



Social Work (Scotland) Act 1968

1968 CHAPTER 49

PART VI

CONTRIBUTIONS IN RESPECT OF CHILDREN IN CARE ETC.

78 Duty to make contributions in respect of children in care etc.

- (1) Where a child [^{F1}is being looked after by a local authority] or a supervision requirement to which this Part of this Act applies has been made in respect of him, contributions in respect of the child (hereinafter in this Part of this Act referred to as the “maintainable child”) shall be payable—
- while the maintainable child is under sixteen years of age, by [^{F2}any natural person who has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him];
 - if he is over sixteen years of age . . . ^{F3}, by the maintainable child himself.

[^{F4}(2) This Part of this Act applies to any supervision requirement which, under paragraph (a) of section 70(3) of the Children (Scotland) Act 1995, requires the child concerned to reside in a place or places other than his own home.]

[^{F5}(2A) No contributions shall be payable under subsection (1)(a) of this section by a contributor during a period when he is in receipt [^{F6}of income support [^{F7}, an income based jobseeker’s allowance (payable under the Jobseekers Act 1995)] [^{F8}, an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)] or family credit.]]

- (3) In this Part of this Act “contributor” means a person liable to make contributions by virtue of subsection (1) of this section in respect of a maintainable child.

Textual Amendments

- F1** Words in s. 78(1) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(17)(a)(i)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art.

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- 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**)
- F2** Words in s. 78(1)(a) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(17)(a)(ii)** (with s. 103(1)); S.I. 1996/2203, art. 3, **Sch.** (subject to arts. 4-7)
- F3** Words repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 10 Pt. I**
- F4** S. 78(2) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(17)(b)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F5** S. 78(2A) inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **s. 19(6)(b)**
- F6** Words substituted by Social Security Act 1986 (c. 50, SIF 113:1), s. 86(1), **Sch. 10 para. 41(1)**
- F7** Words in s. 78(2A) inserted (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 1**; S.I. 1996/2208, **art. 2(b)**
- F8** Words in s. 78(2A) inserted (27.10.2008) by Welfare Reform Act 2007 (c. 5), s. 70(2), **Sch. 3 para. 1**; S.I. 2008/787, art. 2(4)(f)

Modifications etc. (not altering text)

- C1** S. 78 excluded by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), **s. 31(3)**

[^{F9}78A Recovery of contributions.

- (1) Section 87 of this Act (charges for services and accommodation)

shall not apply to the provision of services (including accommodation) under this Act in respect of maintainable children, and the provisions of this section shall apply thereto.

- (2) A local authority providing such services may recover from a contributor a contribution (if any) of such amount as is reasonable and, subject to that, may recover—
- (a) a standard contribution determined by them in respect of maintainable children who are [^{F10}looked after by them]; or
 - (b) such other contribution as they consider reasonable in the circumstances.]

Textual Amendments

- F9** S. 78A inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **s. 19(7)**
- F10** Words in s. 78A(2)(a) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(18)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

79 Recipients of contributions.

- (1) Subject to the provisions of the following subsection, contributions payable under the last foregoing section shall be payable to the local authority within whose area the contributor is residing, and shall, in the case of contributions paid in respect of a maintainable child [^{F11}looked after by] a local authority, other than the authority to

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whom the contributions are payable as aforesaid, be paid over by the last-mentioned authority to that other authority, but subject to such deductions in respect of services rendered by the local authority to whom the contributions were payable as may be agreed between the authorities concerned or as, in default of agreement, may be determined by the Secretary of State.

- (2) Where a contributor is for the time being residing in England or Wales or Northern Ireland contributions payable by him under the last foregoing section shall be payable to the local authority [^{F12}looking after] the child.

Textual Amendments

- F11** Words in s. 79(1) (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(19)(a)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F12** Words in s. 79(2) (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(19)(b)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

80 Enforcement of duty to make contributions.

- (1) Where a child becomes a maintainable child by virtue of being [^{F13}looked after by a local authority], any court of summary jurisdiction, having jurisdiction in the place where the contributor is for the time being residing, may, on the application of the local authority, at any time make an order on any contributor, hereinafter in this Act referred to as a contribution order, for weekly contributions in respect of the child of such amount as the court thinks proper.
- (2) ^{F14}
- (4) Subject to the following provisions of this section, a contribution order in respect of a maintainable child shall remain in force [^{F15}throughout the period during which he is looked after by a local authority]
- (5) No contribution shall be payable, by virtue of a contribution order by a contributor who [^{F16}, being a natural person, has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to the maintainable child], in respect of any period after the maintainable child becomes sixteen.
- (6) A contribution order may be revoked or varied by any court of summary jurisdiction having jurisdiction in the place where the contributor is for the time being residing and shall be enforceable in like manner as a decree for aliment.
- (7) Where a contributor resides in England or Wales or Northern Ireland this section shall have effect as if for any reference to a court of summary jurisdiction having jurisdiction in a place where the contributor is for the time being residing there were substituted a reference to a court of summary jurisdiction having jurisdiction in any place within the area of the local authority [^{F17}looking after] the child.

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Textual Amendments

- F13** Words in s. 80(1) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(20)(a)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F14** S. 80(2)(3) repealed by **Debtors (Scotland) Act 1987 (c. 18, SIF 45:2)**, s. 108(3), **Sch. 8**
- F15** Words in s. 80(4) substituted for s. 80(4)(a)(b) (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(20)(b)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))
- F16** Words in s. 80(5) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(20)(c)** (with s. 103(1)); S.I. 1996/2203, **art. 3, Sch.** (subject to arts. 4-7)
- F17** Words in s. 80(7) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(20)(d)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

81 Provisions as to decrees for aliment.

- (1) ^{F18}
- (2) [^{F19}Where a decree for aliment of a maintainable child is in force], on the application of the local authority concerned, any court of summary jurisdiction having jurisdiction in the place where the [^{F20}person liable under the decree] is for the time being residing may, at any time, order the payments under the decree . . . ^{F21} to be paid to the local authority who are from time to time entitled under either of the last two foregoing sections to receive contributions in respect of the child.
- (3) ^{F22} where an order made under this section in respect to a decree for aliment is in force any sums received under the decree for aliment shall be applied in like manner as if they were contributions received under a contribution order.
- (4) (a) In this section the local authority concerned means the local authority which may make application for a contribution order in respect of a child under the last foregoing section;
- (b) where the [^{F23}person liable to pay aliment for a child under a decree] is resident in England or Wales or Northern Ireland, subsection (2) of this section shall have effect as if for the reference to a court of summary jurisdiction having jurisdiction in the place where [^{F23}that person] is for the time being residing, there were substituted a reference to a court of summary jurisdiction having jurisdiction in any place within the area of the local authority concerned.

Textual Amendments

- F18** S. 81(1) repealed by **Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8)**, s. 10(2), **Sch. 2**
- F19** Words substituted by **Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8)**, s. 10(1), **Sch. 1 para. 9(3)(a)**
- F20** Words substituted by **Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8)**, s. 10(1), **Sch. 1 para. 9(3)(b)**

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- F21** Words repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), s. 10(1), [Sch. 1 para. 9\(3\)\(c\)](#), Sch. 2
- F22** Words repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), s. 10(2), [Sch. 2](#)
- F23** Words substituted by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), s. 10(1), [Sch. 1 para. 9\(4\)](#)

82 Recovery of arrears of contributions.

- (1) Where, by virtue of an order or decree made under either of the last two foregoing sections, any sum is payable to a local authority, the local authority in whose area the person liable under the order or decree is for the time being residing, or, as the case may be, the local authority [^{F24}looking after] the child to whom the order or decree relates, shall be entitled to receive and give a discharge for, and, if necessary, enforce payment of, any arrears accrued due under the order or decree, notwithstanding that those arrears may have accrued at a time when he was not resident in that area or, as the case may be, when the authority were not entitled to sums payable under the order or decree.
- (2) In any proceedings under either of the last two foregoing sections, a certificate purporting to be signed by the clerk to a local authority for the time being entitled to receive contributions, or by some other officer of the authority duly authorised in that behalf, and stating that any sum due to the authority under an order or decree is overdue and unpaid, shall be sufficient evidence of the facts stated therein.

Textual Amendments

- F24** Words in s. 82(1) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by [1995 c. 36](#), s. 105(4), [Sch. 4 para. 15\(21\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(6\)\(7\)](#) (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, [art. 2](#) (with transitional provisions inserted into S.I. 1996/3201 by [art. 3](#)))

83 Variation of trusts.

- (1) Where a child is by virtue of a supervision requirement removed from the care of any person and that person is entitled under any trust to receive any sum of money in respect of the maintenance of the child, on the application of the local authority concerned any court of summary jurisdiction, having jurisdiction in the place where that person is for the time being residing, may at any time order the whole or any part of the sums so payable under the trust to be paid to the local authority, to be applied by the authority for the benefit of the child in such manner as, having regard to the terms of the trust, the court may direct.
- (2) Where the person in whose care a child has been residing is for the time being residing in England or Wales or Northern Ireland the foregoing subsection shall have effect as if for the reference to a court having jurisdiction in the place where that person is residing there were substituted a reference to a court of summary jurisdiction having jurisdiction in any place within the area of the local authority [^{F25}looking after] the child.

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Textual Amendments

F25 Words in s. 83(2) substituted (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(22)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

[^{F26}**83A** **References in this Part of this Act to child being looked after.**

In this Part of this Act, references to a child being looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.]

Textual Amendments

F26 S. 83A inserted (S.) (12.12.1996 for certain purposes and otherwise 1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 15(23)** (with s. 103(1)); S.I. 1996/3201, **art. 3(6)(7)** (which said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 2** (with transitional provisions inserted into S.I. 1996/3201 by **art. 3**))

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