



Child Support Act 1991

1991 CHAPTER 48

Miscellaneous and supplemental

46 Failure to comply with obligations imposed by section 6

- (1) This section applies where any person (“the parent”)—
 - (a) fails to comply with a requirement imposed on her by the Secretary of State under section 6(1); or
 - (b) fails to comply with any regulation made under section 6(9).
- (2) A child support officer may serve written notice on the parent requiring her, before the end of the specified period, either to comply or to give him her reasons for failing to do so.
- (3) When the specified period has expired, the child support officer shall consider whether, having regard to any reasons given by the parent, there are reasonable grounds for believing that, if she were to be required to comply, there would be a risk of her or of any children living with her suffering harm or undue distress as a result of complying.
- (4) If the child support officer considers that there are such reasonable grounds, he shall—
 - (a) take no further action under this section in relation to the failure in question; and
 - (b) notify the parent, in writing, accordingly.
- (5) If the child support officer considers that there are no such reasonable grounds, he may give a reduced benefit direction with respect to the parent.
- (6) Where the child support officer gives a reduced benefit direction he shall send a copy of it to the parent.
- (7) Any person who is aggrieved by a decision of a child support officer to give a reduced benefit direction may appeal to a child support appeal tribunal against that decision.
- (8) Sections 20(2) to (4) and 21 shall apply in relation to appeals under subsection (7) as they apply in relation to appeals under section 20.

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- (9) A reduced benefit direction shall take effect on such date as may be specified in the direction.
- (10) Reasons given in response to a notice under subsection (2) may be given either in writing or orally.
- (11) In this section—
- “comply” means to comply with the requirement or with the regulation in question; and “complied” and “complying” shall be construed accordingly;
 - “reduced benefit direction” means a direction, binding on the adjudication officer, that the amount payable by way of any relevant benefit to, or in respect of, the parent concerned be reduced by such amount, and for such period, as may be prescribed;
 - “relevant benefit” means income support, family credit or any other benefit of a kind prescribed for the purposes of section 6; and
 - “specified”, in relation to any notice served under this section, means specified in the notice; and the period to be specified shall be determined in accordance with regulations made by the Secretary of State.

47 Fees

- (1) The Secretary of State may by regulations provide for the payment, by the absent parent or the person with care (or by both), of such fees as may be prescribed in cases where the Secretary of State takes any action under section 4 or 6.
- (2) The Secretary of State may by regulations provide for the payment, by the absent parent, the person with care or the child concerned (or by any or all of them), of such fees as may be prescribed in cases where the Secretary of State takes any action under section 7.
- (3) Regulations made under this section—
- (a) may require any information which is needed for the purpose of determining the amount of any such fee to be furnished, in accordance with the regulations, by such person as may be prescribed;
 - (b) shall provide that no such fees shall be payable by any person to or in respect of whom income support, family credit or any other benefit of a prescribed kind is paid; and
 - (c) may, in particular, make provision with respect to the recovery by the Secretary of State of any fees payable under the regulations.

48 Right of audience

- (1) Any person authorised by the Secretary of State for the purposes of this section shall have, in relation to any proceedings under this Act before a magistrates' court, a right of audience and the right to conduct litigation.
- (2) In this section “right of audience” and “right to conduct litigation” have the same meaning as in section 119 of the Courts and Legal Services Act 1990.

49 Right of audience: Scotland

In relation to any proceedings before the sheriff under any provision of this Act, the power conferred on the Court of Session by section 32 of the Sheriff Courts (Scotland) Act 1971 (power of Court of Session to regulate civil procedure in sheriff court) shall extend to the making of rules permitting a party to such proceedings, in such circumstances as may be specified in the rules, to be represented by a person who is neither an advocate nor a solicitor.

50 Unauthorised disclosure of information

- (1) Any person who is, or has been, employed in employment to which this section applies is guilty of an offence if, without lawful authority, he discloses any information which—
 - (a) was acquired by him in the course of that employment; and
 - (b) relates to a particular person.
- (2) It is not an offence under this section—
 - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
 - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (3) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
 - (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
 - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (4) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (5) This section applies to employment as—
 - (a) the Chief Child Support Officer;
 - (b) any other child support officer;
 - (c) any clerk to, or other officer of, a child support appeal tribunal;
 - (d) any member of the staff of such a tribunal;
 - (e) a civil servant in connection with the carrying out of any functions under this Act,and to employment of any other kind which is prescribed for the purposes of this section.
- (6) For the purposes of this section a disclosure is to be regarded as made with lawful authority if, and only if, it is made—
 - (a) by a civil servant in accordance with his official duty; or
 - (b) by any other person either—

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- (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the responsible person; or
 - (ii) to, or in accordance with an authorisation duly given by, the responsible person;
 - (c) in accordance with any enactment or order of a court;
 - (d) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or before any tribunal or other body or person mentioned in this Act; or
 - (e) with the consent of the appropriate person.
- (7) “The responsible person” means—
- (a) the Lord Chancellor;
 - (b) the Secretary of State;
 - (c) any person authorised by the Lord Chancellor, or Secretary of State, for the purposes of this subsection; or
 - (d) any other prescribed person, or person falling within a prescribed category.
- (8) “The appropriate person” means the person to whom the information in question relates, except that if the affairs of that person are being dealt with—
- (a) under a power of attorney;
 - (b) by a receiver appointed under section 99 of the Mental Health Act 1983;
 - (c) by a Scottish mental health custodian, that is to say—
 - (i) a curator bonis, tutor or judicial factor; or
 - (ii) the managers of a hospital acting on behalf of that person under section 94 of the Mental Health (Scotland) Act 1984; or
 - (d) by a mental health appointee, that is to say—
 - (i) a person directed or authorised as mentioned in sub-paragraph (a) of rule 41(1) of the Court of Protection Rules 1984; or
 - (ii) a receiver ad interim appointed under sub-paragraph (b) of that rule;
- the appropriate person is the attorney, receiver, custodian or appointee (as the case may be) or, in a case falling within paragraph (a), the person to whom the information relates.

51 Supplementary powers to make regulations

- (1) The Secretary of State may by regulations make such incidental, supplemental and transitional provision as he considers appropriate in connection with any provision made by or under this Act.
- (2) The regulations may, in particular, make provision—
- (a) as to the procedure to be followed with respect to—
 - (i) the making of applications for maintenance assessments;
 - (ii) the making, cancellation or refusal to make maintenance assessments;
 - (iii) reviews under sections 16 to 19;
 - (b) extending the categories of case to which section 18 or 19 applies;
 - (c) as to the date on which an application for a maintenance assessment is to be treated as having been made;

- (d) for attributing payments made under maintenance assessments to the payment of arrears;
 - (e) for the adjustment, for the purpose of taking account of the retrospective effect of a maintenance assessment, of amounts payable under the assessment;
 - (f) for the adjustment, for the purpose of taking account of over-payments or under-payments of child support maintenance, of amounts payable under a maintenance assessment;
 - (g) as to the evidence which is to be required in connection with such matters as may be prescribed;
 - (h) as to the circumstances in which any official record or certificate is to be conclusive (or in Scotland, sufficient) evidence;
 - (i) with respect to the giving of notices or other documents;
 - (j) for the rounding up or down of any amounts calculated, estimated or otherwise arrived at in applying any provision made by or under this Act.
- (3) No power to make regulations conferred by any other provision of this Act shall be taken to limit the powers given to the Secretary of State by this section.

52 Regulations and orders

- (1) Any power conferred on the Lord Chancellor, the Lord Advocate or the Secretary of State by this Act to make regulations or orders (other than a deduction from earnings order) shall be exercisable by statutory instrument.
- (2) No statutory instrument containing (whether alone or with other provisions) regulations made under section 4(7), 5(3), 6(1), (9) or (10), 7(8), 12(2), 41(2), (3) or (4), 42, 43(1), 46 or 47 or under Part I of Schedule 1, or an order made under section 45(1) or (6), shall be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.
- (3) Any other statutory instrument made under this Act (except an order made under section 58(2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any power of a kind mentioned in subsection (1) may be exercised—
- (a) in relation to all cases to which it extends, in relation to those cases but subject to specified exceptions or in relation to any specified cases or classes of case;
 - (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which it extends or any lesser provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases, different provision for different cases or classes of case or different provision as respects the same case or class of case but for different purposes of this Act;
 - (iii) provision which is either unconditional or is subject to any specified condition;
 - (c) so to provide for a person to exercise a discretion in dealing with any matter.

53 Financial provisions

Any expenses of the Lord Chancellor or the Secretary of State under this Act shall be payable out of money provided by Parliament.

54 Interpretation

In this Act—

- “absent parent”, has the meaning given in section 3(2);
- “adjudication officer” has the same meaning as in the benefit Acts;
- “assessable income” has the meaning given in paragraph 5 of Schedule 1;
- “benefit Acts” means the Social Security Acts 1975 to 1991;
- “Chief Adjudication Officer” has the same meaning as in the benefit Acts;
- “Chief Child Support Officer” has the meaning given in section 13;
- “child benefit” has the same meaning as in the Child Benefit Act 1975;
- “child support appeal tribunal” means a tribunal appointed under section 21;
- “child support maintenance” has the meaning given in section 3(6);
- “child support officer” has the meaning given in section 13;
- “deduction from earnings order” has the meaning given in section 31(2);
- “disability living allowance” has the same meaning as in the Social Security Act 1975;
- “family credit” has the same meaning as in the benefit Acts;
- “general qualification” shall be construed in accordance with section 71 of the Courts and Legal Services Act 1990 (qualification for judicial appointments);
- “income support” has the same meaning as in the benefit Acts;
- “interim maintenance assessment” has the meaning given in section 12;
- “liability order” has the meaning given in section 33(2);
- “maintenance agreement” has the meaning given in section 9(1);
- “maintenance assessment” means an assessment of maintenance made under this Act and, except in prescribed circumstances, includes an interim maintenance assessment;
- “maintenance order” has the meaning given in section 8(11);
- “maintenance requirement” means the amount calculated in accordance with paragraph 1 of Schedule 1;
- “parent”, in relation to any child, means any person who is in law the mother or father of the child;
- “parental responsibility” has the same meaning as in the Children Act 1989;
- “parental rights” has the same meaning as in the Law Reform (Parent and Child) (Scotland) Act 1986;
- “person with care” has the meaning given in section 3(3);
- “prescribed” means prescribed by regulations made by the Secretary of State;
- “qualifying child” has the meaning given in section 3(1);

55 Meaning of “child”

- (1) For the purposes of this Act a person is a child if—
- (a) he is under the age of 16;
 - (b) he is under the age of 19 and receiving full-time education (which is not advanced education)—
 - (i) by attendance at a recognised educational establishment; or
 - (ii) elsewhere, if the education is recognised by the Secretary of State; or

- (c) he does not fall within paragraph (a) or (b) but—
 - (i) he is under the age of 18, and
 - (ii) prescribed conditions are satisfied with respect to him.
- (2) A person is not a child for the purposes of this Act if he—
 - (a) is or has been married;
 - (b) has celebrated a marriage which is void; or
 - (c) has celebrated a marriage in respect of which a decree of nullity has been granted.
- (3) In this section—
 - “advanced education” means education of a prescribed description; and
 - “recognised educational establishment” means an establishment recognised by the Secretary of State for the purposes of this section as being, or as comparable to, a university, college or school.
- (4) Where a person has reached the age of 16, the Secretary of State may recognise education provided for him otherwise than at a recognised educational establishment only if the Secretary of State is satisfied that education was being so provided for him immediately before he reached the age of 16.
- (5) The Secretary of State may provide that in prescribed circumstances education is or is not to be treated for the purposes of this section as being full-time.
- (6) In determining whether a person falls within subsection (1)(b), no account shall be taken of such interruptions in his education as may be prescribed.
- (7) The Secretary of State may by regulations provide that a person who ceases to fall within subsection (1) shall be treated as continuing to fall within that subsection for a prescribed period.
- (8) No person shall be treated as continuing to fall within subsection (1) by virtue of regulations made under subsection (7) after the end of the week in which he reaches the age of 19.

56 Corresponding provision for and co-ordination with Northern Ireland

- (1) An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 which contains a statement that it is made only for purposes corresponding to those of the provisions of this Act, other than provisions which relate to the appointment of Child Support Commissioners for Northern Ireland—
 - (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament); but
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The Secretary of State may make arrangements with the Department of Health and Social Services for Northern Ireland with a view to securing, to the extent allowed for in the arrangements, that—
 - (a) the provision made by or under this Act (“the provision made for Great Britain”); and
 - (b) the provision made by or under any corresponding enactment having effect with respect to Northern Ireland (“the provision made for Northern Ireland”),

provide for a single system within the United Kingdom.

- (3) The Secretary of State may make regulations for giving effect to any such arrangements.
- (4) The regulations may, in particular—
 - (a) adapt legislation (including subordinate legislation) for the time being in force in Great Britain so as to secure its reciprocal operation with the provision made for Northern Ireland; and
 - (b) make provision to secure that acts, omissions and events which have any effect for the purposes of the provision made for Northern Ireland have a corresponding effect for the purposes of the provision made for Great Britain.

57 Application to Crown

- (1) The power of the Secretary of State to make regulations under section 14 requiring prescribed persons to furnish information may be exercised so as to require information to be furnished by persons employed in the service of the Crown or otherwise in the discharge of Crown functions.
- (2) In such circumstances, and subject to such conditions, as may be prescribed, an inspector appointed under section 15 may enter any Crown premises for the purpose of exercising any powers conferred on him by that section.
- (3) Where such an inspector duly enters any Crown premises for those purposes, section 15 shall apply in relation to persons employed in the service of the Crown or otherwise in the discharge of Crown functions as it applies in relation to other persons.
- (4) Where a liable person is in the employment of the Crown, a deduction from earnings order may be made under section 31 in relation to that person; but in such a case subsection (8) of section 32 shall apply only in relation to the failure of that person to comply with any requirement imposed on him by regulations made under section 32.

58 Short title, commencement and extent, etc

- (1) This Act may be cited as the Child Support Act 1991.
- (2) Section 56(1) and subsections (1) to (11) and (14) of this section shall come into force on the passing of this Act but otherwise this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor, the Secretary of State or Lord Advocate, or by any of them acting jointly.
- (3) Different dates may be appointed for different provisions of this Act and for different purposes (including, in particular, for different cases or categories of case).
- (4) An order under subsection (2) may make such supplemental, incidental or transitional provision as appears to the person making the order to be necessary or expedient in connection with the provisions brought into force by the order, including such adaptations or modifications of—
 - (a) the provisions so brought into force;
 - (b) any provisions of this Act then in force; or
 - (c) any provision of any other enactment,as appear to him to be necessary or expedient.

- (5) Different provision may be made by virtue of subsection (4) with respect to different periods.
- (6) Any provision made by virtue of subsection (4) may, in particular, include provision for—
- (a) the enforcement of a maintenance assessment (including the collection of sums payable under the assessment) as if the assessment were a court order of a prescribed kind;
 - (b) the registration of maintenance assessments with the appropriate court in connection with any provision of a kind mentioned in paragraph (a);
 - (c) the variation, on application made to a court, of the provisions of a maintenance assessment relating to the method of making payments fixed by the assessment or the intervals at which such payments are to be made;
 - (d) a maintenance assessment, or an order of a prescribed kind relating to one or more children, to be deemed, in prescribed circumstances, to have been validly made for all purposes or for such purposes as may be prescribed.

In paragraph (c) “court” includes a single justice.

- (7) The Lord Chancellor, the Secretary of State or the Lord Advocate may by order make such amendments or repeals in, or such modifications of, such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision made by or under this Act (including any provision made by virtue of subsection (4)).
- (8) This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.
- (9) Sections 27, 35 and 48 and paragraph 7 of Schedule 5 do not extend to Scotland.
- (10) Sections 7, 28 and 49 extend only to Scotland.
- (11) With the exception of sections 23 and 56(1), subsections (1) to (3) of this section and Schedules 2 and 4, and (in so far as it amends any enactment extending to Northern Ireland) Schedule 5, this Act does not extend to Northern Ireland.
- (12) Until Schedule 1 to the Disability Living Allowance and Disability Working Allowance Act 1991 comes into force, paragraph 1(1) of Schedule 3 shall have effect with the omission of the words “and disability appeal tribunals” and the insertion, after “social security appeal tribunals”, of the word “and”.
- (13) The consequential amendments set out in Schedule 5 shall have effect.
- (14) In Schedule 1 to the Children Act 1989 (financial provision for children), paragraph 2(6)(b) (which is spent) is hereby repealed.