



2008 CHAPTER 10

PART 2

CHILD SUPPORT ETC.

Debt management powers

Power to treat liability as satisfied

22. After Article 38B of the Child Support Order insert—

“Power to treat liability as satisfied

38C.—(1) The Department may by regulations—

- (a) make provision enabling the Department in prescribed circumstances to set off liabilities to pay child support maintenance to which this Article applies;
- (b) make provision enabling the Department in prescribed circumstances to set off against a person’s liability to pay child support maintenance to which this Article applies a payment made by the person which is of a prescribed description.

(2) Liability to pay child support maintenance shall be treated as satisfied to the extent that it is the subject of setting off under regulations under paragraph (1).

(3) In paragraph (1), the references to child support maintenance to which this Article applies are to child support maintenance for the collection of which the Department is authorised to make arrangements.”.

Power to accept part payment of arrears in full and final satisfaction

23. After Article 38C of the Child Support Order (inserted by section 22) insert—

“Power to accept part payment of arrears in full and final satisfaction

38D.—(1) The Department may, in relation to any arrears of child support maintenance, accept payment of part in satisfaction of liability for the whole.

(2) The Department must by regulations make provision with respect to the exercise of the power under paragraph (1).

(3) The regulations must provide that unless one of the conditions in paragraph (4) is satisfied the Department may not exercise the power under paragraph (1) without the written consent of the person with care with respect to whom the maintenance calculation was made.

(4) The conditions are—

- (a) that the Department would be entitled to retain the whole of the arrears under Article 38(2) if it recovered them;
- (b) that the Department would be entitled to retain part of the arrears under Article 38(2) if it recovered them, and the part of the arrears that the Department would not be entitled to retain is equal to or less than the payment accepted under paragraph (1).”.

Power to write off arrears

24. After Article 38D of the Child Support Order (inserted by section 23) insert—

“Power to write off arrears

38E.—(1) The Department may extinguish liability in respect of arrears of child support maintenance if it appears to it—

- (a) that the circumstances of the case are of a description specified in regulations made by the Department, and
- (b) that it would be unfair or otherwise inappropriate to enforce liability in respect of the arrears.

(2) The Department may by regulations make provision with respect to the exercise of the power under paragraph (1).”.

Transfer of arrears

25. After Article 45 of the Child Support Order insert—

“Transfer of arrears

45A.—(1) The Department may by regulations make provision enabling the Department in prescribed circumstances to enter into arrangements (“transfer arrangements”) under which liability in respect of arrears of child support maintenance becomes debt due to the person with whom the arrangements are entered into (“the transferee”).

(2) Liability which is the subject of transfer arrangements—

(a) ceases to be liability in relation to which the Department’s functions with respect to collection and enforcement are exercisable, and

(b) becomes debt in which only the transferee has an interest.

(3) Regulations under paragraph (1) must provide that unless one of the conditions in paragraph (4) is satisfied the Department may not enter into transfer arrangements in relation to arrears of child support maintenance without the written consent of the person with care with respect to whom the maintenance calculation was made.

(4) The conditions are—

(a) that the Department would be entitled to retain the whole of the arrears under Article 38(2) if it recovered them;

(b) that the Department would be entitled to retain part of the arrears under Article 38(2) if it recovered them, and the part of the arrears that the Department would not be entitled to retain is equal to or less than the transfer payment.

(5) In paragraph (4)(b), “transfer payment” means—

(a) the payment that the Department would receive from the transferee on the arrangements taking effect, and

(b) such other payments under the transfer arrangements as may be prescribed.

(6) Regulations under paragraph (1) may, in particular—

(a) specify when arrears of child support maintenance may be the subject of transfer arrangements;

(b) specify the descriptions of person with whom transfer arrangements may be entered into;

(c) specify terms and conditions which transfer arrangements must include;

(d) provide that a payment made to the Department under transfer arrangements may be treated for prescribed purposes as if it were a payment of child support maintenance.

(7) Regulations under paragraph (1) may include—

- (a) provision with respect to the recovery of debt to which a person is entitled by virtue of transfer arrangements;
- (b) provision enabling the Department in prescribed circumstances to prevent a person entitled to debt by virtue of transfer arrangements from taking steps to recover it;
- (c) provision enabling the Department to supply information of a prescribed description to a person entitled to debt by virtue of transfer arrangements for the purpose of enabling the debt to be recovered.”.