



Child Care Act 1980

1980 CHAPTER 5

PART V

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN IN CARE OF LOCAL AUTHORITIES

45 Liability for contributions in respect of children in care

(1) Where—

- (a) a child is in the care of a local authority under section 2 of this Act, or
- (b) a child is in the care of a local authority by virtue of a care order (other than an interim order),

the following persons (and no others) shall be liable to make contributions in respect of the child, that is to say—

- (i) if the child has not attained the age of sixteen, the father or mother of the child, and
- (ii) if the child has attained the age of sixteen and is engaged in remunerative full-time work, the child himself.

- (2) Any contribution which any person is required to make under subsection (1) above shall be payable to the local authority for the area in which that person is for the time being residing.
- (3) Whether or not a contribution order has been made under section 47 of this Act in respect of any child in the care of a local authority, no contribution shall be payable in respect of him for any period during which he is allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend, although remaining in the care of the local authority.
- (4) Where a contribution order is made under section 47 of this Act requiring the father or mother of the child to make contributions in respect of the child, no payments shall be required to be made under the order in respect of any period after the child has attained the age of sixteen.

46 Amount of contributions

- (1) Where a person is liable under section 45 of this Act to make a contribution in respect of a child in the care of a local authority then, subject to the provisions of this section, the amount of his contribution shall be such as may be proposed by the local authority and agreed by that person or, in default of agreement, as may be determined by a court under section 47 or 48 of this Act in proceedings for, or for the variation of, a contribution order.
- (2) The maximum contribution which may be proposed by a local authority in respect of a child in their care shall be a weekly amount equal to the weekly amount which, in the opinion of the local authority, they would normally be prepared to pay if a child of the same age were boarded out by them (whether or not the child in respect of whom the contribution is proposed is in fact so boarded out and, if he is, whether or not the local authority are in fact paying that amount).

47 Contribution orders

- (1) Where—
 - (a) the local authority in whose care a child is have, by notice in writing given to a person liable to make a contribution in respect of the child under section 45 of this Act (in this section and section 48 of this Act referred to as a " contributor "), proposed an amount as the amount of his contribution; and
 - (b) either the contributor and the local authority have not, within the period of one month beginning with the day on which the notice was given to the contributor, agreed on the amount of his contribution or the contributor has defaulted in making one or more contributions of an amount which has been agreed,

the local authority entitled under section 45(2) of this Act to receive contributions in respect of the child may apply to a magistrates' court appointed for the commission area where the contributor is for the time being residing for an order under this section.
- (2) On an application under subsection (1) above, the court may make an order (in this Act referred to as a " contribution order ") requiring the contributor to contribute such weekly sum as the court having regard to his means thinks fit, not being greater than the amount proposed in the notice given to the contributor under subsection (1)(a) above.
- (3) Subject to the provisions of this Act, a contribution order in respect of a child in the care of a local authority under section 2 of this Act shall remain in force so long as the child remains in the care of a local authority under that section and a contribution order in respect of a child who is in the care of a local authority by virtue of a care order shall remain in force so long as the child to whom it relates is in the care of the local authority to whose care he is committed by the care order.
- (4) A contribution order may be enforced in like manner as an affiliation order and the enactments relating to the enforcement of affiliation orders shall, with any necessary modifications, apply accordingly, except that any powers conferred on a magistrates' court by any such enactment shall as respects a contribution order be exercisable, and exercisable only, by a magistrates' court appointed for the commission area where the contributor is for the time being residing.

48 Variation of contribution orders

- (1) Any powers conferred on a magistrates' court by section 53 of the Magistrates' Courts Act 1952 (which confers power to revoke, vary or revive orders for periodical payments) shall as respects a contribution order be exercisable, and exercisable only, by a magistrates' court appointed for the commission area where the contributor is for the time being residing.
- (2) In proceedings for the variation of a contribution order, the local authority concerned shall specify the weekly amount which, having regard to section 46(2) of this Act, they propose should be the amount of the contribution payable under the order and the court shall not vary the contribution order so as to require the contributor to pay a contribution greater than that proposed by the local authority.

49 Transfer of payments under an affiliation order to local authority

- (1) Where a child who is in the care of a local authority under section 2 of this Act is illegitimate and an affiliation order for his maintenance is in force, any magistrates' court appointed for the commission area where the putative father is for the time being residing may at any time order the payments under the affiliation order to be paid to the local authority who are from time to time entitled under section 45(2) of this Act to receive contributions in respect of the child.
- (2) Where a child who is in the care of a local authority by virtue of a care order (other than an interim order) is illegitimate and an affiliation order for his maintenance is in force, the court which makes the order may at the same time, and any magistrates' court appointed for the commission area where the putative father is for the time being residing may subsequently at any time, order the payments under the affiliation order to be paid to the local authority who are from time to time entitled under section 45(2) of this Act to receive contributions in respect of the child.
- (3) Applications for orders under subsection (1) or (2) above may be made by the local authority by whom applications for contribution orders may be made.
- (4) Where an order made under subsection (1) or (2) above with respect to an affiliation order is in force—
 - (a) any powers conferred on a magistrates' court by the enactments relating to the enforcement of affiliation orders or by section 53 of the Magistrates' Courts Act 1952 (which confers power to revoke, vary or revive orders for periodical payments) shall as respects the affiliation order in question be exercisable, and exercisable only, by a magistrates' court appointed for the commission area where the person liable is for the time being residing;
 - (b) any sums received under the affiliation order shall be applied in like manner as if they were contributions received under a contribution order;
 - (c) if the putative father changes his address he shall forth with give notice thereof to the local authority who were immediately before the change entitled to receive payments under the order and, if he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (5) The making of an order under subsection (1) or (2) above with respect to an affiliation order shall not extend the duration of the affiliation order.

- (6) Where an order is made under this section with respect to an affiliation order, the affiliation order shall not remain in force (except for the purpose of the recovery of arrears)—
- (a) .in the case of an order made by virtue of subsection (1) above, after the child has ceased to be in the care of the local authority under section 2 of this Act, or
 - (b) in the case of an order made by virtue of subsection (2) above, after the child has ceased to be the subject of the care order ; or
 - (c) in either case, if the child is allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend, although remaining in the care of the local authority.
- (7) Where an affiliation order would, but for the provisions of subsection (6) above, have continued in force, the mother, or any person entitled to make an application for an order under section 5 of the Affiliation Proceedings Act 1957, may apply to a magistrates' court appointed for the commission area where she or he is for the time being residing for an order that the affiliation order may be revived and that payments thereunder may until the expiration thereof be made to the applicant at such a rate as may be proper, and the court may make such an order accordingly, and where such an order is so made, any power to vary, revoke or again revive the affiliation order or any part thereof, being a power which would but for the provisions of this subsection be vested in the court which originally made the affiliation order, shall be exercisable, and exercisable only, by the court which made the order under this subsection.

50 Application by local authority for affiliation order

- (1) Subject to the provisions of subsection (2) below, where—
- (a) an illegitimate child is in the care of a local authority under section 2 of this Act, or
 - (b) an illegitimate child is in the care of a local authority by virtue of a care order (other than an interim order),
- and no affiliation order has been made in respect' of the child, the local authority whose area includes the place where the mother of the child resides may apply to a magistrates' court appointed for the commission area which includes that place for a summons to be served under section 1 of the Affiliation Proceedings Act 1957.
- (2) No application shall be made under subsection (1) above—
- (a) in a case falling within paragraph (a) of that subsection, after the expiration of three years from the time when the child was received or last received into the care of the local authority or of another local authority from whom the care of the child was taken over by the first mentioned authority;
 - (b) in a case falling within paragraph (b) of that subsection, after the expiration of three years from the coming into force of the care order.
- (3) In any proceedings on an application under subsection (1) above the court shall hear such evidence as the local authority may produce, and shall in all other respects, but subject to the provisions of subsection (4) below, proceed as on an application made by the mother under section 1 of the Affiliation Proceedings Act 1957.
- (4) An order made under section 4 of the Affiliation Proceedings Act 1957 on an application under subsection (1) above shall provide that the payments to be made under the order shall, in lieu of being made to the mother or a person appointed to

have the custody of the child, be made to the local authority who are from time to time entitled under section 45 (2) of this Act to receive contributions in respect of the child.

- (5) Where in accordance with section 49(6) of this Act an affiliation order has ceased to be in force, and but for that subsection the order would still be in force, then if the condition specified in paragraph (a) or (b) of subsection (1) above is fulfilled, the local authority whose area includes the place where the putative father of the child resides may make application to a magistrates' court appointed for the commission area which includes that place—

- (a) for the affiliation order to be revived, and
- (b) for payments thereunder to be made to the local authority who are from time to time entitled under section 45(2) of this Act to receive contributions in respect of the child,

and the court may make an order accordingly.

- (6) Subsections (4) to (7) of section 49 of this Act shall apply in relation to an order made on an application under subsection (1) above or to an affiliation order revived under subsection (5) above as if it were an affiliation order in respect of which an order had been made under subsection (1) or (2) of that section.

51 Recovery of arrears of contributions

- (1) Where during any period (in this section referred to as " the period of default ")—

- (a) a person was liable to make contributions in respect of a child; but
- (b) no order was in force requiring him to make the contributions ;

a magistrates' court having jurisdiction in the place where he is for the time being residing may, on the application of the local authority who would have been entitled to receive payments under such an order, make an order (in this Act referred to as an " arrears order ") requiring him to pay such weekly sum, for such period, as the court, having regard to his means, thinks fit; but the aggregate of the payments required to be made by any person under an arrears order shall not exceed the aggregate that, in the opinion of the court, would have been payable by him under a contribution order in respect of the period of the default or, if it exceeded three months, the last part thereof, less the aggregate of the payments (if any) made by him in respect of his liability during that period or, as the case may be, the last part thereof.

For the purposes of this subsection the last part of the period of default shall be taken to be the last three months thereof and such time, if any, preceding the last three months as is equal to the time during which it continued after the making of the application for the arrears order.

- (2) No application for an arrears order shall be made later than three months after the end of the period of default.
- (3) An arrears order shall be treated as a contribution order, and payments under it as contributions, for the purposes of sections 45(2) and (3), 47(4), 48 and 53 of this Act.
- (4) A person liable to make payments under an arrears order shall, except at a time when he is under a duty to give information of his address under section 12 of this Act, keep the local authority to whom the payments are to be made informed of his address; and if he fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

52 Appeals from orders made under Part V

- (1) An appeal to the Crown Court from an order made by a magistrates' court under this Part of this Act may be brought in the following cases and by the following persons, that is to say—
 - (a) in the case of an order requiring a person to contribute in respect of himself or any other person (whether a contribution order or an arrears order), by the person required to contribute;
 - (b) in the case of an order requiring all or any part of the payments accruing due under an affiliation order to be paid to some other person, by the person who would but for the order be entitled to the payments.
- (2) Nothing in this section shall be construed as affecting any other right of appeal conferred by this or any other Act.

53 Contributions received by a local authority which are payable over to another authority

- (1) Where contributions payable under section 45 of this Act in respect of a child in the care of a local authority are payable, by the person liable to make the contributions, to an authority other than the authority responsible for maintenance, the authority receiving the contributions from that person shall pay them over to the authority responsible for maintenance, subject, however, to such deductions in respect of services rendered by the authority paying the contributions over as may be agreed between the two authorities or as in default of agreement may be determined by the Secretary of State.
- (2) In this section references to the authority responsible for maintenance—
 - (a) in relation to a child who is in the care of a local authority by virtue of a care order, are references to that authority;
 - (b) in relation to a child who is received into the care of a local authority under section 2 of this Act, are references to the local authority into whose care the child has been received, except that where the authority to whom the contributions are payable by the person liable to make them has been notified that under section 2(4) of this Act expenses are being recovered from another authority, the said references shall be construed as references to that other authority.

54 Supplementary provisions regarding payment of arrears

- (1) Where by virtue of an order made under section 47, 49, 50 or 51 of this Act any sum is payable to a local authority, the local authority within whose area the person liable under the order is for the time being residing shall be entitled to receive and give a discharge for, and, if necessary, enforce payment of any arrears accrued due under the order, notwithstanding that those arrears may have accrued at a time when he was not resident in the area of that authority.
- (2) In any proceedings under section 47, 49, 50 or 51 of this Act a certificate purporting to be signed by the clerk to an authority for the time being entitled to receive contributions, or by some other officer of the authority duly authorised in that behalf, and stating that any sum due to the authority under an order is overdue and unpaid shall be evidence of the facts stated therein.

55 Proceedings by or against a person residing in Scotland or Northern Ireland

- (1) A magistrates' court shall have jurisdiction in proceedings against a person residing in Scotland or Northern Ireland for a contribution order under section 47 of this Act or for an arrears order under section 51 of this Act
- (2) A magistrates' court by which an order has been made under section 47 or 51 of this Act shall have jurisdiction in proceedings by or against a person residing in Scotland or Northern Ireland for the revocation, revival or variation of that order.
- (3) A magistrates' court shall have jurisdiction in proceedings against a man residing in Scotland or Northern Ireland for an affiliation order under section 50 of this Act if the act of intercourse resulting in the birth of the child or any act of intercourse between the parties which may have resulted therein took place in England or Wales.
- (4) The provisions of this Part of this Act shall, in the cases mentioned in Schedule 2 to this Act, have effect subject to the modifications set out in that Schedule, being modifications consequential on the foregoing provisions of this section.
- (5) Nothing in this section shall be construed as derogating from any jurisdiction exercisable, apart from the provisions of this section, by any court in England or Wales; and it is hereby declared that any jurisdiction conferred by this section is exercisable notwithstanding that any party to the proceedings is not domiciled in England and Wales and any jurisdiction conferred by this section in affiliation proceedings shall be exercisable notwithstanding that the child to whom the proceedings relate was not born in England or Wales.