



Social Security Administration Act 1992

1992 CHAPTER 5

PART V

INCOME SUPPORT AND THE DUTY TO MAINTAIN

108 Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State

- (1) This section applies where—
- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support either in respect of those children or in respect of both himself and those children; and
 - (b) there is in force a maintenance order made against the other parent (“the liable person”)—
 - (i) in favour of the claimant or one or more of the children, or
 - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;
- and in this section “the primary recipient” means the person in whose favour that maintenance order was made.
- (2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—
- (a) the Secretary of State may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
 - (b) any court before which proceedings are brought by the Secretary of State by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.
- (3) The Secretary of State’s powers under this section are exercisable at his discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary

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recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.

- (4) The powers conferred on the Secretary of State by subsection (2)(a) above include power—
- (a) to apply for the registration of the maintenance order under—
 - (i) section 17 of the Maintenance Orders Act 1950;
 - (ii) section 2 of the Maintenance Orders Act 1958; or
 - (iii) the Civil Jurisdiction and Judgments Act 1982; and
 - (b) to make an application under section 2 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).
- (5) Where this section applies, the prescribed person shall in prescribed circumstances give the Secretary of State notice of any application—
- (a) to alter, vary, suspend, discharge, revoke, revive or enforce the maintenance order in question; or
 - (b) to remit arrears under that maintenance order;
- and the Secretary of State shall be entitled to appear and be heard on the application.
- (6) Where, by virtue of this section, the Secretary of State commences any proceedings to enforce a maintenance order, he shall, in relation to those proceedings, be treated for the purposes of any enactment or instrument relating to maintenance orders as if he were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).
- (7) Where, in any proceedings under this section in England and Wales, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as a lump sum, the Secretary of State shall inform the Legal Aid Board of the amount of that lump sum if he knows—
- (a) that the primary recipient either—
 - (i) received legal aid under the Legal Aid Act 1974 in connection with the proceedings in which the maintenance order was made, or
 - (ii) was an assisted party, within the meaning of the Legal Aid Act 1988, in those proceedings; and
 - (b) that a sum remains unpaid on account of the contribution required of the primary recipient—
 - (i) under section 9 of the Legal Aid Act 1974 in respect of those proceedings, or
 - (ii) under section 16 of the Legal Aid Act 1988 in respect of the costs of his being represented under Part IV of that Act in those proceedings,as the case may be.
- (8) In this section “maintenance order” has the same meaning as it has in section 107 above but does not include any such order for the payment of a lump sum.