

*Changes to legislation: There are currently no known outstanding effects for the Social Security Act 1980, Part II. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### AMENDMENTS OF <sup>M1</sup>SUPPLEMENTARY BENEFITS ACT 1976

##### Marginal Citations

**M1** 1976 c. 71

### PART II

#### PROVISIONS OF THE ACT AS AMENDED

##### Modifications etc. (not altering text)

**C1** The text of ss.3(4)(8)(9)(12), 4(1), 6(1)(3), 9(6), 16(3)–(6), 21(4), Sch. 2 para. 32, Sch. 2 Pt. II, Schs. 4, 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### “PART II

#### LIABILITY TO MAINTAIN, RECOVERY OF EXPENDITURE AND OFFENCES

##### *Liability to maintain*

##### **Liability to maintain.**

17 (1) For the purposes of this Act—

- (a) a man shall be liable to maintain his wife and his children; and
- (b) a woman shall be liable to maintain her husband and her children; and
- (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after the date of the passing of the Social Security Act 1980 and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person.

(2) In subsection (1) above—

- (a) the reference to a man’s children includes a reference to children of whom he has been adjudged to be the putative father or, in Scotland, to children his paternity of whom has been admitted or otherwise established; and

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- (b) the reference to a woman's children includes a reference to her illegitimate children.
- (3) A document bearing a certificate which—
  - (a) is signed by a person authorised in that behalf by the Secretary of State; and
  - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (1)(c) of this section,
shall be conclusive evidence for the purposes of this Act of the undertaking in question; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed until the contrary is proved.

#### *Recovery of expenditure*

#### **Recovery of expenditure on supplementary benefits from persons liable for maintenance.**

- 18 (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 person") the Secretary of State may make a complaint against the liable person to a magistrates' court for an order under this section.
- (2) Except in a case falling within section 17(1)(c) of this Act, no complaint under subsection (1) above shall be made where the dependant is an illegitimate child and the liable person 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 person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 17(1)(c) of this Act that sum shall not include any amount which is not attributable to supplementary benefit (whether paid before or after the making of the order).
- (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 person'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.
- \* \* \* \* \*
- (7) An order under this section shall be enforceable as an affiliation order.
- (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.

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### **Affiliation orders.**

- 19 (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 Secretary of State 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 <sup>M1</sup>Affiliation Proceedings Act 1957.
- (3) In any proceedings on an application under subsection (2) above the court shall hear such evidence as the Secretary of State 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 Secretary of State under subsection (2) above; or
  - (b) made on an application made by the Secretary of State on 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 Secretary of State, 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 Secretary of State 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, be varied so as to provide that the payments shall be made to the mother or a person having custody of the child.
- \* \* \* \* \*
- (8) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (2) to (6) above—
- (a) the Secretary of State 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 any action of affiliation and aliment in respect of the child, whether at the instance of the Secretary of State 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 Secretary of State, 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;

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- (c) if such an order is made in favour of the Secretary of State, the Secretary of State, 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 <sup>M2</sup>Civil Imprisonment (Scotland) Act 1882, as if the decree were a decree in favour of the Secretary of State or other person.

**Recovery in cases of misrepresentation or non-disclosure.**

- 20 (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 determined by a benefit officer.
- (3) A person from whom, in pursuance of a determination of a benefit officer under the preceding subsection, an amount is recoverable under this section may appeal to the Appeal Tribunal against the determination; and subsection (3) of section 15 of this Act shall apply to an appeal under this subsection as it applies to an appeal under that section.
- (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 prescribed benefits.
- (5) Subsections (2) and (3) of this section shall apply to any question as to whether any amount or what amount is recoverable by the Secretary of State under section 45 of the <sup>M3</sup>National Assistance Act 1948 or section 26 of the <sup>M4</sup>Supplementary Benefit Act 1966 (which contain provisions corresponding to subsection (1) of this section) and subsection (4) of this section shall apply to an amount recoverable by the Secretary of State under either of those sections—
- (a) as if for any reference in those subsections to this section there were substituted references to the said section 45 or 26, as the case may be; and
  - (b) as respects a question relating to recovery under the said section 45 and an amount recoverable under that section, as if the words “paid by way of supplementary benefit” in subsections (2) and (4) of this section were omitted.

*Offences*

**False statements.**

- 21 If any person, for the purpose of obtaining supplementary benefit or any other payment under this Act for himself or another person or for any other purpose connected with this Act—
- (a) makes any statement or representation which he knows to be false; or
  - (b) produces or furnishes, or causes to be produced or furnished, any document or information which he knows to be false in a material particular,

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he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding three months or to both.

**Impersonation of officers.**

- 22 If any person, with intent to deceive, falsely represents himself to be a person authorised by the Secretary of State for Social Services to act in any capacity (whether under this Act or otherwise) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

**Illegal possession of documents.**

- 23 (1) If any person—
- (a) as a pledge or a security for a debt; or
  - (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person;
- receives, detains or has in his possession any document issued by or on behalf of the Secretary of State for Social Services in connection with any benefit, pension or allowance (whether payable under this Act or otherwise) he shall be guilty of an offence.
- (2) If any person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him) he shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £400 or to both.

**Failure to notify.**

- 24 (1) If any person fails to comply with a provision of regulations under section 9(2) of this Act requiring him to give notice of any matter to the Secretary of State, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

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**Failure to maintain.**

- 25 (1) If any person persistently refuses or neglects to maintain himself or any person whom for the purposes of this Act he is liable to maintain and in consequence of his refusal or neglect supplementary benefit is awarded to meet requirements which are, or include, his or those of such a person he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £400 or to both.
- (2) For the purposes of this section a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

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### *Legal proceedings*

#### **Legal proceedings.**

- 26 (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under this Act before a magistrates' court although not a barrister or solicitor.
- (2) Without prejudice to any other method of recovery, any sum due under this Act to the Secretary of State, other than a sum due under an order enforceable as an affiliation order, shall be recoverable summarily as a civil debt.
- (3) Notwithstanding anything in any Act—
- (a) proceedings under this Act for the recovery of a sum recoverable summarily as a civil debt may be begun at any time within three years after the sum became due;
  - (b) proceedings for an offence under this Act may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires.
- (4) For the purposes of subsection (3) above, a certificate purporting to be signed by, or on behalf of, the Secretary of State as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to his knowledge shall be conclusive evidence of that date.
- (5) In any proceedings for an offence under this Act the wife or husband of the accused shall be competent to give evidence, whether for or against the accused, but shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.
- (6) In the application of this section to Scotland, the following provisions shall effect in substitution for subsections (1) to (4) above—
- (a) proceedings for an offence under this Act may, notwithstanding anything in section 331 of the <sup>M5</sup>Criminal Procedure (Scotland) Act 1975, be commenced at any time within the period of three months from the date on which evidence sufficient in the opinion of the appropriate authority to justify proceedings comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires;
  - (b) for the purposes of this subsection—
    - (i) “the appropriate authority” means the Secretary of State or, in the case of proceedings which are not preceded by a report of the facts made by the Secretary of State to the Lord Advocate, means the Lord Advocate;
    - (ii) a certificate of the appropriate authority as to the date on which such evidence as is mentioned above comes to his knowledge shall be conclusive evidence; and
    - (iii) subsection (3) of section 331 of the said Act of 1975 (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.”

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