

Status: This version of this provision is prospective.

Changes to legislation: Welfare Reform Act 2009, Section 51 is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



Welfare Reform Act 2009

2009 CHAPTER 24

PART 3

CHILD MAINTENANCE

PROSPECTIVE

51 Disqualification for holding etc. driving licence or travel authorisation

- (1) The Child Support Act 1991 (c. 48) is amended as follows.
- (2) In section 39B (disqualification for holding or obtaining travel authorisation)—
 - (a) in subsection (1), for “The [^{F1}Secretary of State] may apply to the court for an order under this section” substitute “ The [^{F1}Secretary of State] may make an order under this section (referred to in this section and sections 39C to 39F as a ”disqualification order “)”, and
 - (b) for subsections (3) to (13) substitute—
 - “(3) A disqualification order shall provide that the person against whom it is made is disqualified for holding or obtaining—
 - (a) a driving licence,
 - (b) a travel authorisation, or
 - (c) both a driving licence and a travel authorisation,while the order has effect.
 - (4) Before making a disqualification order against a person, the [^{F2}Secretary of State] shall consider whether the person needs the relevant document in order to earn a living.
 - (5) A disqualification order shall specify the amount in respect of which it is made.
 - (6) That amount shall be the aggregate of—

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- (a) the amount sought to be recovered as mentioned in subsection (1)(a), or so much of it as remains unpaid; and
 - (b) the amount which the person against whom the order is made is required to pay by the order under section 39DA(1).
- (7) The [^{F2}Secretary of State] shall serve a copy of the disqualification order (together with a copy of the order under section 39DA(1)) on the person against whom it is made.
- (8) In this section—
- “driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988;
 - “relevant document”, in relation to a disqualification order made against a person, means the document (or documents) for the holding or obtaining of which the person is disqualified by the order;
 - “travel authorisation” means—
 - (a) a United Kingdom passport (within the meaning of the Immigration Act 1971);
 - (b) an ID card issued under the Identity Cards Act 2006 that records that the person to whom it has been issued is a British citizen.”
- (3) In section 39C (period for which orders under section 39B are to have effect), for subsection (1) substitute—
- “(1) A disqualification order shall specify the period for which it is to have effect.
 - (1A) That period shall not exceed 12 months (subject to any extension under section 39CA or 39CB).
 - (1B) That period shall begin to run with—
 - (a) the first day after the end of the period within which an appeal may be brought against the order under section 39CB(1); or
 - (b) if the running of the period is suspended at that time, the first day when its running is no longer suspended.”
- (4) After that section insert—

“39CA Surrender of relevant documents

- (1) A person against whom a disqualification order is made who holds any relevant document shall surrender it in the prescribed manner to the prescribed person within the required period.
- (2) For this purpose “the required period” means the period of 7 days beginning with the start of the period for which the order has effect or has effect again following a period of suspension.
- (3) But, if immediately before the end of the required period the person has a good reason for not surrendering any relevant document, the person shall instead surrender it as soon as practicable after the end of that period.

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- (4) The Secretary of State may by regulations make provision prescribing circumstances in which a person is, or is not, to be regarded for the purposes of subsection (3) as having a good reason for not surrendering any relevant document.
- (5) The requirements imposed by subsections (1) and (3) cease to have effect if the period for which the disqualification order has effect is suspended or ends.
- (6) A person who fails to comply with a requirement imposed by subsection (1) or (3) commits an offence.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) On sentencing a person for an offence under that subsection the court may by order extend the period for which the disqualification order is to have effect by such period as may be specified in the order under this subsection.
- (9) But the power conferred by subsection (8) may not be exercised so as to provide for the disqualification order to have effect for a period exceeding 2 years in total.
- (10) In this section “relevant document” has the same meaning as in section 39.
- (11) Where this section applies in relation to a driving licence at any time before the commencement of Schedule 3 to the Road Safety Act 2006, any reference in this section to any relevant document includes the licence's counterpart (within the meaning of section 108(1) of the Road Traffic Act 1988).

39CB Appeals against disqualification orders

- (1) A person against whom a disqualification order is made may appeal to the court against the order within a prescribed period (which must begin with the first day on which that person had actual notice of the order).
- (2) Where an appeal is brought under subsection (1), the running of the period for which the order has effect shall be suspended until the time at which the appeal is determined, withdrawn or discontinued.
- (3) If—
 - (a) the person against whom a disqualification order is made does not bring an appeal within the period specified in subsection (1), and
 - (b) prescribed conditions are satisfied,the court may grant leave for an appeal to be brought after the end of that period.
- (4) On granting leave under subsection (3) the court may suspend the running of the period for which the order has effect until such time and on such conditions (if any) as it thinks just.
- (5) On an appeal under this section the court—
 - (a) shall reconsider the exercise by the [F³Secretary of State] of [F³the] powers under section 39B; and
 - (b) may by order affirm, vary or revoke the disqualification order.

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- (6) On an appeal under this section the court shall not question—
- (a) the liability order by reference to which the [^{F4}Secretary of State] acted as mentioned in section 39B(1)(a);
 - (b) any liability order made against the same person after the disqualification order was made; or
 - (c) the maintenance calculation by reference to which any liability order within paragraph (a) or (b) was made.
- (7) The power under subsection (5) to vary a disqualification order includes power to extend the period for which it has effect; but that power may not be exercised so as to provide for it to have effect for a period exceeding 2 years in total.
- (8) If, on appeal under this section, the court affirms or varies a disqualification order, the court shall substitute for the amount specified under section 39B(5) the aggregate of—
- (a) the amount sought to be recovered as mentioned in section 39B(1)(a), or so much of it as remains unpaid;
 - (b) the amount which the person against whom the order was made is required to pay by the order under section 39DA(1), so far as remaining unpaid;
 - (c) the amount which that person is required to pay by the order under section 39DA(2); and
 - (d) if a liability order has been made against that person since the disqualification order was made, the amount in respect of which the liability order was made, so far as remaining unpaid.
- (9) On the affirmation or variation of the disqualification order by the court, any existing suspension of the running of the period for which the order is to have effect shall cease.
- (10) But the court may suspend the running of that period until such time and on such conditions (if any) as it thinks fit if—
- (a) the person against whom the disqualification order was made agrees to pay the amount specified in the order; or
 - (b) the court is of the opinion that the suspension in question is justified by exceptional circumstances.
- (11) If, on an appeal under this section, the court revokes a disqualification order, the court shall also revoke the order made under section 39DA(1).
- (12) But subsection (11) does not apply if the court is of the opinion that, having regard to all the circumstances, it is reasonable to require the person against whom the disqualification order was made to pay the costs mentioned in section 39DA(1).
- (13) In this section “the court” means—
- (a) in relation to England and Wales, a magistrates' court;
 - (b) in relation to Scotland, the sheriff.”

(5) After section 39D insert—

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“39DA Recovery of [^{F5}Secretary of State’s] costs

- (1) On making a disqualification order against any person the [^{F6}Secretary of State] shall also make an order requiring that person to pay an amount in respect of the costs incurred by the [^{F6}Secretary of State] in exercising ^{F7}... functions under section 39B.
- (2) If on an appeal under section 39CB the court affirms or varies a disqualification order made against any person, the court shall also make an order requiring that person to pay an amount in respect of the costs incurred by the [^{F8}Secretary of State] in connection with the appeal (“the [^{F8}Secretary of State’s] appeal costs”).
- (3) If—
 - (a) on an appeal under that section the court revokes a disqualification order made against any person, and
 - (b) the court is satisfied that, having regard to all the circumstances, it is reasonable to require that person to pay an amount in respect of the [^{F9}Secretary of State’s] appeal costs,the court shall also make an order requiring that person to pay an amount in respect of those costs.
- (4) Any amount payable by virtue of an order made under this section shall be—
 - (a) specified in the order; and
 - (b) determined in accordance with regulations made by the Secretary of State.
- (5) The provisions of this Act with respect to—
 - (a) the collection of child support maintenance, and
 - (b) the enforcement of an obligation to pay child support maintenance,apply equally (with any necessary modifications) to amounts which a person is required to pay under this section.”
- (6) Schedule 5 contains consequential amendments and other amendments related to the provision made by this section.

Textual Amendments

- F1** Words in s. 51(2)(a) 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. 1(2), **Sch. para. 99(2)**
- F2** Words in s. 51(2)(b) 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. 1(2), **Sch. para. 99(3)**
- F3** Words in s. 51(4) 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. 1(2), **Sch. para. 99(4)(a)**
- F4** Words in s. 51(4) 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. 1(2), **Sch. para. 99(4)(b)**

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- F5** Words in s. 51(5) 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. 1(2), **Sch. para. 99(5)(a)**
- F6** Words in s. 51(5) 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. 1(2), **Sch. para. 99(5)(b)**
- F7** Word in s. 51(5) 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. 1(2), **Sch. para. 99(5)(b)**
- F8** Words in s. 51(5) 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. 1(2), **Sch. para. 99(5)(c)**
- F9** Words in s. 51(5) 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. 1(2), **Sch. para. 99(5)(d)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 4 para. 9(3)(b) repealed by [2009 c. 24 Sch. 7 Pt. 1](#)