
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 40A of the Child Support Act 1991 (inserted by section 17 of the Child Support, Pensions and Social Security Act 2000) provides for a sheriff committing to prison a liable person who fails to pay under a liability order. The sheriff may do so only if he is satisfied that the liable person has wilfully refused to pay or has culpably neglected to pay.

If the sheriff orders imprisonment it will be in respect of an amount specified in the sheriff's warrant. The amount will be made up of the arrears of child maintenance and an amount to be determined in respect of the expenses of commitment. Regulation 2 sets out the manner of determination of the amount of expenses of commitment.

Section 40A specifies that the maximum period of imprisonment which the sheriff may impose is six weeks. However, that period may be reduced where there is part payment of the amount in respect of which the warrant for committal to prison was issued. Regulation 3 provides for the reduction of that period of imprisonment.

Where part payment of the amount is made, the period of imprisonment will be proportionately reduced. That period will be the number of days which bears the same proportion to the number of days specified in the warrant as the amount remaining unpaid in respect of the warrant bears to the amount in respect of which the warrant was originally granted. Where part payment would result in the period of imprisonment being reduced to the number of days already served, the period of imprisonment will be the period already served plus one further day.

These Regulations for Scotland make provision comparable to that already made for England and Wales in Regulation 34 of the Child Support (Collection and Enforcement) Regulations 1992 ([SI 1992/1989](#)).