject to *section 43, Part 4* shall apply in respect of the assessment concerned. 15
- (3) For the purposes of *subsection (2)*, the Commissioners shall—
- (a) for the purpose of determining the income percentage of each parent named in the application assess the adjusted income of a parent to whom *subsection (1)* applies in accordance with the following provisions:
 - (i) the Commissioners shall assess the total income of the parent as the total income of the parent as estimated by the Commissioners by reference to any information— 20
 - (I) in their possession, or
 - (II) that is provided to the Commissioners by the Minister for Social Protection pursuant to *section 68*; 25
 - (ii) for the purpose of assessing any allowable deductions to be applied to the total income of the parent, the Commissioners shall apply a deduction by reference to any information—
 - (I) in their possession, or
 - (II) that is provided to the Commissioners by the Minister for Social Protection pursuant to *section 68*, 30
 - (b) for the purpose of assessing the care cost percentage of each parent and non-parent carer named in the application, determine the proportion of ongoing daily care that each parent and non-parent carer gives to the child concerned by reference to the information provided for the purpose of the application and any further information provided by any other parent or non-parent carer identified in the application, and 35
 - (c) for the purpose of the performance of their functions generally under *Part 3*, presume that a parent to whom *subsection (1)* applies does not have any qualifying children other than the child or children in relation to whom the 40

application is made.

- (4) (a) This subsection applies where—
- (i) a default assessment is being made under this section, and
 - (ii) before the Commissioners complete the default assessment concerned the parent or non-parent carer concerned, does each of the following: 5
 - (I) makes a notification under *section 12(2)(a)*;
 - (II) provides to the Commissioners all information and documentation that the Commissioners require for the purpose of making a child maintenance assessment in respect of the child concerned.
- (b) The Commissioners may, upon receipt of a notification and the information and documentation referred to in *paragraph (a)(ii)*, discontinue their default assessment in respect of the child concerned and make a child maintenance assessment based on the information provided by each parent and non-parent carer concerned. 10
- (c) For the purpose of determining whether to discontinue a default assessment under *paragraph (b)*, the Commissioners shall have regard to the desirability that any discontinuance of a default assessment under that paragraph should not unduly delay the making of a child maintenance assessment. 15
- (5) Where the Commissioners consider that there is insufficient information available to them to estimate the total income of a parent for the purpose of *subsection (3)(a)(i)*, the following provisions shall apply: 20
- (a) the Commissioners shall notify each parent and non-parent carer in respect of the child concerned that—
 - (i) one or more parents or non-parent carers have failed to respond to a notification under *section 12(1)* or has failed to provide any additional information or documentation requested under *section 12(4)(b)*, and 25
 - (ii) it is not possible to make a default assessment as there is insufficient information available to them to estimate the total income of one or more parents for the purpose of *subsection (3)(a)(i)*;
 - (b) the Commissioners shall issue to each parent and non-parent carer in respect of the child concerned, other than any such parent or carer to whom *subsection (1)* applies, an authorisation referred to in *subsection (6)*. 30
- (6) An authorisation under *subsection (5)(b)* shall state that the parent or non-parent carer concerned is authorised, and shall operate to authorise the parent or carer, to make an application for a relevant order. 35

Guidance on provisions of Act

14. (1) The Commissioners shall prepare and publish guidance for the purpose of providing information to applicants and other parents and non-parent carers on the application of this Act.
- (2) Guidance under *subsection (1)* shall include the following: 40

- (a) information relating to the information and documentation to be provided for the purpose of making a valid application;
- (b) information relating to the information and documentation to be provided by a person consenting under *section 12(2)(a)* to the making of a child maintenance assessment; 5
- (c) information relating to the procedure for making a child maintenance assessment including information relating to the following:
 - (i) default assessments;
 - (ii) the procedure for determining liable parents and receiving carers;
 - (iii) the procedure for assessing the annual amount of child maintenance in respect of a liable parent; 10
 - (iv) the procedure for assessing the amount payable to each receiving carer in respect of a child;
- (d) information relating to the procedure under *Part 4* on foot of a child maintenance assessment; 15
- (e) information relating to the procedure under *Part 5* for making a departure from a standard formula assessment;
- (f) information relating to the procedure under *Part 6* for making updated child maintenance assessments;
- (g) information relating to the right to appeal certain determinations and assessments of the Commissioners, made under this Act, under Part 40A (as applied by *section 57*) of the Act of 1997; 20
- (h) such other information as the Commissioners consider appropriate.
- (3) The information provided under *subsection (2)* shall be provided in a concise, intelligible and easily accessible form using clear and plain language. 25
- (4) The Commissioners may review guidance published under this section from time to time and, where they consider it appropriate, prepare and publish updated guidance for the purpose of this section.

PART 3

CHILD MAINTENANCE ASSESSMENT

30

CHAPTER 1

Determination of liability to pay child maintenance

Determination of liable parent and receiving carer

- 15.** (1) The Commissioners shall, for the purpose of making a child maintenance assessment in respect of a child, determine the following matters: 35
- (a) in respect of each parent identified in the application, whether the parent is liable

- to pay child maintenance for the child concerned;
- (b) in respect of each parent and non-parent carer identified in the application, whether the parent or non-parent carer is a receiving carer in relation to the child concerned for the purposes of this Act.
- (2) For the purpose of making a determination under *subsection (1)*, the Commissioners shall— 5
- (a) assess the income percentage of each parent identified in the application in accordance with *section 16*, and
 - (b) assess the care cost percentage of each parent and non-parent carer identified in the application in accordance with *section 22*. 10
- (3) Subject to *subsections (4) and (5)*—
- (a) the Commissioners shall determine that a parent is liable to pay child maintenance in relation to a child if—
 - (i) the parent’s income percentage is greater than the parent’s care cost percentage in relation to the child, or 15
 - (ii) the parent’s care cost percentage in relation to the child is nil,
 - (b) the Commissioners shall determine that a parent is a receiving carer in relation to a child for the purposes of this Act if—
 - (i) the parent’s care cost percentage in relation to the child is greater than the parent’s income percentage, or 20
 - (ii) the parent’s care cost percentage in relation to the child is 100 per cent,
 and
 - (c) the Commissioners shall determine that a non-parent carer is a receiving carer in relation to a child for the purposes of this Act if the carer’s care cost percentage in relation to the child is equal to or greater than the minimum care cost percentage. 25
- (4) The Commissioners shall not make a determination under *paragraph (a)* of subsection (3) in respect of a parent if either of the following applies:
- (a) where *subparagraph (i)* of that paragraph applies, the parent’s care cost percentage in respect of the child concerned is assessed under *subsection (2)(b)* to be equal to or greater than such care cost percentage as may be prescribed; 30
 - (b) the care cost percentage of each other parent and non-parent carer of the child concerned is assessed under *subsection (2)(b)* to be less than the minimum care cost percentage.
- (5) The Commissioners shall not make a determination under *subsection (3)(b)(i)* in respect of a parent if that parent’s care cost percentage in respect of the child concerned is assessed under *subsection (2)(b)* to be less than the minimum care cost percentage. 35
- (6) For the purposes of this section the Minister shall prescribe a care cost percentage (in this section referred to as a “minimum care cost percentage”) as the minimum care 40

cost percentage that is required to be assessed in respect of a parent or non-parent carer in relation to a child in order for such parent or carer to be determined to be a receiving carer in respect of that child for the purposes of this Act.

Assessment of income percentage

16. (1) For the purpose of assessing the income percentage of each parent of a child, the Commissioners shall— 5
- (a) assess the adjusted income of each parent of the child concerned, and
 - (b) combine the adjusted income of each parent of the child concerned to assess the combined adjusted income.
- (2) The Commissioners shall assess the income percentage of each parent of a child by assessing the adjusted income of the parent concerned as a percentage of the combined adjusted income. 10
- (3) For the purposes of *subsection (1)(a)*, a parent's adjusted income shall be assessed to be the parent's total income, calculated in the manner specified under *section 17*, less the following deductions: 15
- (a) allowable deductions specified by or under *section 18*;
 - (b) a living allowance deduction, calculated in the manner specified by *section 19*;
 - (c) where applicable, dependent child deductions calculated in the manner specified under *section 20*;
 - (d) where applicable, a multiple child maintenance group deduction calculated in the manner specified by *section 21*. 20
- (4) For the purposes of *subsection (3)*, if the sum of the deductions referred to in that subsection that applies to a parent is greater than the total income of the parent, the Commissioners shall assess the parent's adjusted income as nil.

Section 16 and total income

17. (1) Subject to this section, for the purpose of *section 16(3)* the total income of a parent shall be assessed— 25
- (a) in such manner as may be prescribed, and
 - (b) by reference to such period as may be prescribed.
- (2) Without prejudice to the generality of *subsection (1)(a)*, the Minister may prescribe such matters as the Minister considers appropriate for the purposes of adjusting the amount assessed as the total income of a parent to take account of changes in the consumer price index number. 30
- (3) For the purpose of assessing the total income of a parent, the Commissioners shall include the following sources of income (whether such income is in money or money's worth and whether arising within the State or otherwise) for the purposes of their assessment: 35
- (a) income from an employment, trade, profession or vocation;

- (b) rental income;
 - (c) income from the holding of an office or directorship;
 - (d) income from a pension (whether under the social welfare code or otherwise);
 - (e) income from fees, commissions, dividends, interest, or income of a similar character; 5
 - (f) payments under a settlement, covenant, estate or a payment in respect of maintenance other than child maintenance;
 - (g) subject to *subsection (4)*, such other sources of income as may be prescribed.
- (4) For the purposes of *subsection (3)*, the following sources of income shall not be included by the Commissioners for the purpose of their assessment of a parent's total income: 10
- (a) the income of any person who is cohabiting with the parent concerned or is otherwise providing shared care with the parent in relation to the child concerned;
 - (b) child benefit payable under Part 4 of the Social Welfare Consolidation Act 2005; 15
 - (c) any child maintenance that the parent receives from another person in respect of a child.
- (5) In making regulations for the purposes of this section, the Minister shall have regard to the following:
- (a) the desirability that in so far as is practicable, having regard to *subsection (4)* and *section 16(3)*, every source of a parent's income should be reckonable for the purposes of making a child maintenance assessment; 20
 - (b) such other matter as the Minister considers appropriate.
- (6) In this section, "consumer price index number" means the All Items Consumer Price Index Number compiled by the Central Statistics Office. 25

Section 16 and allowable deductions

- 18.** (1) For the purpose of *section 16(3)(a)*, the Commissioners shall make the following deductions from the total income of a parent (in this section referred to as "allowable deductions"):
- (a) income tax required by law to be deducted or paid from that income and in respect of which the parent is not entitled to claim an exemption, relief or allowance or the repayment of tax already paid; 30
 - (b) social insurance contributions;
 - (c) the universal social charge;
 - (d) subject to *subsection (2)*, pension contributions, subject to such limit as may be prescribed. 35
- (2) Notwithstanding *subsection (1)(d)*, the amount of pension contributions in respect of which an allowable deduction may be made from the total income of a parent shall not

be greater than the amount of pension contributions that can be deducted from the gross income of the parent, during the period specified under *section 17(1)(b)*, before that income becomes liable to income tax.

Section 16 and living allowance deduction

19. (1) For the purpose of *section 16(3)(b)*, the Commissioners shall deduct an amount, being 5
an amount calculated for the purposes of meeting a parent's reasonable living
expenses, from the total income of a parent (in this section referred to as a "living
allowance deduction").
- (2) For the purpose of *subsection (1)*, the amount that the Commissioners shall deduct 10
from the total income of a parent shall be the amount that is one third of average
weekly earnings.

Section 16 and dependent child deduction

20. (1) For the purpose of *section 16(3)(c)*, the Commissioners shall deduct an amount, 15
calculated in such manner as may be prescribed, to the total income of a parent in
respect of each child who is a dependent child of the parent (in this section referred to
as a "dependent child deduction").
- (2) For the purpose of *subsection (1)*, a child is a dependent child of a person if each of 20
the following applies:
- (a) the person is a parent or non-parent carer in respect of the child concerned;
 - (b) the person provides a proportion of ongoing daily care in respect of the child that 20
corresponds to a care cost percentage that is not less than the minimum care cost
percentage;
 - (c) the child is not a child in relation to whom any of the following applies:
 - (i) there is in force an order to pay in respect of the child or child maintenance 25
is being assessed under this Act in respect of the child;
 - (ii) any person is required under the law of the State or another jurisdiction to
make payments in respect of the child where such payments are of the same
nature as child maintenance payable under an order to pay;
 - (iii) any person makes payments in respect of the child, where such payments are 30
of the same nature as child maintenance payable under an order to pay,
pursuant to a voluntary agreement;
 - (d) the child is a child to whom *section 4(1)* applies;
 - (e) the child is not a spouse, civil partner or cohabitant;
 - (f) the ongoing care provided by the person in relation to the child satisfies such 35
other matter as may be prescribed.
- (3) In making regulations for the purpose of *subsection (1)*, the Minister shall have regard
to the following:
- (a) the need to ensure that the amount of any deduction applied to the total income of
a parent in respect of a child takes account of the following:

- (i) the care cost percentage of the parent in respect of that child (being the percentage that would be determined under *section 22* if a child maintenance assessment was made in respect of that child);
 - (ii) the child expenditure amount in relation to the child, having regard to the matters prescribed for the purposes of *section 32(2)(b)*; 5
 - (iii) the total number of dependent children to whom this section applies in respect of whom the parent is entitled to a dependent child deduction;
- (b) such other matter as the Minister considers appropriate.

Section 16 and multiple child maintenance group deduction

- 21.** (1) For the purpose of *section 16(3)(d)*, the Commissioners shall deduct an amount from the total income of a parent who has more than one child maintenance group (in this section referred to as a “multiple child maintenance group deduction”). 10
- (2) For the purpose of *subsection (1)*, the Commissioners shall—
- (a) in respect of each child in a child maintenance group of a parent (other than the child maintenance group of the child in respect to whom the child maintenance assessment is being made), determine the multiple group cost, calculated in such manner as may be prescribed, of that child, and 15
 - (b) assess the amount to be deducted as a multiple child maintenance group deduction as the sum of the multiple group cost of each child referred to in *paragraph (a)*. 20
- (3) In making regulations for the purposes of *subsection (2)(a)*, the Minister shall have regard to the following:
- (a) the need to ensure that the amount of any deduction applied to the total income of a parent in respect of a child takes account of the following:
 - (i) the child expenditure amount in relation to the child, having regard to the matters prescribed for the purposes of *section 32(2)(c)*; 25
 - (ii) the total number of qualifying children of the parent concerned in all of the parent’s child maintenance groups;
 - (b) such other matter as the Minister considers appropriate.

Assessment of care cost percentage 30

- 22.** For the purpose of assessing the care cost percentage of each parent and non-parent carer of a child, the Commissioners shall—
- (a) determine, in the manner specified in *section 23*, the proportion of ongoing daily care that each parent and non-parent carer identified in the application, or in other information provided following a request under *section 10(4)(b)*, provides to the child, and 35
 - (b) calculate, in the manner specified in *section 24*, the care cost percentage in respect of each parent and non-parent carer of the child concerned.

Section 22 and proportion of ongoing daily care

23. (1) For the purposes of *section 22(a)* but subject to *subsection (2)*, the Commissioners shall determine the proportion of ongoing daily care that each parent and non-parent carer in respect of a child provides to that child in such manner as may be prescribed.
- (2) For the purpose of *subsection (1)*, the provision of any temporary assistance in relation to the care of a child by one person while the child is in another person's ongoing daily care shall not affect a determination by the Commissioners that the second-mentioned person is providing ongoing daily care during the period concerned. 5
- (3) For the purpose of *subsection (1)*, the Minister may prescribe one or more of the following: 10
- (a) the reference period in respect of which the proportion of ongoing daily care shall be determined;
 - (b) any matter relating to the computation of the proportions of ongoing daily care;
 - (c) any matter relating to shared care provided by 2 or more persons who are cohabiting for the purpose of determining the proportion of ongoing daily care provided by a parent or non-parent carer; 15
 - (d) any matter for the purpose of resolving any dispute, between any persons identified as a parent or non-parent carer for the purposes of the application, in relation to the proportions of ongoing daily care provided by each parent and non-parent carer; 20
 - (e) particulars in relation to information or documentation to be relied upon for the purposes of a child maintenance assessment;
 - (f) such other matter as the Minister considers appropriate.
- (4) In making regulations for the purpose of *subsection (1)*, the Minister shall have regard to the following: 25
- (a) the likelihood that the proportion of ongoing daily care that a parent or non-parent carer provides to the child will be proportionate to the number of nights that the child spends with that parent or carer;
 - (b) the desirability that, where 2 or more persons who are cohabiting provide shared care in relation to a child, any such period of care should be attributable to one person only; 30
 - (c) where a parent of a child provides shared care of that child with one or more other persons, the particular responsibilities that the parent has under the law of the State in relation to the child. 35

Section 22 and care cost percentage

24. (1) For the purpose of *paragraph (b)* of *section 22*, the Commissioners shall calculate the care cost percentage of each parent and non-parent carer in relation to a child—
- (a) by reference to the proportion of ongoing daily care determined for the purposes of *paragraph (a)* of that section, and 40

- (b) in such manner as may be prescribed.
- (2) For the purposes of *subsection (1)(b)* but subject to *subsection (3)*, regulations shall specify in tabular form the care cost percentage that shall apply in respect of each range of proportions of ongoing daily care, determined for the purposes of *section 22(a)*, that are prescribed for the purposes of this section. 5
- (3) For the purpose of *subsection (2)*, the Minister shall have due regard to the desirability that the manner specified for determining the care cost percentage of a parent or non-parent carer takes account of the following:
 - (a) the likelihood that a parent or non-parent carer who provides more than 50 per cent of the ongoing daily care in relation to a child will incur a proportion of costs in relation to the care of that child that is greater than the proportion of ongoing daily care that the parent or non-parent carer concerned provides to the child; 10
 - (b) the likelihood that a parent or non-parent carer who provides less than 50 per cent of the ongoing daily care in relation to a child will incur a proportion of costs in relation to the care of that child that is less than the proportion of ongoing daily care that the parent or non-parent carer concerned provides to the child. 15

CHAPTER 2

Child maintenance assessment

- Child maintenance assessment** 20
25. (1) Where the Commissioners make a determination under *section 15(1)(a)* that one or more parents are liable to pay child maintenance, they shall make a child maintenance assessment.
- (2) For the purposes of *subsection (1)*, but subject to *sections 26* and *27*, a child maintenance assessment shall assess the following in such manner as may be prescribed: 25
- (a) the annual amount of child maintenance that each liable parent is liable to pay in respect of the child concerned;
 - (b) where the Commissioners determine that 2 or more persons are receiving carers in respect of a child for the purposes of this Act, the amount of child maintenance payable to each receiving carer in a child maintenance year. 30
- (3) In making regulations for the purpose of *subsection (2)(a)*, the Minister shall have regard to the need to ensure that the amount of child maintenance that a parent is assessed as being liable to pay in respect of a child takes account of the following:
- (a) the income percentage of the parent concerned that has been assessed in relation to the application concerned; 35
 - (b) the care cost percentage of the parent concerned that has been assessed in relation to the application concerned;
 - (c) the child expenditure amount in relation to the child, having regard to the matters prescribed for the purpose of *section 32(2)(a)*; 40

- (d) such other matter as the Minister considers appropriate.
- (4) In making regulations for the purpose of *subsection (2)(b)*, the Minister shall have regard to the following:
 - (a) the need to ensure that the aggregate amount of child maintenance that each receiving carer is assessed as being entitled to receive in respect of a child reflects the total amount of child maintenance that each liable parent is assessed as being liable to pay in respect of that child under this Act; 5
 - (b) the desirability that the amount of child maintenance that a receiving carer is assessed as being entitled to receive in respect of a child reflects the receiving carer's care cost percentage in relation to that child; 10
 - (c) the desirability that the amount of child maintenance that a receiving carer is assessed as being entitled to receive in respect of a child reflects the receiving carer's care cost percentage as a proportion to the aggregate care cost percentage of each receiving carer;
 - (d) where one or more receiving carers are parents of the child concerned the particular responsibilities that such parents have under the law of the State in relation to the child; 15
 - (e) such other matter as the Minister considers appropriate.

Multiple child maintenance group cap

- 26. (1) This section applies where— 20
 - (a) the Commissioners make a determination under *section 15(1)(a)* that a parent is a liable parent in respect of a child, and
 - (b) the liable parent concerned has more than one child maintenance group.
- (2) For the purposes of *section 25(2)(a)* but subject to *subsection (3)*, the Commissioners shall, in relation to a liable parent to whom this section applies— 25
 - (a) assess the maximum amount, calculated in such manner as may be prescribed, that the liable parent is liable to pay in respect of the child concerned (in this section referred to as the “multiple child maintenance group cap”), and
 - (b) assess the amount of child maintenance that the parent concerned is liable to pay in respect of the child concerned to be the lesser of the following: 30
 - (i) the amount assessed under *section 25(2)(a)*;
 - (ii) the amount assessed under the multiple child maintenance group cap.
- (3) In making regulations for the purpose of *subsection (2)(a)*, the Minister shall have regard to the following:
 - (a) the desirability that, in the case of a liable parent who has more than one child maintenance group, the amount of child maintenance that the parent is assessed as being liable to pay in respect of a qualifying child is equivalent to the amount that would be assessed in respect of that child if all of the children of the parent concerned in each child maintenance group were in the same child maintenance group; 35 40

- (b) the desirability that the multiple child maintenance group cap applied to a liable parent in respect of a qualifying child takes account of the following:
 - (i) the care cost percentage of the parent in respect of that child;
 - (ii) the multiple group cost of the child, being the multiple group cost that would be determined in respect of the child under *section 21* if a multiple child maintenance group deduction was being made in respect of the child for the purpose of a child maintenance assessment; 5
- (c) such other matter as the Minister considers appropriate.

Minimum rate of child maintenance to be paid

27. If, after assessing the annual amount of child maintenance payable by a liable parent under *section 25* or *26* in respect of each of the parent's qualifying children, the Commissioners determine that the total amount payable by the parent in a child maintenance year is less than such amount as may be prescribed as the minimum annual rate of child maintenance payable by a liable parent in respect of all of a parent's qualifying children, the Commissioners shall— 10 15
- (a) assess the amount of child maintenance that the liable parent is liable to pay in respect of all of the parent's qualifying children as the minimum annual rate of child maintenance under this section, and
 - (b) assess the proportion of that minimum annual rate of child maintenance that is payable in respect of each qualifying child in such manner as may be prescribed. 20

CHAPTER 3

Further provision in relation to child maintenance assessments

Assessments to be made expeditiously

28. (1) The Commissioners shall ensure that child maintenance assessments are made as expeditiously as may be and, for that purpose, shall take all such steps as are open to them to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the making of assessments. 25
- (2) In particular, and without prejudice to the generality of *subsection (1)*, the Commissioners shall, in so far as is practicable, ensure that every child maintenance assessment is made within a period of 12 weeks beginning on the date on which the application concerned was made. 30
- (3) Where it appears to the Commissioners that it would not be possible or appropriate, because of the particular circumstances of the child maintenance assessment concerned, to make the assessment within the period referred to in *subsection (2)*, they shall, by notice in writing served on each parent and non-parent carer concerned before the expiration of that period— 35
- (a) inform each such parent or carer of the reasons why it would not be possible or appropriate (as the case may be) to make the assessment within that period, and
 - (b) specify the date before which they intend that the assessment shall be made.

Assessment on basis of information supplied to Commissioners

- 29.** (1) Subject to any matter provided for, by or under this Act, for the purpose of *Chapter 1* or 2 the Commissioners—
- (a) may act on the basis of the documents and information in their possession, and
 - (b) are not required to conduct any further enquiries or investigations into the matter or to require the supply of any further information or the production of any further documents. 5
- (2) For the purpose of assessing the annual amount of child maintenance in relation to a day in the future, the Commissioners may act on the assumption that any circumstances known to the Commissioners at the time the assessment is made will remain unchanged on that day. 10

Assessments in relation to parents with more than one child maintenance group

- 30.** For the purposes of *Chapter 2*, where a child maintenance assessment is made in respect of a liable parent who has more than one child maintenance group, the following provisions shall apply: 15
- (a) the Commissioners shall presume for the purpose of the child maintenance assessment that each qualifying child in each child maintenance group concerned is the subject of a child maintenance assessment under this Act;
 - (b) for the purpose of *paragraph (a)* the Commissioners shall, in relation to any qualifying child of the parent in respect of whom a child maintenance assessment has not been or is not being made, determine the annual amount of child maintenance, if any, that the parent is liable to pay in respect of the child concerned in such manner as may be prescribed; 20
 - (c) the child maintenance assessment shall apply only in respect of the child or children to whom the application concerned relates. 25

Assessment to relate to whole or part of single child maintenance year

- 31.** (1) An assessment under *Chapter 2* shall relate to all or part of a single child maintenance year.
- (2) In making an assessment under *Chapter 2*, where the period concerned is less than a full child maintenance year, the Commissioners may apply this Act as if the beginning and end of the period were respectively the beginning and end of a full child maintenance year. 30

Assessment of child expenditure amount in relation to a child

- 32.** (1) For the purpose of the performance by the Commissioners of their functions under this Part, the Commissioners shall calculate the cost of providing ongoing care to a child (in this section referred to as the “child expenditure amount”) in such manner as may be prescribed. 35
- (2) For the purpose of *subsection (1)*, regulations shall specify in tabular form the proportion of relevant income that shall be calculated as the child expenditure amount

- for the purpose of each of the following:
- (a) determining the annual amount of child maintenance that a parent is liable to pay in respect of a child for the purposes of *section 25(2)*;
 - (b) calculating a dependent child deduction to be applied to the total income of a parent for the purpose of *section 20*; 5
 - (c) assessing the multiple child maintenance group deduction to be applied to the total income of a parent for the purpose of *section 21* or the multiple child maintenance group cap to be applied in respect of a liable parent for the purpose of *section 26*.
- (3) In making regulations for the purpose of *subsection (2)(a)*, the Minister shall have regard to the following: 10
- (a) the desirability that the child expenditure amount of a child takes account of the following factors:
 - (i) the relevant income as a proportion to average weekly earnings;
 - (ii) the number of qualifying children in the child maintenance group concerned; 15
 - (iii) the age of each qualifying child in the child maintenance group concerned;
 and
 - (b) such other matter as the Minister considers appropriate.
- (4) In making regulations for the purpose of *subsection (2)(b)*, the Minister shall have regard to the following: 20
- (a) the desirability that the child expenditure amount of a child takes account of the following factors:
 - (i) the relevant income expressed as a proportion to average weekly earnings;
 - (ii) the number of dependent children of the parent concerned;
 - (iii) the age of each dependent child of the parent concerned; 25
 - (b) such other matter as the Minister considers appropriate.
- (5) In making regulations for the purposes of *subsection (2)(c)*, the Minister shall have regard to the following:
- (a) the desirability that the child expenditure amount of a child takes account of the following factors: 30
 - (i) the relevant income expressed as a proportion to average weekly earnings;
 - (ii) the number of qualifying children of the parent concerned in all of the parent's child maintenance groups;
 - (iii) the age of the qualifying child concerned;
 and 35
 - (b) such other matter as the Minister considers appropriate.
- (6) In this section "relevant income" means—

- (a) for the purpose of *subsection (2)(a)*, the combined adjusted income of all of the parents of the child concerned,
- (b) for the purpose of *subsection (2)(b)*, the total income of the parent concerned minus the parent's allowable deductions and living allowance deduction, and
- (c) for the purpose of *subsection (2)(c)*, the total income of the parent concerned minus the parent's allowable deductions, living allowance deduction and the sum of any dependent child deduction to which the parent is entitled. 5

Average weekly earnings

- 33.** (1) For the purpose of this Part, the Commissioners shall determine average weekly earnings in such manner as may be prescribed. 10
- (2) In making regulations for the purpose of *subsection (1)*, the Minister shall have regard to such official statistics (within the meaning of the Statistics Act 1993) and surveys relating to earnings and labour costs published by the Central Statistics Office as the Minister considers appropriate.

Validity and evidence of assessments 15

- 34.** Subject to *Part 7*, the validity of a child maintenance assessment is not, of itself, affected by reason only that any of the provisions of this Act have not been complied with.

PART 4

NOTIFICATION AND ENFORCEMENT OF CHILD MAINTENANCE ASSESSMENT

Notice of assessment 20

- 35.** (1) The Commissioners shall, as soon as practicable after making a child maintenance assessment, give written notice (in this section referred to as a "notice of assessment") to each parent and non-parent carer in respect of the child concerned.
- (2) Subject to *subsections (3) and (5)*, a notice of assessment given to a parent or non-parent carer under this section shall be in such form as may be prescribed and shall include information on the following, as may be applicable: 25
- (a) the name and date of birth of the child concerned;
 - (b) the name of each other parent and non-parent carer of the child concerned;
 - (c) the proportion of ongoing daily care that the Commissioners have determined that the parent or non-parent carer concerned provides to the child concerned; 30
 - (d) the care cost percentage of the parent or non-parent carer concerned in relation to the child concerned;
 - (e) in respect of a notice of assessment to a parent of the child concerned—
 - (i) the amount that is calculated as the total income of the parent,
 - (ii) the name and date of birth of each dependent child of the parent and the 35

- amount of any dependent child deduction made in respect of each such child,
- (iii) the amount of any multiple child maintenance group deduction made in respect of the parent,
 - (iv) the amount assessed as the adjusted income of the parent,
 - (v) the combined adjusted income assessed for the purpose of the child maintenance assessment concerned, and 5
 - (vi) the income percentage assessed in respect of the parent;
 - (f) the determination made in respect of each parent and non-parent carer of the child concerned under *paragraphs (a) and (b) of section 15(1)*;
 - (g) the assessment made in respect of each liable parent and receiving carer of the child concerned under *paragraphs (a) and (b) of section 25(2)*; 10
 - (h) the following details for the purpose of payment of child maintenance by any liable parent in respect of the child concerned:
 - (i) the date on which the first payment of child maintenance shall be made, determined in such manner as may be prescribed; 15
 - (ii) the frequency of payments of child maintenance that shall be made, determined in such manner as may be prescribed;
 - (iii) such other details as may be prescribed;
 - (i) such other information as may be prescribed.
- (3) Regulations under *subsection (2)(i)* shall not provide for the disclosure to a parent or non-parent carer of a child of any information relating to any other parent or non-parent carer of that child, other than the proportion of ongoing daily care or the care cost percentage determined in relation to the parent or carer concerned for the purpose of the child maintenance assessment. 20
- (4) For the purpose of *subsection (2)(i)*, the Minister shall have due regard to the desirability that— 25
- (a) the notice of assessment given to the parent or non-parent carer of a child includes, where applicable, any information in relation to the rights of the parent or carer to—
 - (i) accept or reject a child maintenance assessment in accordance with *section 36*, or 30
 - (ii) make an application for a relevant order,
 - (b) where the notice of assessment is given pursuant to a departure from a standard formula assessment under *Part 5* or pursuant to an updated child maintenance assessment under *Part 6*, the notice of assessment given to the parent or non-parent carer of a child includes any information in relation to any right of appeal in respect of a child maintenance assessment that the parent or carer may exercise under this Act, and 35
 - (c) the notice of assessment given to the parent or non-parent carer of a child includes sufficient information to enable a parent or non-parent carer to exercise 40

a right referred to in *paragraph (a) or (b)*.

- (5) Notwithstanding any matter provided for, by or under this section, the Commissioners may omit from a notice of assessment or any related communication the name of any parent or non-parent carer of the child concerned if—
- (a) they are satisfied that disclosing the name to the recipient of the notice would be prejudicial to the safety or welfare of the child or any parent or non-parent carer of the child, or
 - (b) the parent or non-parent carer is deceased or is a parent or carer who has not been determined to be a liable parent or receiving carer in relation to the child.

Acceptance or rejection of assessment

36. (1) On receipt of a notice of assessment, a parent or non-parent carer may, within such period as may be prescribed, notify the Commissioners in writing of the parent or carer's acceptance or rejection of the child maintenance assessment. 10
- (2) If an applicant fails, within the period referred to in *subsection (1)*, to notify the Commissioners in accordance with that subsection, the applicant shall be deemed to have rejected the child maintenance assessment for the purpose of *subsection (5)*. 15
- (3) Subject to *subsection (7)*, if a parent or non-parent carer, other than an applicant, fails, within the period referred to in *subsection (1)*, to notify the Commissioners in accordance with that subsection, the parent or carer shall be deemed to have accepted the child maintenance assessment for the purpose of *subsection (4)*. 20
- (4) If a child maintenance assessment is accepted by each parent and non-parent carer notified for the purpose of *section 35*, the following provisions shall apply:
- (a) the Commissioners shall notify each parent and non-parent carer in respect of the child concerned that the assessment has been accepted;
 - (b) the assessment shall, subject to *subsection (7)*, be binding on each parent and non-parent carer, in respect of the child concerned, from the date on which the application concerned was made. 25
- (5) If a child maintenance assessment is rejected by one or more parents or non-parent carers notified for the purpose of *section 35*, the following provisions shall apply:
- (a) the Commissioners shall notify each parent and non-parent carer of the child concerned that the assessment has been rejected; 30
 - (b) the assessment shall not be binding on any parent or non-parent carer in respect of the child concerned;
 - (c) the Commissioners shall issue to each parent and non-parent carer in respect of the child concerned an authorisation referred to in *subsection (6)*. 35
- (6) An authorisation under *subsection (5)(c)* shall state that the parent or non-parent carer concerned is authorised, and shall operate to authorise the parent or carer, to make an application for a relevant order.
- (7) A child maintenance assessment shall not be binding on a person who proves that, at the time of the person's acceptance, or deemed acceptance, in accordance with this 40

section, of the assessment—

- (a) the person lacked capacity to make the decision concerned, and
- (b) the person was not a person in respect of whom *paragraph (a) or (b) of section 11(3)* applied.

Enforceability of assessment

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37. (1) Not later than one month after a child maintenance assessment becomes binding on each parent and non-parent carer of the child concerned, the Commissioners shall—

- (a) issue to each liable parent concerned a document (in this section referred to as an “order to pay”), and
 - (b) provide each receiving carer concerned with a copy of an order to pay issued under *paragraph (a)*. 10
- (2) An order to pay shall, in respect of the liable parent to whom the order to pay is issued, state the following:
- (a) the annual amount of child maintenance in respect of the child concerned;
 - (b) where applicable, the annual amount payable by the liable parent to each receiving carer of the child concerned; 15
 - (c) the date from which child maintenance shall be payable by the liable parent to each receiving carer concerned;
 - (d) such matter as may be prescribed in respect of the payment of child maintenance relating to the period beginning on the date from which the child maintenance assessment is binding and ending on the day prior to the date referred to in *paragraph (c)*; 20
 - (e) the intervals at which the liable parent shall make payments of child maintenance to each receiving carer concerned, determined in such manner as may be prescribed; 25
 - (f) in respect of each receiving carer concerned, the amount payable to the carer at each interval specified for the purpose of *paragraph (e)*;
 - (g) the manner in which the liable parent shall make payments of child maintenance to each receiving carer;
 - (h) such other matter as may be prescribed. 30
- (3) For the purpose of *subsection (2)(g)*, the Commissioners may specify any method, being a method determined in such manner as may be prescribed and in any event being a method other than payment in cash, of making child maintenance payments.
- (4) An order to pay shall operate, in respect of each receiving carer concerned, as if it were an order of a court directing the liable parent concerned to make periodical payments to that receiving carer for the maintenance of the child concerned. 35
- (5) For the purpose of *subsection (4)*—
- (a) an order to pay shall be deemed to be an antecedent order within the meaning of the Act of 1976,

- (b) the provisions of any enactment or instrument under an enactment shall apply to an order to pay in the same manner as they do to an order of a court directing a person to make periodical payments to another person for the maintenance of a child, subject to such modifications as may be prescribed under *paragraph (c)*, and 5
- (c) the authority for the time being having power to make rules regulating the practice and procedure of any court (being a court which would have jurisdiction to direct periodical payments of the amount or amounts specified in the order to pay concerned) may make rules providing for such adaptations of any enactment or instrument to which *paragraph (b)* relates as are necessary for the purpose of enabling each of the methods that are available for the enforcement of an order of that court to be available for the purpose of the enforcement of an order to pay. 10

Discharge of order to pay

38. (1) Without prejudice to any other provision of this Act providing for the discharge of an order to pay, the Commissioners shall, on the application of the liable parent concerned, discharge an order to pay if it appears to them that any of the following applies: 15
- (a) the child concerned is no longer a qualifying child;
 - (b) the receiving carer specified in the order is a spouse, civil partner or cohabitant of the liable parent concerned and they are not living separately; 20
 - (c) the child concerned is a spouse, civil partner or cohabitant;
 - (d) such other circumstances as may be prescribed.
- (2) An order to pay shall stand discharged, from the date on which the court order concerned has effect, if a court makes any of the following orders: 25
- (a) a relevant order;
 - (b) an order—
 - (i) under section 8 or 8A of the Act of 1976, or
 - (ii) under section 48 of the Act of 2010,
 making a provision of an agreement, by which one party to the agreement undertakes to make periodical payments towards the maintenance of the child concerned, a rule of court. 30
- (3) For the purpose of *subsection (2)*, where an order to pay stands discharged by reason of an order referred to in *paragraph (a)* or *(b)* of that subsection, the clerk of the court concerned shall notify the Commissioners of the making of the order.
- (4) Where an order to pay is discharged under this section, *section 37(4)* shall cease to apply in respect of that order from the date of discharge. 35
- (5) A parent or non-parent carer of the child concerned who is aggrieved by a determination under *subsection (1)* may appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997, within the period of 30 days after the date of the determination. 40

Evidential value of certain documents

39. (1) Any document that purports to be signed by the Commissioners or an officer of the Commissioners and that purports to be a copy of an order to pay, or any document discharging an order to pay, shall, without proof of the signature of the person concerned, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the document concerned. 5
- (2) Subject to *Part 7*, the production of an order to pay, or a document signed by or on behalf of the Commissioners that purports to be a copy of an order to pay, is, unless the contrary is shown, conclusive evidence of the proper making of a child maintenance assessment and that all particulars of the order to pay are correct. 10

PART 5

DEPARTURE FROM STANDARD FORMULA ASSESSMENT

Definitions (*Part 5*)

40. In this Part—
- “applicant for departure” has the meaning given to it in *section 41*; 15
- “application for departure” means an application for a departure from a standard formula assessment that is made under *section 42*;
- “departure”, in relation to a standard formula assessment, means a departure from such an assessment that is made under *section 49*;
- “relevant additional work” has the meaning given to it in *section 44(4)(a)*; 20
- “reply to application for departure” has the meaning given to it in *section 46*.

Commissioners may depart from standard formula assessment

41. Subject to this Part, the Commissioners may, on the application of any parent or non-parent carer of a qualifying child (in this Part referred to as the “applicant for departure”), make a departure from a standard formula assessment. 25

Application for departure

42. (1) Subject to *subsection (2)*, any parent or non-parent carer of a qualifying child may, by written application, ask the Commissioners to make a departure under this Part.
- (2) An application under *subsection (1)* may be made—
- (a) at the same time that the parent or non-parent carer concerned makes an application under *section 10* or gives consent under *section 12(2)(a)*, as the case may be, or 30
- (b) at any time after the Commissioners give a notification in accordance with *section 36(4)(a)*.
- (3) An application under this section shall be in such form as may be prescribed and shall set out the grounds on which the application is made. 35

Procedure on foot of application for departure to which *section 42(2)(a)* relates

43. Where one or more applicants for departure make an application for departure to which *section 42(2)(a)* relates in respect of a child, the following provisions will apply:

- (a) the Commissioners shall make a standard formula assessment in respect of the child but, subject to *paragraph (d)*, shall not notify that assessment to the parents and non-parent carers of the child for the purpose of *section 35*; 5
- (b) the Commissioners shall, after making a standard formula assessment in respect of the child, consider each application for departure concerned;
- (c) where more than one application for departure is made in respect of the child concerned the Commissioners shall, subject to *subsections (1) and (2) of section 45*, consider each application jointly as one application; 10
- (d) if, in respect of each application for departure, the Commissioners make a determination under *subsection (1) or (2) of section 45* or *section 48(2)(a)*, then *Part 4* shall apply in respect of the standard formula assessment made in respect of the child; 15
- (e) if the Commissioners make a determination under *subsection (2)(b) of section 48*, then *Part 4* shall apply subject to *subsection (5)(a)* of that section.

Matters that Commissioners have to be satisfied with before making departure

44. (1) Subject to this Part, the Commissioners may make a departure if each of the following applies: 20

- (a) an application is made to the Commissioners under *section 42*;
- (b) the Commissioners are satisfied that—
 - (i) one or more of the grounds for departure referred to in *subsection (2)* exists, and
 - (ii) it would be— 25
 - (I) just and equitable having regard to the interests of the child as well as the interests of each parent and non-parent carer of the child, and
 - (II) otherwise proper,to make a particular departure under this Part.

(2) For the purposes of *subsection (1)(b)(i)* the following grounds are grounds for departure: 30

- (a) by virtue of the particular circumstances of the case concerned, the capacity of any parent to financially maintain the child is significantly reduced by reason of—
 - (i) the duty of the parent to maintain any other child or person, 35
 - (ii) the special needs of any other child or person that the parent has a duty to maintain, or
 - (iii) commitments of the parent necessary to enable the parent to support—

- (I) that parent, or
 - (II) any other child or person whom the parent has a duty to maintain;
- (b) by virtue of the particular circumstances of the case, the costs of maintaining the child are significantly affected by reason of one or more of the following:
 - (i) the high costs incurred by a parent or a non-parent carer in enabling a parent or non-parent carer to have contact with the child; 5
 - (ii) any special needs of the child;
 - (iii) particular costs relating to the care, education or training of the child concerned;
- (c) by virtue of the particular circumstances of the case, the application in relation to the child of the provisions of this Act relating to a standard formula assessment would result in an unjust and inequitable determination of the level of child maintenance to be provided by a liable parent in respect of the child by reason of any one or more of the following: 10
 - (i) the income, earning capacity, property and financial resources of any parent of the child or the child; 15
 - (ii) any payments, and any transfer or settlement of property, previously made by a liable parent or a receiving carer to the child concerned, to a liable parent or a receiving carer, or to any other person for the benefit of the child;
 - (iii) an entitlement of a liable parent or receiving carer to the continued occupancy of a property in which any other liable parent or receiving carer has a financial interest; 20
- (d) the application in relation to the child of the provisions of this Act relating to a standard formula assessment would result in an unjust and inequitable determination of the level of child maintenance to be provided by a liable parent for the child in respect of a child maintenance year by reason of the fact that— 25
 - (i) the total income of a parent of the child for the child maintenance year includes income from relevant additional work, and
 - (ii) some or all of the income from relevant additional work has been used, or will be used, by the parent concerned to meet, wholly or partly, actual and reasonable costs incurred to re-establish the parent, or any child or other person that the parent has a duty to maintain, after the parent has ceased to live together with a parent or non-parent carer of the child concerned in a marriage, civil partnership or other cohabiting relationship; 30
- (e) such other ground as may be prescribed. 35
- (3) For the purposes of *subsection (2)(b)(i)*, the costs incurred in enabling a parent or non-parent carer to have contact with the child concerned are not to be taken to be high unless the total amount of those costs during a child maintenance year is more than such percentage of the total income of the person incurring the costs as may be prescribed. 40
- (4) For the purposes of *subsection (2)(d)*—

- (a) “relevant additional work” means any work done by the parent concerned—
 - (i) during the period of 3 years commencing after the date on which the parent ceased to cohabit with another parent or non-parent carer of the child concerned, and
 - (ii) that, in quantity or nature or both, is additional to work that the parent did before the period referred to in *subparagraph (i)*,
and
 - (b) the Commissioners may exclude a period or periods of resumed cohabitation with the sole or primary purpose of reconciliation if that period does not, or those periods in aggregate do not, exceed 3 months.
- (5) In determining whether it would be just and equitable as regards the child concerned, any receiving carer and any liable parent to make a particular departure, the Commissioners shall have regard to the following:
- (a) the principle that in making a child maintenance assessment the best interests of the child shall be the paramount consideration;
 - (b) the objects of this Act and, in particular, the nature of the duty of a parent to maintain a child and the fact that it is the parents of a child themselves who have the primary duty to maintain the child;
 - (c) the proper needs of the child, having regard to the following:
 - (i) the manner in which the child is being, and in which the parents and non-parent carers expect the child to be, cared for, educated or trained;
 - (ii) any special needs of the child;
 - (d) the income, earning capacity, property and financial resources that the child has or is likely to have in the foreseeable future;
 - (e) the income, earning capacity, property and financial resources that each parent of the child has or is likely to have in the foreseeable future;
 - (f) the commitments of each parent of the child that are necessary to enable the parent to maintain—
 - (i) that parent, or
 - (ii) any other child or another person that the parent has a duty to maintain;
 - (g) the direct and indirect costs incurred by a receiving carer in providing care for the child, including the income and earning capacity foregone by the receiving carer in providing that care;
 - (h) any hardship that would be caused to—
 - (i) the child or a receiving carer by the making of, or the refusal to make, the departure;
 - (ii) a liable parent, or any other child or another person that the liable parent has a duty to maintain, by the making of, or the refusal to make, the departure;
 - (i) such other matter as may be prescribed.

- (6) In having regard to the income, earning capacity, property and financial resources that a child or a parent of the child has or is likely to have in the foreseeable future, the Commissioners shall—
- (a) have regard to the capacity of the child or parent to earn or derive income, including having regard to any assets of, under the control of, or held for the benefit of, the child or parent that do not produce, but are capable of producing, income, and 5
 - (b) subject to *subsection (7)*, disregard the income, earning capacity, property and financial resources of any person who does not have a duty to maintain the child, or who has such a duty but is not a party to the assessment, unless, in the particular circumstances of the case, the Commissioners consider that it is appropriate to have regard to them. 10
- (7) Without prejudice to *subsection (8)*, the Commissioners may consider any income, earning capacity, property or financial resources of a person to whom *subsection (6)(b)* relates if— 15
- (a) such income, earning capacity, property or financial resources relates to an interest in an asset that was transferred to that person by a parent of the child concerned,
 - (b) the transfer concerned was made within the period of 3 years prior to the date on which the application under *section 42* was made, 20
 - (c) the Commissioners consider, having regard to the value of the consideration, if any, for the transfer and such other matter as the Commissioners consider appropriate, that the interest concerned was transferred to prevent any consideration of such interest by the Commissioners under this Part, and
 - (d) it would be just and equitable and otherwise proper to consider the income, earning capacity, property or financial resources of that person. 25
- (8) *Subsections (5) and (6)* are without prejudice to the discretion of the Commissioners to consider such other matter as they consider relevant for the purposes of their functions under this Part.

Commissioners may decline to consider application for departure 30

45. (1) The Commissioners may discontinue any further consideration of an application for departure if they are satisfied, after a preliminary consideration of the application, that either of the following applies:
- (a) there are no grounds for departing from the provisions of this Act relating to the standard formula assessment in relation to the child concerned; 35
 - (b) where the annual amount of child maintenance payable by a liable parent in respect of the child concerned has been assessed in accordance with *section 27*, the application seeks to reduce that amount.
- (2) Subject to *subsection (3)*, the Commissioners shall decline to consider, or discontinue any further consideration of an application for departure, if an application for departure has previously been made in respect of the standard formula assessment concerned. 40

- (3) The Commissioners may consider an application for departure to which *subsection (2)* relates if they are satisfied, on the basis of the matters raised in the application and any accompanying documentation and having regard to any matter that was taken into account by the Commissioners in the course of considering the previous application for departure, that either of the following applies: 5
 - (a) a new matter is raised in support of that application that was not considered in relation to the previous application concerned;
 - (b) the application is made on a ground for departing from the standard formula assessment that is different from the ground that was considered in relation to the previous application concerned. 10
- (4) As soon as practicable after making a determination under *subsection (1)* or *(2)*, the Commissioners shall notify the applicant for departure in writing of the determination and the reasons for it.
- (5) An applicant for departure who is aggrieved by a determination under *subsection (1)* or *(2)* may, where the application is one to which *section 42(2)(b)* relates, appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997, within the period of 30 days after the date of the notification under *subsection (4)*. 15

Reply to application for departure

- 46. (1) Where an application for departure is made in respect of a child, the Commissioners shall notify each other parent and non-parent carer in respect of that child— 20
 - (a) that an application for departure has been made, including in that notification a summary of the grounds on which the application has been made,
 - (b) that each such parent or carer may request a copy of the application and any accompanying documentation from the Commissioners, and 25
 - (c) that each such parent or carer may make any representation (in this section referred to as a “reply to application for departure”) regarding the application that the parent or carer considers relevant.
- (2) Any reply to application for departure—
 - (a) shall be in writing, 30
 - (b) may include such accompanying documentation as appears relevant, and
 - (c) shall be received by the Commissioners not later than 2 weeks after—
 - (i) the date on which the notification is sent to the parent or non-parent carer concerned under *subsection (1)*, or
 - (ii) if, within the period referred to in *subparagraph (i)*, a parent or non-parent carer makes a request referred to in *subsection (1)(b)*, the date on which a copy of the application and accompanying documentation is sent to the parent or non-parent carer concerned. 35
- (3) Where a reply to application for departure is received by the Commissioners under this section, the Commissioners shall provide a copy of the reply and any 40

accompanying documentation to the applicant for departure and may provide a copy of such reply and accompanying documentation to any other parent or non-parent carer in respect of the child concerned.

- (4) This section does not apply in respect of an application for departure—
 - (a) that the Commissioners have duly declined to consider, or 5
 - (b) in respect of which consideration has been duly discontinued.

Application for departure does not affect operation of order to pay

47. (1) Subject to this section, an application for departure to which *section 42(2)(b)* relates shall not, pending the outcome of the Commissioners' consideration of the application, affect the operation of the order to pay that is in force in respect of the child concerned. 10
- (2) A person making an application for departure to which *section 42(2)(b)* relates may apply for a determination under *subsection (3)(a)*.
- (3) Where an application is made under *subsection (2)*, the Commissioners may—
- (a) make a determination, on such terms or conditions as the Commissioners may specify, suspending or otherwise altering the liability of any parent to make child maintenance payments under this Act pending a determination under *section 48(2)* or for such shorter period as may be specified, 15
 - (b) at any time vary or revoke a determination made under *paragraph (a)*, or
 - (c) decline to make a determination under *paragraph (a)*. 20
- (4) The Commissioners shall not make a determination under *subsection (3)(a)*—
- (a) unless the Commissioners are satisfied that there is likely to be a significant delay in considering an application for departure, and
 - (b) until the time for making a reply to application for departure in respect of each parent or non-parent carer concerned has expired. 25
- (5) In considering an application under this section, the Commissioners shall have regard to the interests of each person who may be affected by the application.
- (6) Where the Commissioners make a determination under *paragraph (a)* of *subsection (3)*, or vary such a determination under *paragraph (b)* of that subsection, either of the following provisions shall apply as may be applicable: 30
- (a) where the determination suspends the liability of any parent to make child maintenance payments under this Act, the operation of the order to pay in respect of the child concerned shall, for the purpose of *section 37(4)*, be deemed to be suspended for the duration of the period in which the determination is in force;
 - (b) where the determination alters the liability of any parent to make child maintenance payments under this Act, the reference in *section 37(4)* to the order to pay in respect of the child concerned shall be read as being a reference to that order to pay as altered under that subsection for the duration of the period in which the determination is in force. 35

- (7) An applicant for departure or any other parent or non-parent carer of the child concerned who is aggrieved by a determination under *subsection (3)*, may appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997, within the period of 30 days after the date of the determination.

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Procedure for purpose of considering application for departure

- 48.** (1) The Commissioners shall consider an application for departure in such manner as may be prescribed.
- (2) Following consideration of an application for departure under this section, the Commissioners may make a determination— 10
- (a) confirming the standard formula assessment made in respect of the child concerned, or
 - (b) making such departure from the standard formula assessment made in respect of the child concerned in accordance with *section 49* and amending the child maintenance assessment made in respect of the child accordingly. 15
- (3) Where the Commissioners make a determination under *subsection (2)(b)* of this section in respect of an application for departure to which *section 42(2)(b)* relates, the Commissioners shall specify the date, determined in such manner as may be prescribed, from which the amended child maintenance assessment shall apply.
- (4) As soon as practicable after making a determination under this section the Commissioners shall notify each parent and non-parent carer of the child concerned in writing of the determination and the reasons for it. 20
- (5) Where an amended child maintenance assessment is made under this section—
- (a) any reference to the child maintenance assessment that is made in respect of the child concerned shall be read as a reference to the child maintenance assessment as amended under this section, and 25
 - (b) where the assessment is amended pursuant to an application for departure to which *section 42(2)(b)* relates—
 - (i) the amended assessment shall be binding on each parent and non-parent carer of the child concerned, 30
 - (ii) *Part 4*, other than *section 36*, shall apply in respect of the amended assessment, and
 - (iii) any order to pay in respect of the child concerned that is in force prior to the date referred to in *subsection (3)* shall stand discharged on that date.
- (6) (a) This subsection applies in respect of an application for departure to which *section 42(2)(b)* relates. 35
- (b) An applicant for departure who is aggrieved by a determination under *subsection (2)(a)*, may appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997, within the period of 30 days after the date of the determination. 40

- (c) An applicant for departure or any other parent or non-parent carer of the child concerned who is aggrieved by a determination under *subsection (2)(b)*, may appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997, within the period of 30 days after the date of the determination. 5

Departures from standard formula assessment

49. (1) Subject to this Part, in determining an application for departure, the Commissioners may make any of the following determinations in respect of the application concerned:
- (a) a determination departing from one or more of the provisions of this Act by substituting a different amount, or specifying an amount or a percentage by which any of those amounts shall be varied, for any of the following amounts as they relate to a standard formula assessment: 10
 - (i) a parent's total income;
 - (ii) the living allowance deduction applicable in respect of a parent; 15
 - (iii) the dependent child deduction applicable in respect of a parent;
 - (iv) the adjusted income applicable in respect of a parent;
 - (v) the child expenditure amount applicable in respect of a child;
 - (b) a determination departing from one or more of the provisions of this Act relating to the standard formula assessment in relation to the child— 20
 - (i) by substituting a different annual amount of child maintenance payable by a liable parent in place of the amount assessed under the standard formula assessment, or
 - (ii) by specifying an amount or a percentage by which the annual amount of child maintenance payable by a liable parent shall vary from the amount determined under the standard formula assessment; 25
 - (c) a determination that the provisions of this Act relating to a standard formula assessment of child maintenance shall not be departed from in relation to a particular child.
- (2) A determination under this section may make different provision in relation to different child maintenance years and in relation to different parts of a child maintenance year. 30
- (3) A departure made under this section shall not operate so as to reduce the total amount of child maintenance payable by a liable parent in a child maintenance year in respect of all of the parent's qualifying children below the amount prescribed for the purposes of *section 27*. 35
- (4) Where a departure is made to which *subsection (3)* relates, the Commissioners shall determine the proportion of the minimum rate of child maintenance payable by the liable parent concerned that is payable in respect of each qualifying child of that parent in such manner as may be prescribed. 40

- (5) A departure under *subsection (1)(a)(i)* on the ground referred to in *paragraph (d)* of *section 44(2)* shall not operate so as to reduce the total income of the parent concerned by an amount that is more than the lesser of the following:
- (a) so much of the income from relevant additional work as has been used, or will be used, by the parent as referred to in *subparagraph (ii)* of that paragraph; 5
 - (b) such percentage of the parent's total income as may be prescribed.
- (6) Every departure made under this section shall specify the period of time during which the departure is to apply or specify the event the occurrence of which will cause the departure to cease.
- (7) A departure made under this section may be in such form as sought in the application for departure concerned or in such other form as appears to the Commissioners to be appropriate. 10
- (8) Where the Commissioners make a departure under this section, they shall notify each parent and non-parent carer in respect of the child concerned in writing of the departure and the reasons for making the departure (including the reasons that the Commissioners are satisfied of the matters referred to in *section 44(1)(b)*). 15

PART 6

AMENDMENT OR UPDATE OF ASSESSMENTS

Notification of change of circumstances

- 50.** (1) A parent or, where the non-parent carer has been determined to be a receiving carer in respect of the child concerned, non-parent carer of a child in respect of whom an order to pay is in force shall, within such period as may be prescribed, notify the Commissioners of any of the following changes of circumstances, as may be applicable: 20
- (a) in respect of a parent, such increases as may be prescribed in respect of the parent's total income; 25
 - (b) in respect of a parent or non-parent carer who has applied for a departure from a standard formula assessment under *Part 5*, the occurrence of such event as may have been specified by the Commissioners under *section 49(6)* for the purpose of their determination of that application; 30
 - (c) such other change of circumstance as may be prescribed in respect of parents or non-parent carers or both.
- (2) A parent or non-parent carer of a child in respect of whom an order to pay is in force may apply to the Commissioners for an updated child maintenance assessment under *section 51* where any of the following changes of circumstances, as may be applicable, occur: 35
- (a) in respect of a parent, such decreases as may be prescribed in respect of the parent's total income;
 - (b) such increases as may be prescribed in respect of the proportion of ongoing daily

- care provided by the parent or carer to the child;
- (c) such other change of circumstance as may be prescribed in respect of parents or non-parent carers or both.
- (3) A notification or application under *subsection (1)* or *(2)* shall be in such form as may be prescribed and shall include such information and documentation as may be prescribed. 5
- (4) A person who contravenes *subsection (1)* commits an offence and is liable—
- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €10,000.
- (5) In proceedings for an offence under *subsection (4)*, it shall be a defence for a person to show that the person concerned believed and had reasonable cause for believing that the Commissioners had already been notified of the change of circumstance concerned by another parent or non-parent carer of the child concerned or that the Commissioners had otherwise become aware of the change of circumstance. 10
- (6) In making regulations for the purpose of *subsections (1)* and *(2)*, the Minister shall have regard to the desirability that any change of circumstance that affects or may affect any of the following matters should give rise to an updated child maintenance assessment: 15
- (a) the determination of the care cost percentage in respect of any parent or non-parent carer for the purpose of a child maintenance assessment; 20
- (b) the determination of the income percentage in respect of any parent for the purpose of a child maintenance assessment;
- (c) the assessment of the annual amount of child maintenance that any liable parent is liable to pay in respect of a child under this Act;
- (d) such other matter as the Minister considers appropriate. 25

Updated assessment on change of specified circumstance

51. (1) Upon—

- (a) receipt by the Commissioners of a notification under *section 50(1)*,
- (b) the Commissioners otherwise becoming aware of a change of circumstance specified by or under *section 50(1)*, 30
- (c) the expiry of a period of time that is specified by the Commissioners for the purpose of *section 49(6)*, or
- (d) receipt by the Commissioners of an application under *section 50(2)*,
- the following provisions will apply:
- (i) the Commissioners shall undertake an updated child maintenance assessment in accordance with *Part 3*, having regard to any change of circumstance to which *paragraph (a), (b), (c) or (d)* relates; 35
- (ii) any reference to the child maintenance assessment that is made in respect of the

- child concerned shall be read as a reference to the updated child maintenance assessment made under this section;
- (iii) the updated child maintenance assessment shall be binding on each parent and non-parent carer of the child concerned, from the effective date;
 - (iv) *Part 4*, other than *section 36*, shall apply in respect of the updated child maintenance assessment; 5
 - (v) any order to pay in respect of the child concerned that is in force prior to the effective date shall stand discharged on that date.
- (2) *Subsection (1)(i)* shall apply notwithstanding that—
- (a) child maintenance has been paid under the child maintenance assessment concerned, 10
 - (b) the child maintenance year, or the part of the child maintenance year, to which the assessment relates has ended, or
 - (c) an appeal is pending under *Part 40A* of the Act of 1997 in relation to the child maintenance assessment concerned. 15
- (3) For the purpose of *subsection (1)* the effective date shall be any of the following, as may be applicable:
- (a) where a parent or non-parent carer was required to notify the Commissioners of the change of circumstance concerned under *section 50*, the date on which the change of circumstance occurred; 20
 - (b) where the updated child maintenance assessment is made pursuant to the expiry of a period of time referred to in *subsection (1)(c)*, the date on which the period of time expired;
 - (c) where the updated child maintenance assessment is made pursuant to an application under *section 50(2)* and *paragraph (a)* of this subsection does not apply, the date on which the application was made. 25
- (4) *Subsection (1)* shall not be read so as to prevent the Commissioners from taking such action as they consider appropriate to take account of the likely occurrence of an event or change of circumstances of which they are notified or otherwise become aware (whether by updating the child maintenance assessment concerned or otherwise). 30
- (5) A parent or non-parent carer of the child concerned who is aggrieved by an updated child maintenance assessment made under this section, may appeal to the Appeals Commissioners against the assessment in accordance with *section 949I* (as applied by *section 57*) of the Act of 1997, within the period of 30 days after the date of the updated assessment. 35

Updated assessment in subsequent child maintenance years

52. (1) The Commissioners shall, in respect of any child in respect of whom there is an order to pay in force, before or as soon as practicable after the start of each child maintenance year subsequent to the child maintenance year in respect of which a child maintenance assessment is initially made in respect of a child, make updated 40

assessments in accordance with *Part 3* of the matters referred to in *section 25(2)*.

- (2) For the purpose of *subsection (1)*, the Commissioners shall have regard to such change of circumstance, of which they have been notified or have otherwise become aware, that the Commissioners consider to be relevant for the purposes of this Act.
- (3) Where an updated child maintenance assessment is made under this section the following provisions shall apply: 5
- (a) any reference to the child maintenance assessment that is made in respect of the child concerned shall be read as a reference to the updated assessment made under this section;
 - (b) the updated assessment shall be binding on each parent and non-parent carer of the child concerned, from the start of the child maintenance year to which the updated assessment relates; 10
 - (c) *Part 4*, other than *section 36*, shall apply in respect of the updated assessment;
 - (d) any order to pay in respect of the child concerned that is in force immediately prior to the child maintenance year to which the updated assessment relates shall stand discharged on that date. 15
- (4) A parent or non-parent carer of the child concerned who is aggrieved by an updated child maintenance assessment made under this section may, within the period of 30 days after the date of the updated assessment, appeal to the Appeals Commissioners against the assessment in accordance with section 949I (as applied by *section 57*) of the Act of 1997. 20

Amended assessment in particular circumstances

53. (1) Without prejudice to *sections 51* and *52* but subject to this section, the Commissioners may, at any time, in respect of any child in respect of whom there is an order to pay in force, amend a child maintenance assessment, in accordance with *Part 3*, by making such alterations and additions as they consider necessary for the purposes of this section. 25
- (2) *Subsection (1)* applies notwithstanding that—
- (a) child maintenance has been paid under the assessment concerned,
 - (b) the child maintenance year, or the part of the child maintenance year, to which the assessment relates has ended, or 30
 - (c) an appeal is pending under Part 40A of the Act of 1997 in relation to the child maintenance assessment.
- (3) For the purpose of *subsection (1)*, the Commissioners may amend a child maintenance assessment for any of the following purposes: 35
- (a) correcting any error or mistake (whether made by the Commissioners or otherwise);
 - (b) correcting the effect of any false or misleading information provided to the Commissioners;
 - (c) giving effect to a determination by the Appeals Commissioners; 40

- (d) such other purpose as may be prescribed.
- (4) Where an amended child maintenance assessment is made under this section the following provisions shall apply:
 - (a) any reference to the child maintenance assessment that is made in respect of the child concerned shall be read as a reference to the updated assessment made under this section; 5
 - (b) the updated assessment shall be binding on each parent and non-parent carer of the child concerned, from the effective date;
 - (c) *Part 4*, other than *section 36*, shall apply in respect of the updated assessment;
 - (d) any order to pay in respect of the child concerned that is in force immediately prior to the effective date shall stand discharged on that date. 10
- (5) For the purpose of *subsection (4)* but subject to *sections 54* and *55*, the effective date shall be the date on which the Commissioners are notified or otherwise become aware of the matter giving rise to an amendment under this section.
- (6) This section is without prejudice to any other provision of this Act providing for the amendment of a child maintenance assessment. 15
- (7) A parent or non-parent carer of the child concerned who is aggrieved by an updated child maintenance assessment made under this section, or by a determination not to make such an updated assessment, may, within the period of 30 days after the date of the updated assessment or determination, appeal to the Appeals Commissioners against the assessment or determination in accordance with *section 949I* (as applied by *section 57*) of the Act of 1997. 20

Amendments of assessments arising from false or misleading information

- 54.** (1) This section applies in respect of a child maintenance assessment that is amended under *section 53* for the purpose of correcting the effect of any false or misleading information provided to the Commissioners. 25
- (2) Notwithstanding *subsection (5)* of *section 53*, the Commissioners may specify a date that is earlier than the date specified in that subsection as the effective date for the purpose of *subsection (4)(b)* of that section.
 - (3) For the purpose of *subsection (2)*, the Commissioners may not specify a date that is earlier than either of the following, as may be applicable: 30
 - (a) where the false or misleading information concerned was relied upon by the Commissioners for the purpose of making the original child maintenance assessment in respect of the child concerned, the date from which that assessment became binding; 35
 - (b) where the false or misleading information concerned was first relied upon by the Commissioners for the purpose of making an updated or amended child maintenance assessment in respect of the child concerned under this Part or *Part 5*, the date from which that updated or amended assessment became binding.
 - (4) A parent or non-parent carer of the child concerned who is aggrieved by a determination made under this section may, within the period of 30 days after the date 40

of the updated assessment to which the determination relates, appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997.

Amendments of assessments arising from living circumstances existing at time when assessment begins

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55. (1) This section applies in respect of a child maintenance assessment to which each of the following applies:

(a) the Commissioners have made a child maintenance assessment on the basis of certain circumstances that they believed, on the basis of information available to them, existed at the time that the assessment was made;

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(b) an order to pay is in force in respect of the child concerned;

(c) a parent or non-parent carer concerned notifies the Commissioners, within the period of 4 weeks after the order to pay is issued under *section 37*, that the circumstances referred to in *paragraph (a)* did not exist at that time of the making of the assessment, including detail of the circumstances that did exist at that time;

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(d) the child maintenance assessment is not an assessment to which *section 50* applies;

(e) an amendment is made under *section 53* on foot of the notification referred to in *paragraph (c)*.

20

(2) The Commissioners may backdate any amended child maintenance assessment made under *section 53* to the date from which the order to pay referred to in *subsection (1)(b)* had effect and for that purpose, the date concerned shall be the effective date for the purpose of *subsection (4)(b)* of that section.

(3) *Subsection (2)* applies notwithstanding the fact that—

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(a) the person making the notification under *subsection (1)(c)* is a liable parent and the backdating concerned has the effect of increasing the amount of child maintenance that the person is liable to pay, or

(b) the person making the notification under *subsection (1)(c)* is a receiving carer and the backdating has the effect of decreasing the amount of child maintenance that is payable in respect of that carer.

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(4) *Subsection (2)* shall not apply unless—

(a) the person making the notification under *subsection (1)(c)* has provided to the Commissioners such information and documentation as may be prescribed, and

(b) the Commissioners are satisfied that—

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(i) the child maintenance assessment was made on the basis that the circumstances referred to in *subsection (1)(a)* existed at the time of the making of a child maintenance assessment, and

(ii) the circumstances notified to the Commissioners under *subsection (1)(c)* did exist at the time concerned.

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- (5) A parent or non-parent carer of the child concerned who is aggrieved by a determination made under this section may, within the period of 30 days after the date of the updated assessment to which the determination relates, appeal to the Appeals Commissioners against the determination in accordance with section 949I (as applied by *section 57*) of the Act of 1997.

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PART 7

APPEALS TO APPEALS COMMISSIONERS

Interpretation (*Part 7*)

56. In this Part—

“appealable matter” means any matter in respect of which an appeal is authorised by this Act; 10

“party”, in respect of an appeal against a determination or assessment made under this Act, means the appellant in the appeal or any other parent or non-parent carer identified for the purpose of the child maintenance assessment that has been made in respect of the child concerned. 15

Appeals to Appeals Commissioners

57. (1) Subject to *subsection (2)*, Part 40A of the Act of 1997 applies for the purposes of an appealable matter subject to the following modifications:

(a) references to an appealable matter shall be read as references to an appealable matter within the meaning of this Part; 20

(b) references to the Acts shall be read as references to this Act;

(c) references to an assessment shall be read as references to a child maintenance assessment;

(d) references to the parties to the appeal shall be read as references to parties within the meaning of this Part; 25

(e) the reference in section 949H(1) of that Act to tax payers shall be read as a reference to parents and non-parent carers;

(f) the reference in section 949K of that Act to the Revenue Commissioners shall be read as a reference to each party to the appeal other than the appellant;

(g) in section 949L of that Act— 30

(i) references to the Revenue Commissioners shall be read as references to any party to the appeal other than the appellant, and

(ii) the reference to the appellant in *subsection (3)* shall be read as a reference to each other party to the appeal;

(h) in section 949P of that Act— 35

(i) references to any action for the recovery of any tax shall be read as

- references to any action, by means of the institution of proceedings, for the recovery of arrears of maintenance, and
- (ii) the reference in *subsection (2)* to any fees or expenses charged by the county registrar or sheriff executing a certificate under section 960K of that Act shall be read as a reference to any fees or expenses charged in respect of the execution of any court order relating to arrears of maintenance; 5
 - (i) section 949Y of that Act shall be read as if the provisions of *subsection (3)* were substituted for the provisions of that section;
 - (j) section 949AB(1) of that Act shall be read as if the reference to a person who is a member of a professional body (within the meaning of section 851A(1) of that Act) was deleted; 10
 - (k) sections 949AK and 949AL of that Act shall be read as if the provisions of *subsection (4)* were substituted for the provisions of those sections;
 - (l) any other necessary modifications.
- (2) The following provisions of Part 40A of the Act of 1997 shall not apply in respect of an appeal that is made to the Appeals Commissioners in respect of an appealable matter: 15
- (a) section 949F;
 - (b) subsections (2) and (3) of section 949O;
 - (c) section 949Q(2)(h); 20
 - (d) subsections (3), (4), (5), (6) and (7) of section 949W;
 - (e) subsections (5) and (6) of section 949AA;
 - (f) section 949AJ(2);
 - (g) subsections (2), (3) and (4) of section 949AM;
 - (h) section 949AO. 25
- (3) Every hearing of an appeal by the Appeals Commissioners in respect of an appealable matter shall be heard otherwise than in public.
- (4) On the hearing of an appeal in respect of an appealable matter, the Appeals Commissioners may—
- (a) confirm the determination or assessment that is the subject of the appeal, or 30
 - (b) set aside, in whole or in part, the determination or assessment that is the subject of the appeal and—
 - (i) remit the matter for reconsideration by the Commissioners subject to such directions as the Appeals Commissioners consider appropriate, or
 - (ii) vary the determination or assessment that is the subject of the appeal and substitute such other determination or assessment as the Appeals Commissioners consider appropriate. 35
- (5) The Tax Appeals Commission shall be known as the Child Maintenance Assessment

Appeals Commission when performing the functions conferred on it by the Act of 1997, as applied by this section, in relation to appealable matters.

Effect of appeal on determination or assessment

- 58.** An appeal under Part 40A (as applied by *section 57*) of the Act of 1997 shall not, unless the Commissioners direct otherwise on the application of any party to the appeal, pending the outcome of the appeal, affect the operation of any determination or assessment of the Commissioners that is the subject of the appeal. 5

PART 8

JURISDICTION OF COURTS TO MAKE RELEVANT ORDERS

Bar on bringing proceedings unless certain conditions are satisfied 10

- 59.** (1) Subject to this section and section 60, no application may be brought by a parent or non-parent carer for a relevant order unless the making of such an application is authorised under *section 11(4)(b)*, *12(5)(b)*, *13(5)(b)* or *36(5)(c)*.
- (2) *Subsection (1)* shall not apply where any of the following applies:
- (a) there is in force a court order directing any person to make payments in respect of the child concerned where such payments are of the same nature as child maintenance payable under an order to pay; 15
 - (b) a parent or non-parent carer of the child concerned is aged under 18 years;
 - (c) a parent or non-parent carer of the child concerned is a person in respect of whom *section 11(1)(f)* applies. 20
- (3) *Subsection (1)* shall not apply in respect of an application for an order under section 8 of the Act of 1995, section 13 of the Act of 1996 or section 117 of the Act of 2010 if any of the following applies:
- (a) there is in force an order to pay in respect of the child concerned;
 - (b) the application is brought on the consent of both parties to the proceedings; 25
 - (c) there is in force an agreement in writing between both parties to the proceedings concerned providing for the making of periodic payments by one party to the other party for the maintenance of the child concerned.

Section 59 not a bar on certain applications

- 60.** (1) Nothing in *section 59* or any other provision of this Act is to be read as affecting the right of a parent or non-parent carer to invoke, subject to and in accordance with this section, the jurisdiction of any court to make an order referred to in *subsection (2)* that could be made if an application, but for *section 59*, were to be made or were about to be made for a relevant order and the court shall, accordingly, have jurisdiction, subject to and in accordance with this section, to make such an order despite the enactment of *section 59*. 30 35

- (2) The order mentioned in *subsection (1)* is any order of an interlocutory kind or power to make which is provided for by rules of court or otherwise inherent in the court's general jurisdiction in civil proceedings and, in particular, an order restraining the transfer of assets to a place outside the State for the purpose of defeating the rights of another arising out of an entitlement to apply for a relevant order or the dissipation of assets for that purpose and an order requiring evidence to be preserved. 5
- (3) In relation to an application for an order referred to in *subsections (1)* and *(2)*, the following provisions have effect:
- (a) the application shall be made by motion on notice or, as appropriate, on an *ex parte* basis; 10
 - (b) without prejudice to the principles or rules that govern generally the exercise of the court's jurisdiction to make such an order, the court shall not exercise that jurisdiction to make any order (not being an order relating to the transfer or dissipation of assets) unless it is satisfied that—
 - (i) the application is made in good faith and for the sole purpose of ensuring the fair and just disposition of any proceedings that could be brought in the event of the issue of an authorisation referred to in *section 59*, and 15
 - (ii) the making of the order is necessary to enable the fair and just disposition of those proceedings,

and the court shall ensure that the manner in which any such application is dealt with does not prejudice any procedures which are being or may be followed under this Act in relation to an application for a relevant order; 20
 - (c) on the hearing of the application the court shall have power to grant the relief sought or, subject to this section, make any other interlocutory order that is appropriate to the application or may adjourn, from time to time, the hearing of the application or dismiss the application and, in any of the foregoing cases, may make such order as to costs as it considers appropriate; 25
 - (d) the person making the application shall be subject to the same duties as that person would be subject to if the application were to be made in the course of proceedings brought in respect of an application for a relevant order and may (in addition to any undertaking that person may be regarded as having given by operation of law) be required to give such undertakings as the court may specify in the circumstances; 30
 - (e) in the event of an application being made for a relevant order pursuant to an authorisation referred to in *section 59*, any order made in exercise of the foregoing jurisdiction shall be deemed to be an order made in the course of those proceedings and the court may, accordingly, continue to exercise jurisdiction in respect of the order; 35
 - (f) in the event of no application being made for a relevant order, the court may make such order as to the discharge of the order referred to in *paragraph (e)*, to any other matter in consequence of the second mentioned order and to the costs of the matter as is necessary or appropriate in the circumstances. 40

Court may backdate certain orders to date of application

61. (1) This section applies where—

- (a) a court makes a relevant order in favour of an applicant,
 - (b) the applicant is a parent or non-parent carer of the child concerned, and
 - (c) the Commissioners have issued an authorisation in respect of the child concerned under *section 11(4)(b), 12(5)(b), 13(5)(b) or 36(5)(c)* to bring an application for a relevant order. 5
- (2) Notwithstanding any other provision relating to a relevant order, a court may, when making a relevant order, specify a date on which the order concerned shall commence that is earlier than the date of the application for the order but not earlier than the date on which the application for the child maintenance assessment concerned was made. 10
- (3) In specifying a date on which a relevant order shall commence a court shall have regard to the following:
- (a) the period of time that has elapsed between the making of the application for the child maintenance assessment concerned and the making of the relevant order; 15
 - (b) the period of time that elapsed between the issuing by the Commissioners of an authorisation under *section 11(4)(b), 12(5)(b), 13(5)(b) or 36(5)(c)* to the applicant for the relevant order in relation to the child concerned and the making of the application for the relevant order;
 - (c) whether the application for the child maintenance assessment concerned was made by the applicant for the relevant order or another parent or non-parent carer of the child concerned; 20
 - (d) such other matter as the court considers appropriate.

Interim child maintenance order pending assessment

- 62.** (1) Subject to this section, a relevant parent or carer may apply for an interim order directing any parent of the child concerned to make periodical payments for the support of the child to the relevant parent or carer of such amount and at such intervals as the court considers appropriate. 25
- (2) The court shall not make an order under *subsection (1)* unless it is satisfied of the following: 30
- (a) a valid application has been made for a child maintenance assessment in respect of the child concerned;
 - (b) the child maintenance assessment concerned is pending;
 - (c) it is proper to make such an order, having regard to the urgent financial needs of the child. 35
- (3) An order under *subsection (1)* shall stand discharged—
- (a) where the court specifies a definite period during which the order shall be in force, upon the expiry of such period, or
 - (b) upon the issuing by the Commissioners of either of the following:

- (i) an order to pay in respect of the child concerned under *section 37*;
- (ii) an authorisation in respect of the child concerned under *section 11(4)(b)*, *12(5)(b)*, *13(5)(b)* or *36(5)(c)*,

whichever first occurs.

- (4) An order under this section shall, for the purposes of section 98(1) of the Defence Act 1954, be deemed to be an order made under section 7 of the Act of 1976. 5
- (5) A periodical payment of money pursuant to an order under this section shall be made without deduction of income tax.
- (6) In this section—
 - “court” means the District Court or Circuit Court; 10
 - “relevant parent or carer”, in respect of a qualifying child, means any parent or non-parent carer of the child in respect of whom either of the following applies:
 - (a) the parent or carer has applied for a child maintenance assessment in respect of the child;
 - (b) the parent or carer has consented for the purpose of *section 12* to the making of such an assessment. 15

Court to have regard to this Act when making a relevant order

- 63.** (1) A court shall, when considering a relevant application, have regard to any matter provided for by or under this Act for the purpose of either of the following:
- (a) determining the liability of any person to make payments for the maintenance of the child concerned; 20
 - (b) assessing the amount that any person is liable to pay to another person for the support of the child concerned.
- (2) In this section, “relevant application” means an application for any of the following:
- (a) a relevant order; 25
 - (b) an order—
 - (i) under section 8 or 8A of the Act of 1976, or
 - (ii) under section 48 of the Act of 2010,
 making a provision of an agreement, by which one party to the agreement undertakes to make periodical payments towards the maintenance of a qualifying child, a rule of court. 30

Costs

- 64.** (1) This section applies where—
- (a) the Commissioners issue authorisations under *section 12(5)(b)*, *13(5)(b)* or *36(5)(c)*, and 35
 - (b) a parent or non-parent carer makes an application for a relevant order directing a

parent to make periodical payments for the maintenance of the child concerned.

- (2) Without prejudice to any other provision relating to the costs of proceedings relating to an application for a relevant order, a court shall, in determining any application in relation to the costs of such proceedings, have regard to the conduct of each party to the proceedings in respect of the child maintenance assessment concerned. 5
- (3) Without prejudice to *subsection (2)*, a court shall, for the purpose of that subsection, have regard to each of the following in respect of each party concerned, as may be applicable:
- (a) whether the party concerned consented or objected to the making of a child maintenance assessment in respect of the child concerned under *section 12(2)*; 10
 - (b) whether the making of an application for the relevant order concerned was authorised by reason of the failure of the party concerned to respond to a notification under *section 12(1)* or to provide any additional information or documentation requested under *section 12(4)(b)*;
 - (c) whether the party concerned accepted or rejected, or was deemed to have accepted or rejected, the child maintenance assessment made in respect of the child concerned under *section 36(1)*; 15
 - (d) the determination made by the Commissioners in respect of each parent and non-parent carer of the child concerned under *section 15(1)*;
 - (e) the assessment made by the Commissioners in respect of each liable parent and receiving carer of the child concerned under *section 25(2)*; 20
 - (f) such other matter as the court considers appropriate.

Amendment of section 3 (interpretation) of Act of 1976

65. Section 3 of the Act of 1976 is amended in subsection (1), in the definition of “antecedent order”, by inserting the following paragraph after paragraph (e): 25
- “(ea) an order under *section 62* of the *Child Maintenance Act 2026*,”.

Amendment of section 21 (hearing of applications under Acts together) of Domestic Violence Act 2018

66. Section 21 of the Domestic Violence Act 2018 is amended in subsection (2) by inserting the following paragraph after paragraph (b): 30
- “(ba) *section 62* of the *Child Maintenance Act 2026*,”.

PART 9

PROCESSING AND SHARING OF INFORMATION FOR PURPOSES OF ACT

Definitions (Part 9)

67. In this Part— 35

“controller” has the meaning given to it in the Data Protection Regulation;

“data subject” has the meaning given to it in the Data Protection Regulation;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; 5

“personal data” has the meaning given to it in the Data Protection Regulation;

“processing” has the meaning given to it in the Data Protection Regulation.

Data sharing and processing for purposes of Act

68. (1) Subject to this Part, the Commissioners may use any of the following information for the purpose of performing their functions under this Act: 10
- (a) information (including, where necessary and proportionate, personal data) provided to them by a parent or non-parent carer for the purpose of the performance of any function under this Act;
 - (b) information (including, where necessary and proportionate, personal data) provided to them by the Minister for Social Protection under *subsection (2)*; 15
 - (c) information (including, where necessary and proportionate, personal data) that is otherwise in the possession of the Commissioners for the performance of any other function of the Commissioners.
- (2) The Minister for Social Protection shall provide to the Commissioners such information (including, where necessary and proportionate, personal data) that they may require for the purpose of performing their functions under this Act. 20

Restriction of rights and obligations under Data Protection Regulation

69. (1) The rights and obligations provided for in the following Articles of the Data Protection Regulation are, in so far as those rights and obligations relate to the processing of personal data by the Commissioners under this Act, restricted to the extent necessary and proportionate to enable the Commissioners to perform their functions under this Act: 25
- (a) Article 5 in so far as any of its provisions correspond to the rights and obligations provided for in the Articles specified in *paragraphs (b) to (f)*; 30
 - (b) Article 12, in so far as any of its provisions correspond to the rights and obligations provided for in the Articles specified in *paragraphs (c) to (f)*;
 - (c) Article 14;
 - (d) Article 17;
 - (e) Article 18; 35
 - (f) Article 21;
 - (g) Article 34.

1 OJ No. L119, 4.5.2016, p. 1

- (2) Matters which are relevant for the purposes of *subsection (1)*, in determining whether a restriction of a right or obligation is necessary and proportionate to enable the Commissioners to perform their functions under this Act, include the following:
 - (a) the extent to which the exercise of the right or compliance with the obligation would prejudice the performance by the Commissioners of those functions; 5
 - (b) the essence of the right to data protection of the data subject;
 - (c) the risks to the rights and freedoms of the data subject that may result from such a restriction.

Information in relation to restriction of rights or obligations under this Part

- 70. (1) Where a right or obligation referred to in *subsection (1)* of *section 69* is restricted in accordance with that subsection, the Commissioners shall notify the data subject concerned in writing in a timely manner of the restriction, unless so notifying the data subject may prejudice the performance of the Commissioners' functions under this Act. 10
- (2) A notification under *subsection (1)* shall inform the data subject concerned of the following: 15
 - (a) the right or obligation affected by the restriction;
 - (b) whether the right or obligation concerned has been restricted in whole or in part;
 - (c) the reasons for the restriction, unless informing the data subject concerned of the reasons may prejudice the performance by the Commissioners of a function under this Act; 20
 - (d) that the data subject may lodge a complaint with the Data Protection Commission pursuant to Article 77(1) of the Data Protection Regulation;
 - (e) that the right referred to in *paragraph (d)* is without prejudice to any other rights or remedies which the data subject may have in relation to the Commissioners. 25
- (3) Where requested by a data subject notified for the purpose of *subsection (1)*, the Commissioners shall provide to the data subject information on the policies and procedures referred to in *section 71*.

Safeguards in respect of processing of data

- 71. (1) The Commissioners shall, in respect of personal data processed under this Act, prepare and implement policies and procedures to provide for the matters referred to in subparagraphs (d) and (f) of Article 23(2) of the Data Protection Regulation. 30
- (2) Without prejudice to *subsection (1)*, the policies and procedures of the Commissioners referred to in that subsection shall include provisions relating to the following:
 - (a) the use of secure storage, passwords, encryption or other methods to ensure that personal data can only be accessed by persons authorised by the Commissioners to access that data; 35
 - (b) the use of controls to ensure that personal data is only disclosed to persons authorised by the Commissioners, or otherwise entitled or permitted by law, to

- receive that data;
- (c) the determination of appropriate storage periods for personal data or classes of personal data;
- (d) the treatment of personal data or classes of personal data at the expiry of the storage periods referred to in *paragraph (c)*; 5
- (e) data minimisation, including the use of anonymisation and pseudonymisation (within the meaning of the Data Protection Regulation).
- (3) The Commissioners shall review policies and procedures prepared for the purpose of *subsection (1)* on a regular basis and, where they consider it appropriate, prepare and implement updated policies and procedures for the purpose of that subsection. 10

Suitable and specific measures to safeguard fundamental rights and freedoms

72. (1) Without prejudice to *section 71*, the Commissioners shall, when processing any personal data for the purpose of this Act, take such suitable and specific measures as they consider appropriate to safeguard the fundamental rights and freedoms of data subjects. 15
- (2) For the purpose of *subsection (1)*, the Commissioners shall in particular consider the appropriateness of each of the following measures:
- (a) measures specified by or under section 36 of the Data Protection Act 2018;
 - (b) measures ensuring appropriate transparency and governance arrangements with regard to the processing of personal data; 20
 - (c) having regard to the state of the art, the context, nature, scope and purposes of data processing and the likelihood of risk to, and the severity of any risk to, the rights and freedoms of data subjects—
 - (i) a requirement that the processing is undertaken by a person who owes a duty of confidentiality, on such terms as the Commissioners consider appropriate, 25 to the data subject, and
 - (ii) anonymisation of the personal data;
 - (d) such other measure as may be prescribed.
- (3) For the purpose of *subsection (1)*, the Minister may prescribe that any measure that is specified by or under *subsection (2)* is mandatory in respect of such processing as may be prescribed. 30
- (4) Without prejudice to *paragraph (d)* of *subsection (2)*, measures that may be prescribed under that paragraph include measures that relate to any of the following:
- (a) processes or procedures for risk assessment purposes;
 - (b) other technical and organisational measures designed to ensure that the processing is carried out in accordance with the Data Protection Regulation and processes for testing and evaluating the effectiveness of such measures. 35
- (5) The Minister shall, before making regulations under *subsection (2)(d)* or (3), consult with—

- (a) such other Minister of the Government as appears appropriate, and
 - (b) the Data Protection Commission.
- (6) The Data Protection Commission may, on being consulted for the purpose of *subsection (5)(b)* make observations in writing on any matter which is of significant concern to it in relation to the proposed regulations concerned. 5
- (7) (a) This subsection applies where—
- (i) the Data Protection Commission makes observations under *subsection (6)* in relation to regulations proposed to be made by the Minister, and
 - (ii) the Minister, having received those observations, proposes to make the regulations concerned, notwithstanding those observations. 10
- (b) The Minister shall, before making regulations under *subsection (2)(d)* or (3), give a written explanation as to why the Minister is so proceeding to such Committee as the Minister considers appropriate having regard to the Minister’s functions under this Act.
- (8) In making regulations under *subsection (2)(d)* or (3) the Minister shall have regard to the following: 15
- (a) the public interest;
 - (b) the need for protection of individuals with regard to the processing of their personal data;
 - (c) without prejudice to the generality of *paragraphs (a)* and *(b)*— 20
 - (i) the nature, scope, context and purposes of the processing,
 - (ii) risks arising for the rights and freedoms of individuals, and
 - (iii) the likelihood and the severity of the risks for the individuals concerned.
- (9) In this section, “Committee” means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas, or a subcommittee of either such committee, other than— 25
- (a) the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General,
 - (b) the Committee on Members’ Interests of Dáil Éireann, or 30
 - (c) the Committee on Members’ Interests of Seanad Éireann.

PART 10

MISCELLANEOUS PROVISIONS

Transitional provision in relation to relevant orders in force on commencement

73. (1) This section applies in respect of any of the following orders that is in force on the date on which this Act comes into operation (in this section referred to as an “extant 35

child maintenance order”):

(a) a relevant order;

(b) an order—

(i) under section 8 or 8A of the Act of 1976, or

(ii) under section 48 of the Act of 2010,

5

making a provision of an agreement, by which one party to the agreement undertakes to make periodical payments towards the maintenance of a qualifying child, a rule of court.

(2) Subject to *subsection (3)*, a court that has made an extant child maintenance order shall, on the application of a relevant party, make an order, subject to such terms as the court thinks fit, authorising an application to be made for a child maintenance assessment in respect of the child concerned. 10

(3) A court shall not make an order under *subsection (2)* if the other relevant party concerned objects to the making of the order.

(4) Where an order is made under *subsection (2)*, the following provisions shall apply: 15

(a) the extant child maintenance order in respect of the child concerned shall, subject to *paragraph (c)*, continue in force;

(b) notwithstanding *section 11*, any parent or non-parent carer of the child concerned may make an application for a child maintenance assessment in respect of that child; 20

(c) where an order to pay is issued in respect of the child concerned, any extant child maintenance order made in respect of that child that is in force on the date on which the order to pay is binding shall stand discharged on that date.

(5) In this section, “relevant party”, in respect of an extant child maintenance order, means— 25

(a) the person to whom payments are required by the order to be made, or

(b) the person by whom payments are required by the order to be made.

Transitional provision in relation to applications for relevant orders that are pending on commencement

74. (1) *Section 59* shall not apply in respect of proceedings brought before the coming into operation of this Act. 30

(2) Subject to *subsection (3)*, in proceedings to which *subsection (1)* applies the court may, on the application of a party to the proceedings, make an order adjourning the proceedings, subject to such terms as the court thinks fit, for the purpose of enabling a parent or non-parent carer of the child concerned to make an application for a child maintenance assessment in respect of the child. 35

(3) A court shall not make an order under *subsection (2)* if the other party to the proceedings concerned objects to the making of the order.

(4) Where an order is made under *subsection (2)*, the following provisions shall apply:

- (a) the proceedings shall be adjourned pending the making of an application for a child maintenance assessment in respect of the child concerned;
- (b) where an authorisation is issued under *section 11(4)(b), 12(5)(b), 13(5)(b) or 36(5)(c)* in respect of the child concerned, the proceedings before the court concerned may be resumed; 5
- (c) where an order to pay is issued in respect of the child concerned, the Commissioners shall notify the court concerned and the court shall—
 - (i) by order provide for the discontinuance of the proceedings, or
 - (ii) where the application for the relevant order concerned relates to part but not all of the matters that are the subject of the proceedings, by order provide for the discontinuance of the proceedings in so far as it relates to that application. 10

Application of section 98 (deductions from pay in respect of certain court orders) of Defence Act 1954

75. An order to pay shall, for the purposes of section 98(1) of the Defence Act 1954, be deemed to be an order made under section 5, 5A, 5B or 5C of the Act of 1976, as may be appropriate. 15

Payments without deduction of income tax

76. A periodical payment of money pursuant to an order to pay shall be made without deduction of income tax. 20

Offence: false or misleading information

77. A person commits an offence if that person, in purported compliance with any matter specified by or under this Act, knowingly or recklessly provides the Commissioners with information which is false or misleading in a material respect and is liable—
- (a) on summary conviction, to a class A fine, or 25
 - (b) on conviction on indictment, to a fine not exceeding €10,000.

Prosecution of offences

78. Summary proceedings for an offence under this Act may be brought and prosecuted by the Commissioners.

Fixed payment notice

79. (1) Where the Commissioners have reasonable grounds for believing that a person is committing or has committed an offence under this Act, they may serve on the person a notice in writing (in this section referred to as a “fixed payment notice”) stating that— 30
- (a) the person is alleged to have committed the offence, 35
 - (b) the person may—

- (i) during the period of 28 days beginning on the date of the notice, make to the Commissioners, at the address specified in the notice, a payment of such amount as may be prescribed, or
 - (ii) if the person does not make a payment in accordance with *subparagraph (i)*, during the period of 28 days beginning on the expiration of the period referred to in that subparagraph, make to the Commissioners, at the address specified in the notice, a payment of such amount as may be prescribed,
 - (c) the person is not obliged to make the payment, and
 - (d) a prosecution in respect of the alleged offence will not be instituted during either period specified for the purpose of *paragraph (b)* and, if either payment specified for the purpose of that paragraph is made during the period concerned, no prosecution in respect of the alleged offence will be instituted.
- (2) Where a fixed payment notice is served—
- (a) the person to whom the notice applies may—
 - (i) during the period specified for the purpose of *subparagraph (i)* of *subsection (1)(b)*, make the payment specified for the purpose of that subparagraph, or
 - (ii) during the period specified for the purpose of *subparagraph (ii)* of *subsection (1)(b)*, make the payment specified for the purpose of that subparagraph,
 - (b) the Commissioners may receive a payment made under *paragraph (a)*, issue a receipt for it and retain the money so paid, and the payment is not recoverable in any circumstances by the person who made it,
 - (c) a prosecution in respect of the alleged offence may not be instituted in either period specified for the purpose of *subsection (1)(b)*, and
 - (d) no prosecution in respect of the alleged offence may be instituted if—
 - (i) during the period specified for the purpose of *subparagraph (i)* of *subsection (1)(b)*, the person makes the payment specified for the purpose of that subparagraph, or
 - (ii) during the period specified for the purpose of *subparagraph (ii)* of *subsection (1)(b)*, the person makes the payment specified for the purpose of that subparagraph.
- (3) Where a person does not, within the period specified for the purpose of *subparagraph (i)* of *subsection (1)(b)*, make the payment specified for the purpose of that subparagraph the Commissioners may serve on the person a reminder notice, including such information as they consider appropriate.
- (4) In proceedings for an offence under this Act, it shall be a defence for the defendant to prove that a payment has been made in accordance with this section pursuant to a fixed payment notice issued in respect of the offence.

Burden of proof

- 80.** The Act of 1976 is amended by inserting the following section after section 9B:

“9C. In any proceedings in which it is alleged that payments that were directed to be made for the support of a child under an antecedent order have not been made, it shall be for the person directed to make such payments to prove that such payments were made.”.

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le measúnacht riaracháin, ag na Coimisinéirí Ioncaim, ar dhliteanais daoine áirithe chun cothabháil thréimhsiúil a íoc i leith linbh; do dhéanamh socrú maidir le modheolaíocht chaighdeánach chun measúnacht den sórt sin a dhéanamh; do dhéanamh socrú maidir le hinfhorfheidhmitheacht measúnachtaí den sórt sin in imthosca áirithe; dá chumhachtú do na Coimisinéirí Ioncaim imeacht ó mhodheolaíocht chaighdeánach chun measúnacht a dhéanamh ar chothabháil linbh in imthosca áirithe; do dhéanamh socrú maidir le measúnachtaí uasdátaithe ar chothabháil linbh in imthosca áirithe; do thoirmeasc, ar mhaithe leis an maitheas phoiblí, iarratais áirithe a dhéanamh chun na cúirte mura bhfuil feidhm ag imthosca áirithe; do dhéanamh socrú maidir le hachomhairc i gcoinne cinntí agus breitheanna áirithe ó na Coimisinéirí Ioncaim; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Na Seanadóirí Lynn Ní Ruáin, Ailís Máire Ní Uigin, Eibhlín Ní Fhloinn, Proinséas Ní Dhuibh, Patricia Stephenson, Nessa Cosgrove, Laura Harmon, Maria McCormack, Pauline Tully, Nicole Ryan, Joanne Collins, Sharon Keogan agus Sarah O'Reilly a thug isteach,

24 Márta, 2026

BILL

(as initiated)

entitled

An Act to provide for the administrative assessment, by the Revenue Commissioners, of liabilities of certain persons to pay periodic maintenance in respect of a child; to provide for a standard methodology for making such an assessment; to provide for the enforceability of such assessments in certain circumstances; to empower the Revenue Commissioners to depart from a standard methodology for making an assessment of child maintenance in certain circumstances; to provide for updated assessments of child maintenance in certain circumstances; to prohibit, in the interests of the common good, the making of certain applications to court unless certain circumstances apply; to provide for appeals from certain determinations and decisions of the Revenue Commissioners; and to provide for related matters.

Introduced by Senators Lynn Ruane, Alice-Mary Higgins, Eileen Flynn, Frances Black, Patricia Stephenson, Nessa Cosgrove, Laura Harmon, Maria McCormack, Pauline Tully, Nicole Ryan, Joanne Collins, Sharon Keogan and Sarah O'Reilly,

24th March, 2026

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

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