



2008 CHAPTER 10

PART 2

CHILD SUPPORT ETC.

*Collection and enforcement*

**Lump sum deduction orders**

15. After Article 32D of the Child Support Order (inserted by section 14) insert—

**“Lump sum deductions: interim orders**

**32E.**—(1) The Department may make an order under this Article if it appears to the Department that a person (referred to in this Article and Articles 32F to 32J as “the liable person”) has failed to pay an amount of child support maintenance and—

- (a) an amount stands to the credit of an account held by the liable person with a deposit-taker; or
- (b) an amount not within sub-paragraph (a) that is of a prescribed description is due or accruing to the liable person from another person (referred to in this Article and Articles 32F to 32J as the “third party”).

(2) An order under this Article—

- (a) may not be made by virtue of paragraph (1)(a) in respect of an account of a prescribed description; and

- (b) may be made by virtue of paragraph (1)(a) in respect of a joint account which is held by the liable person and one or more other persons, and which is not of a description prescribed under sub-paragraph (a) of this paragraph, if (but only if) regulations made by the Department so provide.
- (3) The Department may by regulations make provision as to conditions that are to be disregarded in determining whether an amount is due or accruing to the liable person for the purposes of paragraph (1)(b).
- (4) An order under this Article—
  - (a) shall be expressed to be directed at the deposit-taker or third party in question;
  - (b) if made by virtue of paragraph (1)(a), shall specify the account in respect of which it is made; and
  - (c) shall specify the amount of arrears of child support maintenance in respect of which the Department proposes to make an order under Article 32F.
- (5) An order under this Article may specify an amount of arrears due under a maintenance calculation which is the subject of an appeal only if it appears to the Department—
  - (a) that liability for the amount would not be affected were the appeal to succeed; or
  - (b) where sub-paragraph (a) does not apply, that the making of an order under Article 32F in respect of the amount would nonetheless be fair in all the circumstances.
- (6) The Department shall serve a copy of any order made under this Article on—
  - (a) the deposit-taker or third party at which it is directed;
  - (b) the liable person; and
  - (c) if the order is made in respect of a joint account, the other account-holders.
- (7) An order under this Article shall come into force at the time at which it is served on the deposit-taker or third party at which it is directed.
- (8) An order under this Article shall cease to be in force at the earliest of the following—
  - (a) the time at which the prescribed period ends;
  - (b) the time at which the order under this Article lapses or is discharged; and

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- (c) the time at which an order under Article 32F made in pursuance of the proposal specified in the order under this Article is served on the deposit-taker or third party at which that order is directed.

(9) Where regulations have been made under Article 29(3)(a), a person liable to pay an amount of child support maintenance is to be taken for the purposes of this Article to have failed to pay the amount unless it is paid to or through the person specified in, or by virtue of, the regulations for the case in question.

### **Lump sum deductions: final orders**

**32F.—**(1) The Department may make an order under this Article in pursuance of a proposal specified in an order under Article 32E if—

- (a) the order in which the proposal was specified (“the interim order”) is in force;
- (b) the period prescribed for the making of representations to the Department in respect of the proposal specified in the interim order has expired; and
- (c) the Department has considered any representations made to it during that period.

(2) An order under this Article—

- (a) shall be expressed to be directed at the deposit-taker or third party at which the interim order was directed;
- (b) if the interim order was made by virtue of Article 32E(1)(a), shall specify the account specified in the interim order; and
- (c) shall specify the amount of arrears of child support maintenance in respect of which it is made.

(3) The amount so specified—

- (a) shall not exceed the amount of arrears specified in the interim order which remain unpaid at the time at which the order under this Article is made; and
- (b) if the order is made in respect of a joint account, shall not exceed the amount that appears to the Department to be fair in all the circumstances.

(4) In determining the amount to be specified in an order made in respect of a joint account the Department shall have particular regard—

- (a) to the amount contributed to the account by each of the account-holders; and
- (b) to such other matters as may be prescribed.

(5) An order under this Article may specify an amount of arrears due under a maintenance calculation which is the subject of an appeal only if it appears to the Department—

- (a) that liability for the amount would not be affected were the appeal to succeed; or
- (b) where sub-paragraph (a) does not apply, that the making of an order under this Article in respect of the amount would nonetheless be fair in all the circumstances.

(6) The Department shall serve a copy of any order made under this Article on—

- (a) the deposit-taker or third party at which it is directed;
- (b) the liable person; and
- (c) if the order is made in respect of a joint account, the other account-holders.

#### **Orders under Articles 32E and 32F: freezing of accounts etc.**

**32G.**—(1) During the relevant period, an order under Article 32E or 32F which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker not to do anything that would reduce the amount standing to the credit of the account below the amount specified in the order (or, if already below that amount, that would further reduce it).

(2) During the relevant period, any other order under Article 32E or 32F shall operate as an instruction to the third party at which it is directed not to do anything that would reduce the amount due to the liable person below the amount specified in the order (or, if already below that amount, that would further reduce it).

(3) Paragraphs (1) and (2) have effect subject to regulations made under Article 32I(1).

(4) In this Article “the relevant period”, in relation to an order under Article 32E, means the period during which the order is in force.

(5) In this Article and Article 32H “the relevant period”, in relation to an order under Article 32F, means the period which—

- (a) begins with the service of the order on the deposit-taker or third party at which it is directed; and
- (b) (subject to paragraph (6)) ends with the end of the period during which an appeal can be brought against the order by virtue of regulations under Article 32J(5).

(6) If an appeal is brought by virtue of the regulations, the relevant period ends at the time at which—

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- (a) proceedings on the appeal (including any proceedings on a further appeal) have been concluded; and
- (b) any period during which a further appeal may ordinarily be brought has ended.

(7) References in this Article and Articles 32H and 32J to the amount due to the liable person are to be read as references to the total of any amounts within Article 32E(1)(b) that are due or accruing to the liable person from the third party in question.

### **Orders under Article 32F: deductions and payments**

**32H.**—(1) Once the relevant period has ended, an order under Article 32F which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker—

- (a) if the amount standing to the credit of the account is less than the remaining amount, to pay to the Department the amount standing to the credit of the account; and
- (b) otherwise, to deduct from the account and pay to the Department the remaining amount.

(2) If an amount of arrears specified in the order remains unpaid after any payment required by paragraph (1) has been made, the order shall operate until the relevant time as an instruction to the deposit-taker—

- (a) to pay to the Department any amount (not exceeding the remaining amount) standing to the credit of the account specified in the order; and
- (b) not to do anything else that would reduce the amount standing to the credit of the account.

(3) Once the relevant period has ended, any other order under Article 32F shall operate as an instruction to the third party at which it is directed—

- (a) if the amount due to the liable person is less than the remaining amount, to pay to the Department the amount due to the liable person; and
- (b) otherwise, to deduct from the amount due to the liable person and pay to the Department the remaining amount.

(4) If an amount of arrears specified in the order remains unpaid after any payment required by paragraph (3) has been made, the order shall operate until the relevant time as an instruction to the third party—

- (a) to pay to the Department any amount (not exceeding the remaining amount) due to the liable person; and
- (b) not to do anything else that would reduce any amount due to the liable person.

(5) This Article has effect subject to regulations made under Articles 32I(1) and 32J(2)(c).

(6) In this Article—

“the relevant time” means the earliest of the following—

- (a) the time at which the remaining amount is paid;
- (b) the time at which the order lapses or is discharged; and
- (c) the time at which a prescribed event occurs or prescribed circumstances arise;

“the remaining amount”, in relation to any time, means the amount of arrears specified in the order under Article 32F which remains unpaid at that time.

#### **Power to disapply Articles 32G(1) and (2) and 32H(2)(b) and (4)(b)**

**32I.**—(1) The Department may by regulations make provision as to circumstances in which things that would otherwise be in breach of Articles 32G(1) and (2) and 32H(2)(b) and (4)(b) may be done.

(2) Regulations under paragraph (1) may require the Department’s consent to be obtained in prescribed circumstances.

(3) Regulations under paragraph (1) which require the Department’s consent to be obtained may provide for an application for that consent to be made—

- (a) by the deposit-taker or third party at which the order under Article 32E or 32F is directed;
- (b) by the liable person; and
- (c) if the order is made in respect of a joint account, by any of the other account-holders.

(4) If regulations under paragraph (1) require the Department’s consent to be obtained, the Department shall by regulations provide for a person of a prescribed description to have a right of appeal to a court against the withholding of that consent.

(5) Regulations under paragraph (4) may include—

- (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
- (b) provision with respect to the powers of the court to which the appeal under the regulations lies.

**Regulations about orders under Article 32E or 32F**

**32J.**—(1) The Department may by regulations make provision with respect to orders under Article 32E or 32F.

(2) The regulations may, in particular, make provision—

- (a) as to circumstances in which amounts standing to the credit of an account are to be disregarded for the purposes of Articles 32E, 32G and 32H;
- (b) as to the payment to the Department of sums deducted under an order under Article 32F;
- (c) allowing a deposit-taker or third party at which an order under Article 32F is directed to deduct from the amount standing to the credit of the account specified in the order, or due to the liable person, a prescribed amount towards its administrative costs before making any payment to the Department required by Article 32H;
- (d) with respect to notifications to be given to the liable person (and, in the case of an order made in respect of a joint account, to the other account-holders) as to amounts deducted, and amounts paid, under an order under Article 32F;
- (e) requiring a deposit-taker or third party at which an order under Article 32E or 32F is directed to supply information of a prescribed description to the Department, or to notify the Department if a prescribed event occurs or prescribed circumstances arise;
- (f) for the variation of an order under Article 32E or 32F;
- (g) for an order under Article 32E or 32F to lapse in such circumstances as may be prescribed;
- (h) as to the revival of an order under Article 32E or 32F in such circumstances as may be prescribed;
- (i) allowing or requiring an order under Article 32E or 32F to be discharged.

(3) Where regulations under paragraph (1) make provision for the variation of an order under Article 32E or 32F, the power to vary the order shall not be exercised so as to increase the amount of arrears of child support maintenance specified in the order.

(4) The Department may by regulations make provision with respect to priority as between an order under Article 32F and—

- (a) any other order under that Article;

(b) any order under any other statutory provision which provides for payments to be made from amounts to which the order under Article 32F relates.

(5) The Department shall by regulations make provision for any person affected by an order under Article 32F to have a right to appeal to a court against the making of the order.

(6) On an appeal under regulations under paragraph (5), the court shall not question the maintenance calculation by reference to which the order under Article 32F was made.

(7) Regulations under paragraph (5) may include—

(a) provision with respect to the period within which a right of appeal under the regulations may be exercised;

(b) provision with respect to the powers of the court to which the appeal under the regulations lies.

#### **Lump sum deduction orders: offences**

**32K.**—(1) A person who fails to comply with the requirements of—

(a) an order under Article 32E or 32F; or

(b) any regulation under Article 32J which is designated by the regulations for the purposes of this sub-paragraph,

commits an offence.

(2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that the person took all reasonable steps to comply with the requirements in question.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.