



Child Support Act 1991

1991 CHAPTER 48

Reviews and appeals

16 Periodical reviews

- (1) The Secretary of State shall make such arrangements as he considers necessary to secure that, where any maintenance assessment has been in force for a prescribed period, the amount of child support maintenance fixed by that assessment (“the original assessment”) is reviewed by a child support officer under this section as soon as is reasonably practicable after the end of that prescribed period.
- (2) Before conducting any review under this section, the child support officer concerned shall give, to such persons as may be prescribed, such notice of the proposed review as may be prescribed.
- (3) A review shall be conducted under this section as if a fresh application for a maintenance assessment had been made by the person in whose favour the original assessment was made.
- (4) On completing any review under this section, the child support officer concerned shall make a fresh maintenance assessment, unless he is satisfied that the original assessment has ceased to have effect or should be brought to an end.
- (5) Where a fresh maintenance assessment is made under subsection (4), it shall take effect—
 - (a) on the day immediately after the end of the prescribed period mentioned in subsection (1); or
 - (b) in such circumstances as may be prescribed, on such later date as may be determined in accordance with regulations made by the Secretary of State.
- (6) The Secretary of State may by regulations prescribe circumstances (for example, where the maintenance assessment is about to terminate) in which a child support officer may decide not to conduct a review under this section.

17 Reviews on change of circumstances

- (1) Where a maintenance assessment is in force—
 - (a) the absent parent or person with care with respect to whom it was made; or
 - (b) where the application for the assessment was made under section 7, either of them or the child concerned,may apply to the Secretary of State for the amount of child support maintenance fixed by that assessment (“the original assessment”) to be reviewed under this section.
- (2) An application under this section may be made only on the ground that, by reason of a change of circumstance since the original assessment was made, the amount of child support maintenance payable by the absent parent would be significantly different if it were to be fixed by a maintenance assessment made by reference to the circumstances of the case as at the date of the application.
- (3) The child support officer to whom an application under this section has been referred shall not proceed unless, on the information before him, he considers that it is likely that he will be required by subsection (6) to make a fresh maintenance assessment if he conducts the review applied for.
- (4) Before conducting any review under this section, the child support officer concerned shall give to such persons as may be prescribed, such notice of the proposed review as may be prescribed.
- (5) A review shall be conducted under this section as if a fresh application for a maintenance assessment had been made by the person in whose favour the original assessment was made.
- (6) On completing any review under this section, the child support officer concerned shall make a fresh maintenance assessment, unless—
 - (a) he is satisfied that the original assessment has ceased to have effect or should be brought to an end; or
 - (b) the difference between the amount of child support maintenance fixed by the original assessment and the amount that would be fixed if a fresh assessment were to be made as a result of the review is less than such amount as may be prescribed.

18 Reviews of decisions of child support officers

- (1) Where—
 - (a) an application for a maintenance assessment is refused; or
 - (b) an application, under section 17, for the review of a maintenance assessment which is in force is refused,the person who made that application may apply to the Secretary of State for the refusal to be reviewed.
- (2) Where a maintenance assessment is in force—
 - (a) the absent parent or person with care with respect to whom it was made; or
 - (b) where the application for the assessment was made under section 7, either of them or the child concerned,may apply to the Secretary of State for the assessment to be reviewed.

- (3) Where a maintenance assessment is cancelled the appropriate person may apply to the Secretary of State for the cancellation to be reviewed.
- (4) Where an application for the cancellation of a maintenance assessment is refused, the appropriate person may apply to the Secretary of State for the refusal to be reviewed.
- (5) An application under this section shall give the applicant's reasons (in writing) for making it.
- (6) The Secretary of State shall refer to a child support officer any application under this section which is duly made; and the child support officer shall conduct the review applied for unless in his opinion there are no reasonable grounds for supposing that the refusal, assessment or cancellation in question—
 - (a) was made in ignorance of a material fact;
 - (b) was based on a mistake as to a material fact;
 - (c) was wrong in law.
- (7) The Secretary of State shall arrange for a review under this section to be conducted by a child support officer who played no part in taking the decision which is to be reviewed.
- (8) Before conducting any review under this section, the child support officer concerned shall give to such persons as may be prescribed, such notice of the proposed review as may be prescribed.
- (9) If a child support officer conducting a review under this section is satisfied that a maintenance assessment or (as the case may be) a fresh maintenance assessment should be made, he shall proceed accordingly.
- (10) In making a maintenance assessment by virtue of subsection (9), a child support officer shall, if he is aware of any material change of circumstance since the decision being reviewed was taken, take account of that change of circumstance in making the assessment.
- (11) The Secretary of State may make regulations—
 - (a) as to the manner in which applications under this section are to be made;
 - (b) as to the procedure to be followed with respect to such applications; and
 - (c) with respect to reviews conducted under this section.
- (12) In this section “appropriate person” means—
 - (a) the absent parent or person with care with respect to whom the maintenance assessment in question was, or remains, in force; or
 - (b) where the application for that assessment was made under section 7, either of those persons or the child concerned.

19 Reviews at instigation of child support officers

- (1) Where a child support officer is not conducting a review under section 16, 17 or 18 but is nevertheless satisfied that a maintenance assessment which is in force is defective by reason of—
 - (a) having been made in ignorance of a material fact;
 - (b) having been based on a mistake as to a material fact; or
 - (c) being wrong in law,

he may make a fresh maintenance assessment on the assumption that the person in whose favour the original assessment was made has made a fresh application for a maintenance assessment.

- (2) Where a child support officer is not conducting such a review but is nevertheless satisfied that if an application were to be made under section 17 or 18 it would be appropriate to make a fresh maintenance assessment, he may do so.
- (3) Before making a fresh maintenance assessment under this section, a child support officer shall give to such persons as may be prescribed such notice of his proposal to make a fresh assessment as may be prescribed.

20 Appeals

- (1) Any person who is aggrieved by the decision of a child support officer—
 - (a) on a review under section 18;
 - (b) to refuse an application for such a review,may appeal to a child support appeal tribunal against that decision.
- (2) Except with leave of the chairman of a child support appeal tribunal, no appeal under this section shall be brought after the end of the period of 28 days beginning with the date on which notification was given of the decision in question.
- (3) Where an appeal under this section is allowed, the tribunal shall remit the case to the Secretary of State, who shall arrange for it to be dealt with by a child support officer.
- (4) The tribunal may, in remitting any case under this section, give such directions as it considers appropriate.

21 Child support appeal tribunals

- (1) There shall be tribunals to be known as child support appeal tribunals which shall, subject to any order made under section 45, hear and determine appeals under section 20.
- (2) The Secretary of State may make such regulations with respect to proceedings before child support appeal tribunals as he considers appropriate.
- (3) The regulations may in particular make provision—
 - (a) as to procedure;
 - (b) for the striking out of appeals for want of prosecution;
 - (c) as to the persons entitled to appear and be heard on behalf of any of the parties;
 - (d) requiring persons to attend and give evidence or to produce documents;
 - (e) about evidence;
 - (f) for authorising the administration of oaths;
 - (g) as to confidentiality;
 - (h) for notification of the result of an appeal to be given to such persons as may be prescribed.
- (4) Schedule 3 shall have effect with respect to child support appeal tribunals.

22 Child Support Commissioners

- (1) Her Majesty may from time to time appoint a Chief Child Support Commissioner and such number of other Child Support Commissioners as she may think fit.
- (2) The Chief Child Support Commissioner and the other Child Support Commissioners shall be appointed from among persons who—
 - (a) have a 10 year general qualification; or
 - (b) are advocates or solicitors in Scotland of 10 years' standing.
- (3) The Lord Chancellor, after consulting the Lord Advocate, may make such regulations with respect to proceedings before Child Support Commissioners as he considers appropriate.
- (4) The regulations—
 - (a) may, in particular, make any provision of a kind mentioned in section 21(3); and
 - (b) shall provide that any hearing before a Child Support Commissioner shall be in public except in so far as the Commissioner for special reasons directs otherwise.
- (5) Schedule 4 shall have effect with respect to Child Support Commissioners.

23 Child Support Commissioners for Northern Ireland

- (1) Her Majesty may from time to time appoint a Chief Child Support Commissioner for Northern Ireland and such number of other Child Support Commissioners for Northern Ireland as she may think fit.
- (2) The Chief Child Support Commissioner for Northern Ireland and the other Child Support Commissioners for Northern Ireland shall be appointed from among persons who are barristers or solicitors of not less than 10 years' standing.
- (3) Schedule 4 shall have effect with respect to Child Support Commissioners for Northern Ireland, subject to the modifications set out in paragraph 8.
- (4) Subject to any Order made after the passing of this Act by virtue of subsection (1) (a) of section 3 of the Northern Ireland Constitution Act 1973, the matters to which this subsection applies shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.
- (5) Subsection (4) applies to all matters relating to Child Support Commissioners, including procedure and appeals, other than those specified in paragraph 9 of Schedule 2 to the Northern Ireland Constitution Act 1973.

24 Appeal to Child Support Commissioner

- (1) Any person who is aggrieved by a decision of a child support appeal tribunal, and any child support officer, may appeal to a Child Support Commissioner on a question of law.
- (2) Where, on an appeal under this section, a Child Support Commissioner holds that the decision appealed against was wrong in law he shall set it aside.

Status: This is the original version (as it was originally enacted).

- (3) Where a decision is set aside under subsection (2), the Child Support Commissioner may—
- (a) if he can do so without making fresh or further findings of fact, give the decision which he considers should have been given by the child support appeal tribunal;
 - (b) if he considers it expedient, make such findings and give such decision as he considers appropriate in the light of those findings; or
 - (c) refer the case, with directions for its determination, to a child support officer or, if he considers it appropriate, to a child support appeal tribunal.
- (4) Any reference under subsection (3) to a child support officer shall, subject to any direction of the Child Support Commissioner, be to a child support officer who has taken no part in the decision originally appealed against.
- (5) On a reference under subsection (3) to a child support appeal tribunal, the tribunal shall, subject to any direction of the Child Support Commissioner, consist of persons who were not members of the tribunal which gave the decision which has been appealed against.
- (6) No appeal lies under this section without the leave—
- (a) of the person who was the chairman of the child support appeal tribunal when the decision appealed against was given or of such other chairman of a child support appeal tribunal as may be determined in accordance with regulations made by the Lord Chancellor; or
 - (b) subject to and in accordance with regulations so made, of a Child Support Commissioner.
- (7) The Lord Chancellor may by regulations make provision as to the manner in which, and the time within which, appeals under this section are to be brought and applications for leave under this section are to be made.
- (8) Where a question which would otherwise fall to be determined by a child support officer first arises in the course of an appeal to a Child Support Commissioner, he may, if he thinks fit, determine it even though it has not been considered by a child support officer.
- (9) Before making any regulations under subsection (6) or (7), the Lord Chancellor shall consult the Lord Advocate.

25 Appeal from Child Support Commissioner on question of law

- (1) An appeal on a question of law shall lie to the appropriate court from any decision of a Child Support Commissioner.
- (2) No such appeal may be brought except—
- (a) with leave of the Child Support Commissioner who gave the decision or, where regulations made by the Lord Chancellor so provide, of a Child Support Commissioner selected in accordance with the regulations; or
 - (b) if the Child Support Commissioner refuses leave, with the leave of the appropriate court.
- (3) An application for leave to appeal under this section against a decision of a Child Support Commissioner (“the appeal decision”) may only be made by—

- (a) a person who was a party to the proceedings in which the original decision, or appeal decision, was given;
 - (b) the Secretary of State; or
 - (c) any other person who is authorised to do so by regulations made by the Lord Chancellor.
- (4) In this section—
- “appropriate court” means the Court of Appeal unless in a particular case the Child Support Commissioner to whom the application for leave is made directs that, having regard to the circumstances of the case, and in particular the convenience of the persons who may be parties to the appeal, the appropriate court is the Court of Session; and
- “original decision” means the decision to which the appeal decision in question relates.
- (5) The Lord Chancellor may by regulations make provision with respect to—
- (a) the manner in which and the time within which applications must be made to a Child Support Commissioner for leave under this section; and
 - (b) the procedure for dealing with such applications.
- (6) Before making any regulations under subsection (2), (3) or (5), the Lord Chancellor shall consult the Lord Advocate.

26 Disputes about parentage

- (1) Where a person who is alleged to be a parent of the child with respect to whom an application for a maintenance assessment has been made (“the alleged parent”) denies that he is one of the child’s parents, the child support officer concerned shall not make a maintenance assessment on the assumption that the alleged parent is one of the child’s parents unless the case falls within one of those set out in subsection (2).
- (2) The Cases are —
- CASE A
Where the alleged parent is a parent of the child in question by virtue of having adopted him.
- CASE B
Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders in favour of gamete donors).
- CASE C
Where—
- (a) either—
 - (i) a declaration that the alleged parent is a parent of the child in question (or a declaration which has that effect) is in force under section 56 of the Family Law Act 1986 (declarations of parentage); or
 - (ii) a declarator by a court in Scotland that the alleged parent is a parent of the child in question (or a declarator which has that effect) is in force; and
 - (b) the child has not subsequently been adopted.
- CASE D

Status: This is the original version (as it was originally enacted).

Where—

- (a) a declaration to the effect that the alleged parent is one of the parents of the child in question has been made under section 27; and
- (b) the child has not subsequently been adopted.

CASE E

Where—

- (a) the child is habitually resident in Scotland;
- (b) the child support officer is satisfied that one or other of the presumptions set out in section 5(1) of the Law Reform (Parent and Child) (Scotland) Act 1986 applies; and
- (c) the child has not subsequently been adopted.

CASE F

Where—

- (a) the alleged parent has been found, or adjudged, to be the father of the child in question—
 - (i) in proceedings before any court in England and Wales which are relevant proceedings for the purposes of section 12 of the Civil Evidence Act 1968; or
 - (ii) in affiliation proceedings before any court in the United Kingdom,
 (whether or not he offered any defence to the allegation of paternity) and that finding or adjudication still subsists; and
- (b) the child has not subsequently been adopted.

(3) In this section—

“adopted” means adopted within the meaning of Part IV of the Adoption Act 1976 or, in relation to Scotland, Part IV of the Adoption (Scotland) Act 1978; and

“affiliation proceedings”, in relation to Scotland, means any action of affiliation and aliment.

27 Reference to court for declaration of parentage

(1) Where—

- (a) a child support officer is considering whether to make a maintenance assessment with respect to a person who is alleged to be a parent of the child, or one of the children, in question (“the alleged parent”);
- (b) the alleged parent denies that he is one of the child’s parents; and
- (c) the child support officer is not satisfied that the case falls within one of those set out in section 26(2),

the Secretary of State or the person with care may apply to the court for a declaration as to whether or not the alleged parent is one of the child’s parents.

(2) If, on hearing any application under subsection (1), the court is satisfied that the alleged parent is, or is not, a parent of the child in question it shall make a declaration to that effect.

(3) A declaration under this section shall have effect only for the purposes of this Act.

- (4) In this section “court” means, subject to any provision made under Schedule 11 to the Children Act 1989 (jurisdiction of courts with respect to certain proceedings relating to children) the High Court, a county court or a magistrates' court.
- (5) In the definition of “relevant proceedings” in section 12(5) of the Civil Evidence Act 1968 (findings of paternity etc. as evidence in civil proceedings) the following paragraph shall be added at the end—
 - “(d) section 27 of the Child Support Act 1991.”
- (6) This section does not apply to Scotland.

28 Power of Secretary of State to initiate or defend actions of declarator: Scotland

- (1) Where—
 - (a) a child support officer is considering whether to make a maintenance assessment with respect to a person who is alleged to be a parent of the child, or one of the children, in question (“the alleged parent”);
 - (b) the alleged parent denies that he is a parent of the child in question; and
 - (c) the child support officer is not satisfied that the case falls within one of those set out in section 26(2),the Secretary of State may bring an action for declarator of parentage under section 7 of the Law Reform (Parent and Child) (Scotland) Act 1986.
- (2) The Secretary of State may defend an action for declarator of non-parentage or illegitimacy brought by a person named as the alleged parent in an application for a maintenance assessment.
- (3) This section applies to Scotland only.