



Child Maintenance and Other Payments Act 2008

2008 CHAPTER 6

PART 3

CHILD SUPPORT ETC.

Miscellaneous

35 Registered maintenance agreements: Scotland

(1) In section 4(10) of the Child Support Act 1991 (c. 48) (exclusion of application for maintenance calculation), after paragraph (aa) insert—

“(ab) a maintenance agreement—

(i) made on or after the date prescribed for the purposes of paragraph (a); and

(ii) registered for execution in the Books of Council and Session or the sheriff court books,

is in force in respect of them, but has been so for less than the period of one year beginning with the date on which it was made; or”.

(2) In section 7(10) of that Act (exclusion of application by child in Scotland for maintenance calculation), at the end of paragraph (b) insert “; or

(c) a maintenance agreement—

(i) made on or after the date prescribed for the purposes of paragraph (a); and

(ii) registered for execution in the Books of Council and Session or the sheriff court books,

is in force in respect of them, but has been so for less than the period of one year beginning with the date on which it was made.”

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- (3) In section 9(3) of that Act (agreements about maintenance), after “4(10)(a)” insert “and (ab)”.

36 Offence of failing to notify change of address

- (1) In section 14A of the Child Support Act 1991 (information_offences), after subsection (3) insert—

“(3A) In the case of regulations under section 14 which require a person liable to make payments of child support maintenance to notify a change of address, a person who fails to comply with the requirement is guilty of an offence.”

- (2) In that section, in subsection (4), after “subsection (3)” insert “ or (3A) ”.

Commencement Information

- II** [S. 36](#) wholly in force at 27.10.2008; [s. 36](#) not in force at Royal Assent see [s. 62](#); [s. 36](#) in force for certain purposes at 26.9.2008 and in force at 27.10.2008 for all other purposes by [S.I. 2008/25488](#), [art. 2\(b\)](#)

37 Additional special case

In section 42(2) of the Child Support Act 1991 (examples of cases in relation to which the power under subsection (1) to prescribe circumstances in which a case is to be treated as a special case for the purposes of the Act may be exercised), at the end insert—

- “(g) the same persons are the parents of two or more children and each parent is—
- (i) a non-resident parent in relation to one or more of the children, and
 - (ii) a person with care in relation to one or more of the children.”

38 Recovery of arrears from deceased's estate

After section 43 of the Child Support Act 1991 (c. 48) insert—

“43A Recovery of arrears from deceased's estate

- (1) The Secretary of State may by regulations make provision for the recovery from the estate of a deceased person of arrears of child support maintenance for which the deceased person was liable immediately before death.
- (2) Regulations under subsection (1) may, in particular—
 - (a) make provision for arrears of child support maintenance for which a deceased person was so liable to be a debt payable by the deceased's executor or administrator out of the deceased's estate to the Commission;
 - (b) make provision for establishing the amount of any such arrears;
 - (c) make provision about procedure in relation to claims under the regulations.

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- (3) Regulations under subsection (1) may include provision for proceedings (whether by appeal or otherwise) to be instituted, continued or withdrawn by the deceased's executor or administrator.”

PROSPECTIVE

39 Disclosure of information relating to family proceedings

- (1) After section 49A of the Child Support Act 1991 (inserted by section 34 of this Act), insert—

“49B Disclosure of information relating to family proceedings

- (1) Where this section applies, a disclosure of information relating to family proceedings made to the [^{F1}Secretary of State for the purposes of the Secretary of State's functions relating to child support], or to a person providing services to the [^{F2}Secretary of State for those purposes], by a party to the proceedings is not (if it would otherwise be) a contempt of court or punishable as a contempt of court.
- (2) This section applies if—
- (a) the party is a person with care or non-resident parent in relation to a child,
 - (b) child support maintenance is payable, or an application for a maintenance calculation has been made, in respect of the child, and
 - (c) the party reasonably considers that the information is relevant to the exercise of the [^{F3}Secretary of State's] functions relating to child support in relation to the child.
- (3) This section also applies if—
- (a) an application for a maintenance calculation has been made under section 7(1) by the party, or child support maintenance is payable in accordance with a maintenance calculation made on an application made under section 7(1) by the party, and
 - (b) the party reasonably considers that the information is relevant to the exercise of the [^{F3}Secretary of State's] functions relating to child support in relation to the party.
- (4) A disclosure by a party's representative is to be treated for the purposes of this section as a disclosure by the party, if the representative is instructed by the party to make the disclosure.
- (5) In this section, “representative” means
- (a) in England and Wales—
 - (i) a barrister or a solicitor, solicitor's employee or other authorised litigator (as defined in the Courts and Legal Services Act 1990) who has been instructed to act for a party in relation to the proceedings,
 - (ii) a non-professional person who gives lay advice on behalf of an organisation in the lay advice sector, or

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- (iii) any person permitted by the court to sit beside an unrepresented litigant in court to assist that litigant by prompting, taking notes and giving advice to the litigant;
 - (b) in Scotland, a legal representative.
- (6) This section does not apply if the court dealing with the proceedings so directs.

49C Meaning of “family proceedings”

- (1) In section 49B, “family proceedings” means any of the following proceedings commenced on or after the day on which that section comes into force—
- (a) proceedings for ancillary relief (within the meaning of subsection (2));
 - (b) proceedings under section 17 of the Married Women's Property Act 1882 (questions between husband and wife as to property);
 - (c) proceedings under any of the following provisions of the 1973 Act—
 - (i) section 27 (financial provision in cases of neglect to maintain);
 - (ii) section 35 (alteration of maintenance agreements);
 - (d) proceedings under Part 1 of the Domestic Proceedings and Magistrates' Courts Act 1978 (powers of court to make orders for financial provision);
 - (e) proceedings relating to orders for financial provision within the meaning of section 8 of the Family Law (Scotland) Act 1985;
 - (f) proceedings relating to an action for aliment within the meaning of section 2 of that Act;
 - (g) proceedings under Part 3 of the Matrimonial and Family Proceedings Act 1984 (financial relief in England and Wales after overseas divorce etc.);
 - (h) proceedings under Schedule 1 to the Children Act 1989 (financial provision for children);
 - (i) proceedings under sections 33 to 40 of the Family Law Act 1996 (occupation orders);
 - (j) proceedings under any of the following provisions of the 2004 Act—
 - (i) section 66 (disputes between civil partners about property);
 - (ii) paragraph 41 of Schedule 5 (orders where failure to maintain);
 - (iii) paragraph 69 of Schedule 5 (alteration of maintenance agreements by the court);
 - (iv) Schedule 6 (financial relief in magistrates' courts etc.);
 - (v) Schedule 7 (financial relief in England and Wales after overseas dissolution etc. of a civil partnership).
- (2) In subsection (1), “ancillary relief” means any of the following—
- (a) an order under section 37(2)(b) or (c) of the 1973 Act or paragraph 74(3) or (4) of Schedule 5 to the 2004 Act (avoidance of disposition orders);
 - (b) any of the orders mentioned in section 21(1) of the 1973 Act (except an order under section 27(6) of that Act) or any of the orders

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- mentioned in paragraph 2(1) of Schedule 5 to the 2004 Act (financial provision orders) made under Part 1 of that Schedule;
- (c) an order under section 22 of the 1973 Act (orders for maintenance pending suit);
 - (d) an order under paragraph 38 of Schedule 5 to the 2004 Act (orders for maintenance pending outcome of proceedings);
 - (e) any of the orders mentioned in section 21(2) of the 1973 Act or any of the orders mentioned in paragraph 7(1) of Schedule 5 to the 2004 Act (property adjustment orders);
 - (f) an order under section 31 of the 1973 Act or an order under Part 11 of Schedule 5 to the 2004 Act (variation orders);
 - (g) an order under section 24B of the 1973 Act or an order under paragraph 15 of Schedule 5 to the 2004 Act (pension sharing orders).
- (3) The Secretary of State may by order amend this section so as to provide that “family proceedings” in section 49B includes proceedings of a description specified in the order, other than proceedings commenced before the day on which the order comes into force.
- (4) An order under subsection (3) may be made only with the consent of the Lord Chancellor.
- (5) In this section—
- “the 1973 Act” means the Matrimonial Causes Act 1973;
 - “the 2004 Act” means the Civil Partnership Act 2004.”

Textual Amendments

- F1** Words in s. 39 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 87(2)(a)**
- F2** Words in s. 39 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 87(2)(b)**
- F3** Words in s. 39 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 87(3)**

40 Disclosure of information to credit reference agencies

After section 49C of the Child Support Act 1991 (c. 48) (inserted by section 39 of this Act) insert—

“49D Disclosure of information to credit reference agencies

- (1) Subject to subsection (3), the [^{F4}Secretary of State] may supply qualifying information to a credit reference agency for use for the purpose of furnishing information relevant to the financial standing of individuals.
- (2) The reference in subsection (1) to qualifying information is to information which—

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- (a) is held by the [^{F4}Secretary of State] for the purposes of this Act,
 - (b) relates to a person who is liable to pay child support maintenance, and
 - (c) is of a prescribed description.
- (3) Information may not be supplied under subsection (1) without the consent of the person to whom it relates, unless a liability order against that person is in force.
- (4) No provision may be made under section 14(3) authorising the supply of information by the [^{F4}Secretary of State] to credit reference agencies.
- (5) In this section, “credit reference agency” has the same meaning as in the Consumer Credit Act 1974.”

Textual Amendments

- F4** Words in s. 40 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 88**

Commencement Information

- I2** S. 40 in force at 10.2.2015 for specified purposes by [S.I. 2015/176](#), **art. 2(a)**
- I3** S. 40 in force at 23.3.2015 in so far as not already in force by [S.I. 2015/176](#), **art. 2(b)**

41 Pilot schemes

After section 51 of the Child Support Act 1991 insert—

“51A Pilot schemes

- (1) Any regulations made under this Act may be made so as to have effect for a specified period not exceeding 24 months.
- (2) Regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as a “pilot scheme”.
- (3) A pilot scheme may provide that its provisions are to apply only in relation to—
 - (a) one or more specified areas or localities;
 - (b) one or more specified classes of person;
 - (c) persons selected by reference to prescribed criteria, or on a sampling basis.
- (4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.
- (5) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.”

42 Meaning of “child”

For section 55 of the Child Support Act 1991 (c. 48) substitute—

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“55 Meaning of “child”

- (1) In this Act, “child” means (subject to subsection (2)) a person who—
 - (a) has not attained the age of 16, or
 - (b) has not attained the age of 20 and satisfies such conditions as may be prescribed.
- (2) A person who is or has been party to a marriage or civil partnership is not a child for the purposes of this Act.
- (3) For the purposes of subsection (2), “marriage” and “civil partnership” include a void marriage and a void civil partnership respectively.”

Modifications etc. (not altering text)

- C1** S. 42 wholly in force; s. 42 not in force at Royal Assent see s. 62; s. 42 in force for certain purposes at 8.10.2012 by S.I. 2012/2523, art. 2(2)(e); s. 42 otherwise in force at 10/12/2012 by S.I. 2012/3042, art. 4(b)

43 Extinction of liability in respect of interest and fees

- Any outstanding liability in respect of the following is extinguished—
- (a) interest under the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992 (S.I. 1992/1816);
 - (b) fees under the Child Support Fees Regulations 1992 (S.I. 1992/3094).

44 Use of information

F5

Textual Amendments

- F5** S. 44 omitted (1.8.2012) by virtue of The Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 3(2), Sch. para. 89

45 Liable relative provisions: exclusion of parental duty to maintain

- (1) In section 105 of the Social Security Administration Act 1992 (c. 5) (failure to maintain), for subsection (3) substitute—
 - “(3) Subject to subsection (4), for the purposes of this Part, a person shall be liable to maintain another person if that other person is—
 - (a) his or her spouse or civil partner, or
 - (b) a person whom he or she would be liable to maintain if sections 78(6) (c) and (9) had effect for the purposes of this Part.”
- (2) In that section, in subsection (4), for the words from “a person” to the end, substitute “subsection (3)(b) shall not apply”.

Status:

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Changes to legislation:

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