



2008 CHAPTER 10

PART 2

CHILD SUPPORT ETC.

*Collection and enforcement*

**Orders for regular deductions from accounts**

14. After Article 32 of the Child Support Order insert—

**“Orders for regular deductions from accounts**

**32A.**—(1) If in relation to any person it appears to the Department—

- (a) that the person has failed to pay an amount of child support maintenance; and
- (b) that the person holds an account with a deposit-taker;

it may make an order against that person to secure the payment of any amount due under the maintenance calculation in question by means of regular deductions from the account.

(2) An order under this Article may be made so as to secure the payment of—

- (a) arrears of child support maintenance payable under the calculation;
- (b) amounts of child support maintenance which will become payable under the calculation; or
- (c) both such arrears and such future amounts.

(3) An order under this Article may be made in respect of amounts due under a maintenance calculation which is the subject of an appeal only if it appears to the Department—

- (a) that liability for the amounts would not be affected were the appeal to succeed; or
- (b) where sub-paragraph (a) does not apply, that the making of an order under this Article in respect of the amounts would nonetheless be fair in all the circumstances.

(4) An order under this Article—

- (a) may not be made in respect of an account of a prescribed description; and
- (b) may be made in respect of a joint account which is held by the person against whom the order is made and one or more other persons, and which is not of a description prescribed under sub-paragraph (a), if (but only if) regulations made by the Department so provide.

(5) An order under this Article—

- (a) shall specify the account in respect of which it is made;
- (b) shall be expressed to be directed at the deposit-taker with which the account is held; and
- (c) shall have effect from such date as may be specified in the order.

(6) An order under this Article shall operate as an instruction to the deposit-taker at which it is directed to—

- (a) make deductions from the amount (if any) standing to the credit of the account specified in the order; and
- (b) pay the amount deducted to the Department.

(7) The Department shall serve a copy of any order made under this Article on—

- (a) the deposit-taker at which it is directed;
- (b) the person against whom it is made; and
- (c) if the order is made in respect of a joint account, the other account holders.

(8) Where—

- (a) an order under this Article has been made; and
- (b) a copy of the order has been served on the deposit-taker at which it is directed,

it shall be the duty of that deposit-taker to comply with the order; but the deposit-taker shall not be under any liability for non-compliance before the

end of the period of 7 days beginning with the day on which the copy was served on the deposit-taker.

(9) Where regulations have been made under Article 29(3)(a), a person liable to pay an amount of child support maintenance is to be taken for the purposes of this Article to have failed to pay an amount of child support maintenance unless it is paid to or through the person specified in, or by virtue of, the regulations for the case in question.

### **Orders under Article 32A: joint accounts**

**32B.**—(1) Before making an order under Article 32A in respect of a joint account the Department shall offer each of the account-holders an opportunity to make representations about—

- (a) the proposal to make the order; and
- (b) the amounts to be deducted under the order, if it is made.

(2) The amounts to be deducted from a joint account under such an order shall not exceed the amounts that appear to the Department to be fair in all the circumstances.

(3) In determining those amounts the Department shall have particular regard to—

- (a) any representations made in accordance with paragraph (1)(b);
- (b) the amount contributed to the account by each of the account-holders; and
- (c) such other matters as may be prescribed.

### **Regulations about orders under Article 32A**

**32C.**—(1) The Department may by regulations make provision with respect to orders under Article 32A.

(2) Regulations under paragraph (1) may, in particular, make provision—

- (a) requiring an order to specify the amount or amounts in respect of which it is made;
- (b) requiring an order to specify the amounts which are to be deducted under it in order to meet liabilities under the maintenance calculation in question;
- (c) requiring an order to specify the dates on which deductions are to be made under it;
- (d) for the rate of deduction under an order not to exceed such rate as may be specified in, or determined in accordance with, the regulations;

- (e) as to circumstances in which amounts standing to the credit of an account are to be disregarded for the purposes of Article 32A;
- (f) as to the payment of sums deducted under an order to the Department;
- (g) allowing the deposit-taker at which an order is directed to deduct from the amount standing to the credit of the account specified in the order a prescribed amount towards its administrative costs before making any deduction required by Article 32A(6)(a);
- (h) with respect to notifications to be given to the person against whom an order is made (and, in the case of an order made in respect of a joint account, to the other account holders) of amounts deducted, and amounts paid, under the order;
- (i) requiring the deposit-taker at which an order is directed to notify the Department in the prescribed manner and within a prescribed period—
  - (i) if the account specified in the order does not exist at the time at which the order is served on the deposit-taker;
  - (ii) of any other accounts held with the deposit-taker at that time by the person against whom the order is made;
- (j) requiring the deposit-taker at which an order is directed to notify the Department in the prescribed manner and within a prescribed period if, after the time at which the order is served on the deposit-taker—
  - (i) the account specified in the order is closed;
  - (ii) a new account of any description is opened with the deposit-taker by the person against whom the order is made;
- (k) as to circumstances in which the deposit-taker at which an order is directed, the person against whom the order is made and (in the case of an order made in respect of a joint account) the other account-holders may apply to the Department for it to review the order and as to such a review;
- (l) for the variation of orders;
- (m) similar to that made by Article 32A(8), in relation to any variation of an order;
- (n) for an order to lapse in such circumstances as may be prescribed;
- (o) as to the revival of an order in such circumstances as may be prescribed;
- (p) allowing or requiring an order to be discharged;

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

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- (q) as to the giving of notice by the Department to the deposit-taker that an order has lapsed or ceased to have effect.
- (3) The Department may by regulations make provision with respect to priority as between an order under Article 32A and—
  - (a) any other order under that Article;
  - (b) any order under any other statutory provision which provides for deductions from the same account.
- (4) The Department shall by regulations make provision for any person affected to have a right to appeal to a court—
  - (a) against the making of an order under Article 32A;
  - (b) against any decision made by the Department on an application under regulations made under paragraph (2)(k).
- (5) On an appeal under regulations made under paragraph (4)(a), the court shall not question the maintenance calculation by reference to which the order was made.
- (6) Regulations under paragraph (4) may include—
  - (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
  - (b) provision with respect to the powers of the court to which the appeal under the regulations lies.

#### **Orders under Article 32A: offences**

- 32D.**—(1) A person who fails to comply with the requirements of—
- (a) an order under Article 32A, or
  - (b) any regulation under Article 32C which is designated by the regulations for the purposes of this sub-paragraph,
- commits an offence.
- (2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that the person took all reasonable steps to comply with the requirements in question.
- (3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.