



Supplementary Benefits Act 1976

1976 CHAPTER 71

PART II

LIABILITY TO MAINTAIN, RECOVERY OF EXPENDITURE AND OFFENCES

Recovery of expenditure

18 Recovery of expenditure on supplementary benefits from persons liable for maintenance

- (1) Where supplementary benefit is paid or claimed to meet requirements which are, or include, those of a person whom another person is, for the purposes of this Act, liable to maintain (in this section referred to respectively as " the dependant " and " the liable relative ") the Commission may make a complaint against the liable relative to a magistrates' court for an order under this section.
- (2) No complaint under subsection (1) above shall be made where the dependant is an illegitimate child and the liable relative is his father.
- (3) On the hearing of a complaint under subsection (1) above the court shall have regard to all the circumstances and, in particular, to the resources of the liable relative, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate.
- (4) In determining whether to order any payments to be made in respect of supplementary benefit for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable relative's resources exceed the resources which were his during that period.
- (5) Any payments ordered to be made under this section shall be made—
 - (a) to the Secretary of State in so far as they are attributable to any supplementary benefit (whether paid before or after the making of the order);
 - (b) to the person claiming supplementary benefit or (if different) the dependant; or
 - (c) to such other person as appears to the court expedient in the interests of the dependant.

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- (6) Where the order provides for the making of payments to the Secretary of State, the Commission shall be a party to any proceedings with respect to the enforcement, revocation or variation of the order to which, but for this subsection, the Secretary of State would be a party.
- (7) An order under this section shall be enforceable as an affiliation order, and any proceedings for such an order (but not proceedings for the enforcement, revocation or variation of such an order) shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts Act 1952; and section 56 of that Act (definition of " domestic proceedings ") shall have effect accordingly.
- (8) In the application of this section to Scotland, subsections (2) and (7) shall be omitted, and for the references to a complaint and to a magistrates' court there shall be substituted respectively references to an application and to the sheriff.

19 Affiliation orders

- (1) The provisions of this section apply in any case in which supplementary benefit is paid to meet requirements which include those of an illegitimate child.
- (2) If no affiliation order is in force the Commission may, within three years from the time when any payment by way of supplementary benefit was made, make application to a justice of the peace acting for the petty sessions area in which the mother of the child resides for a summons to be served under section 1 of the Affiliation Proceedings Act 1957.
- (3) In any proceedings on an application under subsection (2) above the court shall hear such evidence as the Commission may produce, and shall in all other respects, subject to the provisions of subsection (4) below, proceed as on an application made by the mother under section 1 of the said Act of 1957.
- (4) An affiliation order—
 - (a) made on an application made by the Commission under subsection (2) above ;
 - or
 - (b) made on an application made by the Commission in proceedings brought by the mother of the child under section 1 of the said Act of 1957 ;
 may be made so as to provide that the payments, or a part of the payments, to be made under the order shall, instead of being made to the mother or a person having custody of the child, be made to the Secretary of State or to such other person as the court may direct.
- (5) Any affiliation order, whether made before or after the commencement of this Act, may, on the application of the Commission, be varied so as to provide for the making of payments, or part thereof, as mentioned in subsection (4) above; and an application by the Commission under this subsection may be made—
 - (a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and
 - (b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.
- (6) Any affiliation order which provides for the making of payments, or part thereof, as mentioned in subsection (4) above may, on the application of the mother of the child,

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be varied so as to provide that the payments shall be made to the mother or a person having the custody of the child.

- (7) Where an affiliation order provides for the making of payments, or part thereof, to the Secretary of State, the Commission shall be a party to any proceedings with respect to the enforcement, revocation or variation of the order to which, but for this subsection, the Secretary of State would be a party.
- (8) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (2) to (7) above—
- (a) the Commission shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child ;
 - (b) where in any action of affiliation and aliment in respect of the child, whether at the instance of the Commission under the foregoing paragraph or at the instance of the mother, the sheriff grants or has granted decree against any person for payment of aliment for the child, the sheriff may at the time of granting the decree or at any subsequent time on the application of the Commission, order that the sums due under the decree or any part thereof shall, instead of being paid to the mother of the child, be paid to the Secretary of State or to such other person as the sheriff may direct;
 - (c) if such an order is made in favour of the Secretary of State, the Commission, or, if it is made in favour of another person, that person, shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act 1882, as if the decree were a decree in favour of the Commission or other person.

20 Recovery in cases of misrepresentation or non-disclosure

- (1) If, whether fraudulently or otherwise, any person misrepresents, or fails to disclose, any material fact, and in consequence of the misrepresentation or failure—
- (a) the Secretary of State incurs any expenditure under this Act; or
 - (b) any sum recoverable under this Act by or on behalf of the Secretary of State is not recovered ;
- the Secretary of State shall be entitled to recover the amount thereof from that person.
- (2) If, whether in connection with any legal proceedings or otherwise, any question arises whether any amount paid by way of supplementary benefit is recoverable by the Secretary of State under this section, or as to the amount so recoverable, the question shall be referred to the Appeal Tribunal, and the decision of the tribunal shall be conclusive for all purposes.
- (3) A certificate signed by the clerk of the Appeal Tribunal showing the decision of the tribunal upon a question referred to it under subsection (2) above shall be conclusive evidence of that decision in any legal proceedings; and any certificate purporting to be signed by the clerk of the Appeal Tribunal shall be deemed to be so signed unless the contrary is proved.
- (4) Where any amount paid by way of supplementary benefit is recoverable under this section, it may, without prejudice to any other method of recovery, be recovered by deduction from benefit under Part II of the Social Security Act 1975 or Part II of the Social Security Pensions Act 1975.

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- (5) Until 6th April 1979, in subsection (4) above, the words " or Part II of the Social Security Pensions Act 1975 " shall be omitted.