



Child Support, Pensions and Social Security Act 2000

2000 CHAPTER 19

PART I

CHILD SUPPORT

Maintenance calculations and interim and default maintenance decisions

1 Maintenance calculations and terminology

- (1) In the Child Support Act 1991 (“the 1991 Act”), for section 11 (maintenance assessments) there shall be substituted—

“11 Maintenance calculations

- (1) An application for a maintenance calculation made to the Secretary of State shall be dealt with by him in accordance with the provision made by or under this Act.
- (2) The Secretary of State shall (unless he decides not to make a maintenance calculation in response to the application, or makes a decision under section 12) determine the application by making a decision under this section about whether any child support maintenance is payable and, if so, how much.
- (3) Where—
- a parent is treated under section 6(3) as having applied for a maintenance calculation; but
 - the Secretary of State becomes aware before determining the application that the parent has ceased to fall within section 6(1),
- he shall, subject to subsection (4), cease to treat that parent as having applied for a maintenance calculation.

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- (4) If it appears to the Secretary of State that subsection (10) of section 4 would not have prevented the parent with care concerned from making an application for a maintenance calculation under that section he shall—
 - (a) notify her of the effect of this subsection; and
 - (b) if, before the end of the period of one month beginning with the day on which notice was sent to her, she asks him to do so, treat her as having applied not under section 6 but under section 4.
 - (5) Where subsection (3) applies but subsection (4) does not, the Secretary of State shall notify—
 - (a) the parent with care concerned; and
 - (b) the non-resident parent (or alleged non-resident parent), where it appears to him that that person is aware that the parent with care has been treated as having applied for a maintenance calculation.
 - (6) The amount of child support maintenance to be fixed by a maintenance calculation shall be determined in accordance with Part I of Schedule 1 unless an application for a variation has been made and agreed.
 - (7) If the Secretary of State has agreed to a variation, the amount of child support maintenance to be fixed shall be determined on the basis he determines under section 28F(4).
 - (8) Part II of Schedule 1 makes further provision with respect to maintenance calculations.”
- (2) In the 1991 Act—
- (a) for “maintenance assessment”, wherever it occurs, there shall be substituted “maintenance calculation”; and
 - (b) for “assessment” (or any variant of that term), wherever it occurs, there shall be substituted “calculation” (or the corresponding variant) preceded, where appropriate, by “a” instead of “an”.
- (3) For Part I of Schedule 1 to the 1991 Act, there shall be substituted the Part I set out in Schedule 1 to this Act.

2 Applications under section 4 of the Child Support Act 1991

- (1) In section 4 of the 1991 Act (child support maintenance), subsection (10) shall be amended as follows.
- (2) In paragraph (a), after “maintenance order” there shall be inserted “made before a prescribed date”.
- (3) After paragraph (a), there shall be inserted—
 - “(aa) a maintenance order made on or after the date prescribed for the purposes of paragraph (a) is in force in respect of them, but has been so for less than the period of one year beginning with the date on which it was made; or”.

3 Applications by persons claiming or receiving benefit

For section 6 of the 1991 Act (applications by those receiving benefit) there shall be substituted—

“6 Applications by those claiming or receiving benefit

- (1) This section applies where income support, an income-based jobseeker's allowance or any other benefit of a prescribed kind is claimed by or in respect of, or paid to or in respect of, the parent of a qualifying child who is also a person with care of the child.
- (2) In this section, that person is referred to as “the parent”.
- (3) The Secretary of State may—
 - (a) treat the parent as having applied for a maintenance calculation with respect to the qualifying child and all other children of the non-resident parent in relation to whom the parent is also a person with care; and
 - (b) take action under this Act to recover from the non-resident parent, on the parent's behalf, the child support maintenance so determined.
- (4) Before doing what is mentioned in subsection (3), the Secretary of State must notify the parent in writing of the effect of subsections (3) and (5) and section 46.
- (5) The Secretary of State may not act under subsection (3) if the parent asks him not to (a request which need not be in writing).
- (6) Subsection (1) has effect regardless of whether any of the benefits mentioned there is payable with respect to any qualifying child.
- (7) Unless she has made a request under subsection (5), the parent shall, so far as she reasonably can, comply with such regulations as may be made by the Secretary of State with a view to the Secretary of State's being provided with the information which is required to enable—
 - (a) the non-resident parent to be identified or traced;
 - (b) the amount of child support maintenance payable by him to be calculated; and
 - (c) that amount to be recovered from him.
- (8) The obligation to provide information which is imposed by subsection (7)—
 - (a) does not apply in such circumstances as may be prescribed; and
 - (b) may, in such circumstances as may be prescribed, be waived by the Secretary of State.
- (9) If the parent ceases to fall within subsection (1), she may ask the Secretary of State to cease acting under this section, but until then he may continue to do so.
- (10) The Secretary of State must comply with any request under subsection (9) (but subject to any regulations made under subsection (11)).
- (11) The Secretary of State may by regulations make such incidental or transitional provision as he thinks appropriate with respect to cases in which he is asked under subsection (9) to cease to act under this section.

- (12) The fact that a maintenance calculation is in force with respect to a person with care does not prevent the making of a new maintenance calculation with respect to her as a result of the Secretary of State’s acting under subsection (3).”

4 Default and interim maintenance decisions

For section 12 of the 1991 Act (interim maintenance assessments) there shall be substituted—

“12 Default and interim maintenance decisions

- (1) Where the Secretary of State—
 - (a) is required to make a maintenance calculation; or
 - (b) is proposing to make a decision under section 16 or 17,
 and it appears to him that he does not have sufficient information to enable him to do so, he may make a default maintenance decision.
- (2) Where an application for a variation has been made under section 28A(1) in connection with an application for a maintenance calculation (or in connection with such an application which is treated as having been made), the Secretary of State may make an interim maintenance decision.
- (3) The amount of child support maintenance fixed by an interim maintenance decision shall be determined in accordance with Part I of Schedule 1.
- (4) The Secretary of State may by regulations make provision as to default and interim maintenance decisions.
- (5) The regulations may, in particular, make provision as to—
 - (a) the procedure to be followed in making a default or an interim maintenance decision; and
 - (b) a default rate of child support maintenance to apply where a default maintenance decision is made.”

Applications for a variation

5 Departure from usual rules for calculating maintenance

- (1) The 1991 Act shall be amended as follows.
- (2) For sections 28A to 28C (which deal respectively with applications for departure directions, their preliminary consideration, and the imposition of a regular payments condition) there shall be substituted—

“Variations

28A Application for variation of usual rules for calculating maintenance

- (1) Where an application for a maintenance calculation is made under section 4 or 7, or treated as made under section 6, the person with care or the non-resident parent or (in the case of an application under section 7) either of them or the

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child concerned may apply to the Secretary of State for the rules by which the calculation is made to be varied in accordance with this Act.

- (2) Such an application is referred to in this Act as an “application for a variation”.
- (3) An application for a variation may be made at any time before the Secretary of State has reached a decision (under section 11 or 12(1)) on the application for a maintenance calculation (or the application treated as having been made under section 6).
- (4) A person who applies for a variation—
 - (a) need not make the application in writing unless the Secretary of State directs in any case that he must; and
 - (b) must say upon what grounds the application is made.
- (5) In other respects an application for a variation is to be made in such manner as may be prescribed.
- (6) Schedule 4A has effect in relation to applications for a variation.

28B Preliminary consideration of applications

- (1) Where an application for a variation has been duly made to the Secretary of State, he may give it a preliminary consideration.
- (2) Where he does so he may, on completing the preliminary consideration, reject the application (and proceed to make his decision on the application for a maintenance calculation without any variation) if it appears to him—
 - (a) that there are no grounds on which he could agree to a variation;
 - (b) that he has insufficient information to make a decision on the application for the maintenance calculation under section 11 (apart from any information needed in relation to the application for a variation), and therefore that his decision would be made under section 12(1); or
 - (c) that other prescribed circumstances apply.

28C Imposition of regular payments condition

- (1) Where—
 - (a) an application for a variation is made by the non-resident parent; and
 - (b) the Secretary of State makes an interim maintenance decision,the Secretary of State may also, if he has completed his preliminary consideration (under section 28B) of the application for a variation and has not rejected it under that section, impose on the non-resident parent one of the conditions mentioned in subsection (2) (a “regular payments condition”).
- (2) The conditions are that—
 - (a) the non-resident parent must make the payments of child support maintenance specified in the interim maintenance decision;
 - (b) the non-resident parent must make such lesser payments of child support maintenance as may be determined in accordance with regulations made by the Secretary of State.

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- (3) Where the Secretary of State imposes a regular payments condition, he shall give written notice of the imposition of the condition and of the effect of failure to comply with it to—
- (a) the non-resident parent;
 - (b) all the persons with care concerned; and
 - (c) if the application for the maintenance calculation was made under section 7, the child who made the application.
- (4) A regular payments condition shall cease to have effect—
- (a) when the Secretary of State has made a decision on the application for a maintenance calculation under section 11 (whether he agrees to a variation or not);
 - (b) on the withdrawal of the application for a variation.
- (5) Where a non-resident parent has failed to comply with a regular payments condition, the Secretary of State may in prescribed circumstances refuse to consider the application for a variation, and instead reach his decision under section 11 as if no such application had been made.
- (6) The question whether a non-resident parent has failed to comply with a regular payments condition is to be determined by the Secretary of State.
- (7) Where the Secretary of State determines that a non-resident parent has failed to comply with a regular payments condition he shall give written notice of his determination to—
- (a) that parent;
 - (b) all the persons with care concerned; and
 - (c) if the application for the maintenance calculation was made under section 7, the child who made the application.”
- (3) In section 28D (determination of applications)—
- (a) for subsection (1) there shall be substituted—
 - “(1) Where an application for a variation has not failed, the Secretary of State shall, in accordance with the relevant provisions of, or made under, this Act—
 - (a) either agree or not to a variation, and make a decision under section 11 or 12(1); or
 - (b) refer the application to an appeal tribunal for the tribunal to determine what variation, if any, is to be made.”;
 - (b) in each of subsections (2) and (3), for “an application for a departure direction” there shall be substituted “an application for a variation”; and
 - (c) in subsection (2), in paragraph (a) “lapsed or” shall be omitted, at the end of paragraph (b) “or” shall be inserted, and after that paragraph there shall be inserted—
 - “(c) the Secretary of State has refused to consider it under section 28C(5).”
- (4) In section 28E (matters to be taken into account)—
- (a) in subsections (1), (3) and (4), for “any application for a departure direction” (wherever appearing) there shall be substituted “whether to agree to a variation”; and

- (b) in subsection (4)(a), for “a departure direction were made” there shall be substituted “the Secretary of State agreed to a variation”.
- (5) For section 28F (departure directions) there shall be substituted—

“28F Agreement to a variation

- (1) The Secretary of State may agree to a variation if—
 - (a) he is satisfied that the case is one which falls within one or more of the cases set out in Part I of Schedule 4B or in regulations made under that Part; and
 - (b) it is his opinion that, in all the circumstances of the case, it would be just and equitable to agree to a variation.
- (2) In considering whether it would be just and equitable in any case to agree to a variation, the Secretary of State—
 - (a) must have regard, in particular, to the welfare of any child likely to be affected if he did agree to a variation; and
 - (b) must, or as the case may be must not, take any prescribed factors into account, or must take them into account (or not) in prescribed circumstances.
- (3) The Secretary of State shall not agree to a variation (and shall proceed to make his decision on the application for a maintenance calculation without any variation) if he is satisfied that—
 - (a) he has insufficient information to make a decision on the application for the maintenance calculation under section 11, and therefore that his decision would be made under section 12(1); or
 - (b) other prescribed circumstances apply.
- (4) Where the Secretary of State agrees to a variation, he shall—
 - (a) determine the basis on which the amount of child support maintenance is to be calculated in response to the application for a maintenance calculation (including an application treated as having been made); and
 - (b) make a decision under section 11 on that basis.
- (5) If the Secretary of State has made an interim maintenance decision, it is to be treated as having been replaced by his decision under section 11, and except in prescribed circumstances any appeal connected with it (under section 20) shall lapse.
- (6) In determining whether or not to agree to a variation, the Secretary of State shall comply with regulations made under Part II of Schedule 4B.”

6 Applications for a variation: further provisions

- (1) For Schedule 4A to the 1991 Act there shall be substituted the Schedule 4A set out in Part I of Schedule 2.
- (2) For Schedule 4B to that Act there shall be substituted the Schedule 4B set out in Part II of Schedule 2.

7 Variations: revision and supersession

For section 28G of the 1991 Act (effect and duration of departure directions) there shall be substituted—

“28G Variations: revision and supersession

- (1) An application for a variation may also be made when a maintenance calculation is in force.
- (2) The Secretary of State may by regulations provide for—
 - (a) sections 16, 17 and 20; and
 - (b) sections 28A to 28F and Schedules 4A and 4B,
 to apply with prescribed modifications in relation to such applications.
- (3) The Secretary of State may by regulations provide that, in prescribed cases (or except in prescribed cases), a decision under section 17 made otherwise than pursuant to an application for a variation may be made on the basis of a variation agreed to for the purposes of an earlier decision without a new application for a variation having to be made.”

*Revision and supersession of decisions***8 Revision of decisions**

- (1) Section 16 of the 1991 Act (revision of decisions) shall be amended as follows.
- (2) In subsection (1), for “of the Secretary of State under section 11, 12 or 17” there shall be substituted “to which subsection (1A) applies”.
- (3) After subsection (1), there shall be inserted—

“(1A) This subsection applies to—

 - (a) a decision of the Secretary of State under section 11, 12 or 17;
 - (b) a reduced benefit decision under section 46;
 - (c) a decision of an appeal tribunal on a referral under section 28D(1)(b).

(1B) Where the Secretary of State revises a decision under section 12(1)—

 - (a) he may (if appropriate) do so as if he were revising a decision under section 11; and
 - (b) if he does that, his decision as revised is to be treated as one under section 11 instead of section 12(1) (and, in particular, is to be so treated for the purposes of an appeal against it under section 20).”

9 Decisions superseding earlier decisions

- (1) Section 17 of the 1991 Act (decisions superseding earlier decisions) shall be amended as follows.
- (2) In subsection (1), for paragraph (c) there shall be substituted—
 - “(c) any reduced benefit decision under section 46;
 - (d) any decision of an appeal tribunal on a referral under section 28D(1)(b);

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- (e) any decision of a Child Support Commissioner on an appeal from such a decision as is mentioned in paragraph (b) or (d).”
- (3) For subsection (4) there shall be substituted—

“(4) Subject to subsection (5) and section 28ZC, a decision under this section shall take effect as from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which the application was made.

(4A) In subsection (4), a “maintenance period” is (except where a different meaning is prescribed for prescribed cases) a period of seven days, the first one beginning on the effective date of the first decision made by the Secretary of State under section 11 or (if earlier) his first default or interim maintenance decision (under section 12) in relation to the non-resident parent in question, and each subsequent one beginning on the day after the last day of the previous one.”

Appeals

10 Appeals to appeal tribunals

For section 20 of the 1991 Act (appeals to appeal tribunals) there shall be substituted—

“20 Appeals to appeal tribunals

- (1) A qualifying person has a right of appeal to an appeal tribunal against—
- (a) a decision of the Secretary of State under section 11, 12 or 17 (whether as originally made or as revised under section 16);
 - (b) a decision of the Secretary of State not to make a maintenance calculation under section 11 or not to supersede a decision under section 17;
 - (c) a reduced benefit decision under section 46;
 - (d) the imposition (by virtue of section 41A) of a requirement to make penalty payments, or their amount;
 - (e) the imposition (by virtue of section 47) of a requirement to pay fees.
- (2) In subsection (1), “qualifying person” means—
- (a) in relation to paragraphs (a) and (b)—
 - (i) the person with care, or non-resident parent, with respect to whom the Secretary of State made the decision, or
 - (ii) in a case relating to a maintenance calculation which was applied for under section 7, either of those persons or the child concerned;
 - (b) in relation to paragraph (c), the person in respect of whom the benefits are payable;
 - (c) in relation to paragraph (d), the parent who has been required to make penalty payments; and
 - (d) in relation to paragraph (e), the person required to pay fees.
- (3) A person with a right of appeal under this section shall be given such notice as may be prescribed of—

- (a) that right; and
 - (b) the relevant decision, or the imposition of the requirement.
- (4) Regulations may make—
- (a) provision as to the manner in which, and the time within which, appeals are to be brought; and
 - (b) such provision with respect to proceedings before appeal tribunals as the Secretary of State considers appropriate.
- (5) The regulations may in particular make any provision of a kind mentioned in Schedule 5 to the Social Security Act 1998.
- (6) No appeal lies by virtue of subsection (1)(c) unless the amount of the person’s benefit is reduced in accordance with the reduced benefit decision; and the time within which such an appeal may be brought runs from the date of notification of the reduction.
- (7) In deciding an appeal under this section, an appeal tribunal—
- (a) need not consider any issue that is not raised by the appeal; and
 - (b) shall not take into account any circumstances not obtaining at the time when the Secretary of State made the decision or imposed the requirement.
- (8) If an appeal under this section is allowed, the appeal tribunal may—
- (a) itself make such decision as it considers appropriate; or
 - (b) remit the case to the Secretary of State, together with such directions (if any) as it considers appropriate.”

11 Redetermination of appeals

After section 23 of the 1991 Act there shall be inserted—

“23A Redetermination of appeals

- (1) This section applies where an application is made to a person under section 24(6)(a) for leave to appeal from a decision of an appeal tribunal.
- (2) If the person who constituted, or was the chairman of, the appeal tribunal considers that the decision was erroneous in law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.
- (3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.
- (4) The “principal parties” are—
 - (a) the Secretary of State; and
 - (b) those who are qualifying persons for the purposes of section 20(2) in relation to the decision in question.”

Information

12 Information required by Secretary of State

In section 14 of the 1991 Act (information required by the Secretary of State), in subsection (1), after “such an application” there shall be inserted “(or application treated as made), or needed for the making of any decision or in connection with the imposition of any condition or requirement under this Act,”.

13 Information— offences

After section 14 of the 1991 Act there shall be inserted—

“14A Information —offences

- (1) This section applies to—
 - (a) persons who are required to comply with regulations under section 4(4) or 7(5); and
 - (b) persons specified in regulations under section 14(1)(a).
- (2) Such a person is guilty of an offence if, pursuant to a request for information under or by virtue of those regulations—
 - (a) he makes a statement or representation which he knows to be false; or
 - (b) he provides, or knowingly causes or knowingly allows to be provided, a document or other information which he knows to be false in a material particular.
- (3) Such a person is guilty of an offence if, following such a request, he fails to comply with it.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that he had a reasonable excuse for failing to comply.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

14 Inspectors

- (1) Section 15 of the 1991 Act (powers of inspectors) shall be amended as follows.
- (2) For subsections (1) to (4) there shall be substituted—
 - “(1) The Secretary of State may appoint, on such terms as he thinks fit, persons to act as inspectors under this section.
 - (2) The function of inspectors is to acquire information which the Secretary of State needs for any of the purposes of this Act.
 - (3) Every inspector is to be given a certificate of his appointment.
 - (4) An inspector has power, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—
 - (a) are liable to inspection under this section; and

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- (b) are premises to which it is reasonable for him to require entry in order that he may exercise his functions under this section,
and may there make such examination and inquiry as he considers appropriate.
- (4A) Premises liable to inspection under this section are those which are not used wholly as a dwelling house and which the inspector has reasonable grounds for suspecting are—
- (a) premises at which a non-resident parent is or has been employed;
 - (b) premises at which a non-resident parent carries out, or has carried out, a trade, profession, vocation or business;
 - (c) premises at which there is information held by a person (“A”) whom the inspector has reasonable grounds for suspecting has information about a non-resident parent acquired in the course of A’s own trade, profession, vocation or business.”
- (3) In subsection (6), for the words from “any person who” to the end of paragraph (d) there shall be substituted “any such person”.
- (4) After subsection (10) there shall be inserted—
- “(11) In this section, “premises” includes—
- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
 - (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
 - (c) places of all other descriptions whether or not occupied as land or otherwise,
- and references in this section to the occupier of premises are to be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.”

Parentage

15 **Presumption of parentage in child support cases**

- (1) In section 26(2) of the 1991 Act (cases in which the Secretary of State may assume a person to be the parent of a child for the purpose of making a maintenance calculation under that Act), before Case A there shall be inserted—

“CASE A1

Where—

- (a) the child is habitually resident in England and Wales;
- (b) the Secretary of State is satisfied that the alleged parent was married to the child’s mother at some time in the period beginning with the conception and ending with the birth of the child; and
- (c) the child has not been adopted.

CASE A2

Where—

- (a) the child is habitually resident in England and Wales;
- (b) the alleged parent has been registered as father of the child under section 10 or 10A of the Births and Deaths Registration Act 1953, or in any register kept under section 13 (register of births and still-births) or section 44 (Register of Corrections Etc) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965, or under Article 14 or 18(1)(b)(ii) of the Births and Deaths Registration (Northern Ireland) Order 1976; and
- (c) the child has not subsequently been adopted.

CASE A3

Where the result of a scientific test (within the meaning of section 27A) taken by the alleged parent would be relevant to determining the child's parentage, and the alleged parent—

- (a) refuses to take such a test; or
- (b) has submitted to such a test, and it shows that there is no reasonable doubt that the alleged parent is a parent of the child.”

(2) In that provision, after Case B there shall be inserted—

“CASE B1

Where the Secretary of State is satisfied that the alleged parent is a parent of the child in question by virtue of section 27 or 28 of that Act (meaning of “mother” and of “father” respectively).”

Disqualification from driving

16 Disqualification from driving

(1) After section 39 of the 1991 Act there shall be inserted—

“39A Commitment to prison and disqualification from driving

- (1) Where the Secretary of State has sought—
 - (a) in England and Wales to levy an amount by distress under this Act; or
 - (b) to recover an amount by virtue of section 36 or 38,and that amount, or any portion of it, remains unpaid he may apply to the court under this section.
- (2) An application under this section is for whichever the court considers appropriate in all the circumstances of—
 - (a) the issue of a warrant committing the liable person to prison; or
 - (b) an order for him to be disqualified from holding or obtaining a driving licence.
- (3) On any such application the court shall (in the presence of the liable person) inquire as to—
 - (a) whether he needs a driving licence to earn his living;
 - (b) his means; and

- (c) whether there has been wilful refusal or culpable neglect on his part.
- (4) The Secretary of State may make representations to the court as to whether he thinks it more appropriate to commit the liable person to prison or to disqualify him from holding or obtaining a driving licence; and the liable person may reply to those representations.
- (5) In this section and section 40B, “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988.
- (6) In this section “the court” means—
 - (a) in England and Wales, a magistrates' court;
 - (b) in Scotland, the sheriff.”
- (2) In section 40 of the 1991 Act (commitment to prison), subsections (1) and (2) shall be omitted.
- (3) Before section 41 of the 1991 Act there shall be inserted—

“40B Disqualification from driving: further provision

- (1) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the liable person, it may—
 - (a) order him to be disqualified, for such period specified in the order but not exceeding two years as it thinks fit, from holding or obtaining a driving licence (a “disqualification order”); or
 - (b) make a disqualification order but suspend its operation until such time and on such conditions (if any) as it thinks just.
- (2) The court may not take action under both section 40 and this section.
- (3) A disqualification order must state the amount in respect of which it is made, which is to be the aggregate of—
 - (a) the amount mentioned in section 35(1), or so much of it as remains outstanding; and
 - (b) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the costs of the application under section 39A.
- (4) A court which makes a disqualification order shall require the person to whom it relates to produce any driving licence held by him, and its counterpart (within the meaning of section 108(1) of the Road Traffic Act 1988).
- (5) On an application by the Secretary of State or the liable person, the court—
 - (a) may make an order substituting a shorter period of disqualification, or make an order revoking the disqualification order, if part of the amount referred to in subsection (3) (the “amount due”) is paid to any person authorised to receive it; and
 - (b) must make an order revoking the disqualification order if all of the amount due is so paid.
- (6) The Secretary of State may make representations to the court as to the amount which should be paid before it would be appropriate to make an order revoking

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the disqualification order under subsection (5)(a), and the person liable may reply to those representations.

(7) The Secretary of State may make a further application under section 39A if the amount due has not been paid in full when the period of disqualification specified in the disqualification order expires.

(8) Where a court—

- (a) makes a disqualification order;
- (b) makes an order under subsection (5); or
- (c) allows an appeal against a disqualification order,

it shall send notice of that fact to the Secretary of State; and the notice shall contain such particulars and be sent in such manner and to such address as the Secretary of State may determine.

(9) Where a court makes a disqualification order, it shall also send the driving licence and its counterpart, on their being produced to the court, to the Secretary of State at such address as he may determine.

(10) Section 80 of the Magistrates' Courts Act 1980 (application of money found on defaulter) shall apply in relation to a disqualification order under this section in relation to a liable person as it applies in relation to the enforcement of a sum mentioned in subsection (1) of that section.

(11) The Secretary of State may by regulations make provision in relation to disqualification orders corresponding to the provision he may make under section 40(11).

(12) In the application to Scotland of this section—

- (a) in subsection (2) for “section 40” substitute “section 40A”;
- (b) in subsection (3) for paragraph (a) substitute—
 - “(a) the appropriate amount under section 38;”;
- (c) subsection (10) is omitted; and
- (d) for subsection (11) substitute—

“(11) The power of the Court of Session by Act of Sederunt to regulate the procedure and practice in civil proceedings in the sheriff court shall include power to make, in relation to disqualification orders, provision corresponding to that which may be made by virtue of section 40A(8).”

(4) In section 164(5) of the Road Traffic Act 1988 (power of constables to require production of driving licence etc.), after “Road Traffic Offenders Act 1988” there shall be inserted “, section 40B of the Child Support Act 1991”.

(5) In section 27(3) of the Road Traffic Offenders Act 1988 (offence of failing to produce a licence), for the word “then,” there shall be substituted “, or if the holder of the licence does not produce it and its counterpart as required by section 40B of the Child Support Act 1991, then,”.

17 Civil imprisonment: Scotland

(1) In section 40 of the 1991 Act (commitment to prison), for subsections (12) to (14) there shall be substituted—

“(12) This section does not apply to Scotland.”

(2) After section 40 there shall be inserted—

“40A Commitment to prison: Scotland

- (1) If, but only if, the sheriff is satisfied that there has been wilful refusal or culpable neglect on the part of the liable person he may—
 - (a) issue a warrant for his committal to prison; or
 - (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as he thinks just.
- (2) A warrant under this section—
 - (a) shall be made in respect of an amount equal to the aggregate of—
 - (i) the appropriate amount under section 38; and
 - (ii) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the expenses of commitment; and
 - (b) shall state that amount.
- (3) No warrant may be issued under this section against a person who is under the age of 18.
- (4) A warrant issued under this section shall order the liable person—
 - (a) to be imprisoned for a specified period; but
 - (b) to be released (unless he is in custody for some other reason) on payment of the amount stated in the warrant.
- (5) The maximum period of imprisonment which may be imposed by virtue of subsection (4) is six weeks.
- (6) The Secretary of State may by regulations make provision for the period of imprisonment specified in any warrant issued under this section to be reduced where there is part payment of the amount in respect of which the warrant was issued.
- (7) A warrant issued under this section may be directed to such person as the sheriff thinks fit.
- (8) The power of the Court of Session by Act of Sederunt to regulate the procedure and practice in civil proceedings in the sheriff court shall include power to make provision—
 - (a) as to the form of any warrant issued under this section;
 - (b) allowing an application under this section to be renewed where no warrant is issued or term of imprisonment is fixed;
 - (c) that a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of his employer, shall be sufficient evidence of the facts stated;
 - (d) that, for the purposes of enabling an inquiry to be made as to the liable person’s conduct and means, the sheriff may issue a citation to him to appear before the sheriff and (if he does not obey) may issue a warrant for his arrest;

- (e) that for the purpose of enabling such an inquiry, the sheriff may issue a warrant for the liable person's arrest without issuing a citation;
- (f) as to the execution of a warrant of arrest."

Financial penalties

18 Financial penalties

- (1) In section 41 of the 1991 Act (arrears of child support maintenance), subsections (3) to (5) (which provide for the payment of interest on arrears) shall cease to have effect.
- (2) For section 41A of the 1991 Act (arrears: alternative to interest payments) there shall be substituted—

"41A Penalty payments

- (1) The Secretary of State may by regulations make provision for the payment to him by non-resident parents who are in arrears with payments of child support maintenance of penalty payments determined in accordance with the regulations.
- (2) The amount of a penalty payment in respect of any week may not exceed 25% of the amount of child support maintenance payable for that week, but otherwise is to be determined by the Secretary of State.
- (3) The liability of a non-resident parent to make a penalty payment does not affect his liability to pay the arrears of child support maintenance concerned.
- (4) Regulations under subsection (1) may, in particular, make provision—
 - (a) as to the time at which a penalty payment is to be payable;
 - (b) for the Secretary of State to waive a penalty payment, or part of it.
- (5) The provisions of this Act with respect to—
 - (a) the collection of child support maintenance;
 - (b) the enforcement of an obligation to pay child support maintenance, apply equally (with any necessary modifications) to penalty payments payable by virtue of regulations under this section.
- (6) The Secretary of State shall pay penalty payments received by him into the Consolidated Fund."

19 Reduced benefit decisions

For section 46 of the 1991 Act (failure to comply with obligations imposed by section 6) there shall be substituted—

"46 Reduced benefit decisions

- (1) This section applies where any person ("the parent")—
 - (a) has made a request under section 6(5);
 - (b) fails to comply with any regulation made under section 6(7); or

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- (c) having been treated as having applied for a maintenance calculation under section 6, refuses to take a scientific test (within the meaning of section 27A).
- (2) The Secretary of State may serve written notice on the parent requiring her, before the end of a specified period—
 - (a) in a subsection (1)(a) case, to give him her reasons for making the request;
 - (b) in a subsection (1)(b) case, to give him her reasons for failing to do so; or
 - (c) in a subsection (1)(c) case, to give him her reasons for her refusal.
- (3) When the specified period has expired, the Secretary of State shall consider whether, having regard to any reasons given by the parent, there are reasonable grounds for believing that—
 - (a) in a subsection (1)(a) case, if the Secretary of State were to do what is mentioned in section 6(3);
 - (b) in a subsection (1)(b) case, if she were to be required to comply; or
 - (c) in a subsection (1)(c) case, if she took the scientific test,there would be a risk of her, or of any children living with her, suffering harm or undue distress as a result of his taking such action, or her complying or taking the test.
- (4) If the Secretary of State considers that there are such reasonable grounds, he shall—
 - (a) take no further action under this section in relation to the request, the failure or the refusal in question; and
 - (b) notify the parent, in writing, accordingly.
- (5) If the Secretary of State considers that there are no such reasonable grounds, he may, except in prescribed circumstances, make a reduced benefit decision with respect to the parent.
- (6) In a subsection (1)(a) case, the Secretary of State may from time to time serve written notice on the parent requiring her, before the end of a specified period—
 - (a) to state whether her request under section 6(5) still stands; and
 - (b) if so, to give him her reasons for maintaining her request,and subsections (3) to (5) have effect in relation to such a notice and any response to it as they have effect in relation to a notice under subsection (2)(a) and any response to it.
- (7) Where the Secretary of State makes a reduced benefit decision he must send a copy of it to the parent.
- (8) A reduced benefit decision is to take effect on such date as may be specified in the decision.
- (9) Reasons given in response to a notice under subsection (2) or (6) need not be given in writing unless the Secretary of State directs in any case that they must.
- (10) In this section—

- (a) “comply” means to comply with the requirement or with the regulation in question; and “complied” and “complying” are to be construed accordingly;
- (b) “reduced benefit decision” means a decision 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;
- (c) “relevant benefit” means income support or an income-based jobseeker’s allowance or any other benefit of a kind prescribed for the purposes of section 6; and
- (d) “specified”, in relation to a notice served under this section, means specified in the notice; and the period to be specified is to be determined in accordance with regulations made by the Secretary of State.”

Miscellaneous

20 Voluntary payments

- (1) After section 28I of the 1991 Act there shall be inserted—

“Voluntary payments

28J Voluntary payments

- (1) This section applies where—
- (a) a person has applied for a maintenance calculation under section 4(1) or 7(1), or is treated as having applied for one by virtue of section 6;
 - (b) the Secretary of State has neither made a decision under section 11 or 12 on the application, nor decided not to make a maintenance calculation; and
 - (c) the non-resident parent makes a voluntary payment.
- (2) A “voluntary payment” is a payment—
- (a) on account of child support maintenance which the non-resident parent expects to become liable to pay following the determination of the application (whether or not the amount of the payment is based on any estimate of his potential liability which the Secretary of State has agreed to give); and
 - (b) made before the maintenance calculation has been notified to the non-resident parent or (as the case may be) before the Secretary of State has notified the non-resident parent that he has decided not to make a maintenance calculation.
- (3) In such circumstances and to such extent as may be prescribed—
- (a) the voluntary payment may be set off against arrears of child support maintenance which accrued by virtue of the maintenance calculation taking effect on a date earlier than that on which it was notified to the non-resident parent;
 - (b) the amount payable under a maintenance calculation may be adjusted to take account of the voluntary payment.

- (4) A voluntary payment shall be made to the Secretary of State unless he agrees, on such conditions as he may specify, that it may be made to the person with care, or to or through another person.
- (5) The Secretary of State may by regulations make provision as to voluntary payments, and the regulations may in particular—
- (a) prescribe what payments or descriptions of payment are, or are not, to count as “voluntary payments”;
 - (b) prescribe the extent to which and circumstances in which a payment, or a payment of a prescribed description, counts.”
- (2) Section 41B of the 1991 Act (repayment of overpaid child support maintenance) shall be amended as follows.
- (3) After subsection (1) there shall be inserted—
- “(1A) This section also applies where the non-resident parent has made a voluntary payment and it appears to the Secretary of State—
- (a) that he is not liable to pay child support maintenance; or
 - (b) that he is liable, but some or all of the payment amounts to an overpayment,
- and, in a case falling within paragraph (b), it also appears to him that subsection (1)(a) or (b) applies.”
- (4) For subsection (7) there shall be substituted—
- “(7) For the purposes of this section—
- (a) a payment made by a person under a maintenance calculation which was not validly made; and
 - (b) a voluntary payment made in the circumstances set out in subsection (1A)(a),
- shall be treated as an overpayment of child support maintenance made by a non-resident parent.”

21 Recovery of child support maintenance by deduction from benefit

For section 43 of the 1991 Act (contribution to maintenance by deduction from benefit) there shall be substituted—

“43 Recovery of child support maintenance by deduction from benefit

- (1) This section applies where—
- (a) a non-resident parent is liable to pay a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1; and
 - (b) such conditions as may be prescribed for the purposes of this section are satisfied.
- (2) The power of the Secretary of State to make regulations under section 5 of the Social Security Administration Act 1992 by virtue of subsection (1)(p) (deductions from benefits) may be exercised in relation to cases to which

this section applies with a view to securing that payments in respect of child support maintenance are made or that arrears of child support maintenance are recovered.

- (3) For the purposes of this section, the benefits to which section 5 of the 1992 Act applies are to be taken as including war disablement pensions and war widows' pensions (within the meaning of section 150 of the Social Security Contributions and Benefits Act 1992 (interpretation)).”

22 Jurisdiction

- (1) Section 44 of the 1991 Act (jurisdiction) shall be amended as follows.
- (2) In subsection (1), after “United Kingdom” there shall be inserted “, except in the case of a non-resident parent who falls within subsection (2A)”.
- (3) After subsection (2) there shall be inserted—
- “(2A) A non-resident parent falls within this subsection if he is not habitually resident in the United Kingdom, but is—
- (a) employed in the civil service of the Crown, including Her Majesty’s Diplomatic Service and Her Majesty’s Overseas Civil Service;
 - (b) a member of the naval, military or air forces of the Crown, including any person employed by an association established for the purposes of Part XI of the Reserve Forces Act 1996;
 - (c) employed by a company of a prescribed description registered under the Companies Act 1985 in England and Wales or in Scotland, or under the Companies (Northern Ireland) Order 1986; or
 - (d) employed by a body of a prescribed description.”
- (4) Subsection (3) shall cease to have effect.

23 Abolition of the child maintenance bonus

Section 10 of the Child Support Act 1995 (which provides for the child maintenance bonus) shall cease to have effect.

24 Periodical reviews

Article 3(4) of the Social Security Act 1998 (Commencement No. 2) Order 1998 (which saved section 16 of the 1991 Act for certain purposes) is revoked; and accordingly that section shall cease to have effect for all purposes.

25 Regulations

In section 52 of the 1991 Act (regulations and orders), for subsection (2) there shall be substituted—

- “(2) No statutory instrument containing (whether alone or with other provisions) regulations made under—
- (a) section 6(1), 12(4) (so far as the regulations make provision for the default rate of child support maintenance mentioned in section 12(5)

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(b), 28C(2)(b), 28F(2)(b), 30(5A), 41(2), 41A, 41B(6), 43(1), 44(2A) (d), 46 or 47;

- (b) paragraph 3(2) or 10A(1) of Part I of Schedule 1; or
- (c) Schedule 4B,

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.

(2A) No statutory instrument containing (whether alone or with other provisions) the first set of regulations made under paragraph 10(1) of Part I of Schedule 1 as substituted by section 1(3) of the Child Support, Pensions and Social Security Act 2000 shall be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.”

26 Amendments

Schedule 3 (amendment of enactments) shall have effect.

27 Temporary compensation payment scheme

(1) This section applies where—

- (a) a maintenance assessment is made before a prescribed date following an application for one under section 4, 6 or 7 of the 1991 Act; or
- (b) a fresh maintenance assessment has been made following either a periodic review under section 16 of the 1991 Act or a review under section 17 of that Act (as they had effect before their substitution by section 40 or 41 respectively of the Social Security Act 1998),

and the effective date of the assessment is earlier than the date on which the assessment was made, with the result that arrears of child support maintenance have become due under the assessment.

(2) The Secretary of State may in regulations provide that this section has effect as if it were modified so as—

- (a) to apply to cases of arrears of child support maintenance having become due additional to those referred to in subsection (1);
- (b) not to apply to any such case as is referred to in subsection (1).

(3) If this section applies, the Secretary of State may in prescribed circumstances agree with the absent parent, on terms specified in the agreement, that—

- (a) the absent parent will not be required to pay the whole of the arrears, but only some lesser amount; and
- (b) the Secretary of State will not, while the agreement is complied with, take action to recover any of the arrears.

(4) The terms which may be specified are to be prescribed in or determined in accordance with regulations made by the Secretary of State.

(5) An agreement may be entered into only if it is made before 1st April 2002 and expires before 1st April 2003.

(6) If the absent parent enters into such an agreement, the Secretary of State may, while the absent parent complies with it, refrain from taking action under the 1991 Act to recover the arrears.

- (7) Upon the expiry of the agreement, if the absent parent has complied with it—
 - (a) he ceases to be liable to pay the arrears; and
 - (b) the Secretary of State may make payments of such amounts and at such times as he may determine to the person with care.
- (8) If the absent parent fails to comply with the agreement he becomes liable to pay the full amount of any outstanding arrears (as well as any other amount payable in accordance with the assessment).
- (9) The Secretary of State may by regulations provide for this section to have effect as if there were substituted for the dates in subsection (5) such later dates as are prescribed.
- (10) In this section, “prescribed” means prescribed in regulations made by the Secretary of State.
- (11) Regulations under this section shall be made by statutory instrument.
- (12) No statutory instrument containing regulations under subsection (9) is to be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament; but otherwise a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

28 Pilot schemes

- (1) Any regulations made under—
 - (a) provisions inserted or substituted in the 1991 Act by this Part of this Act (or Schedule 1, 2 or 3); and
 - (b) in so far as they are consequential on or supplementary to any such regulations, regulations made under any other provisions in the 1991 Act,may be made so as to have effect for a specified period not exceeding 12 months.
- (2) Any regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as “a pilot scheme”.
- (3) A pilot scheme may provide that its provisions are to apply only in relation to—
 - (a) one or more specified areas or localities;
 - (b) one or more specified classes of person;
 - (c) persons selected by reference to prescribed criteria, or on a sampling basis.
- (4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.
- (5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same provision as that made by the previous scheme (apart from the specified period), or similar provision.
- (6) A statutory instrument containing (whether alone or with other provisions) a pilot scheme shall not be made unless a draft of the instrument has been laid before Parliament and approved by resolution of each House of Parliament.

29 Interpretation, transitional provisions, savings, etc

- (1) In this Part, “the 1991 Act” means the Child Support Act 1991.

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- (2) The Secretary of State may in regulations make such transitional and transitory provisions, and such incidental, supplementary, savings and consequential provisions, as he considers necessary or expedient in connection with the coming into force of this Part or any provision in it.
- (3) The regulations may, in particular—
 - (a) provide for the amount of child support maintenance payable by or to any person to be at a transitional rate (or more than one such rate successively) resulting from the phasing-in by way of prescribed steps of any increase or decrease in the amount payable following the coming into force of this Part or any provision in it;
 - (b) provide for a departure direction or any finding in relation to a previous determination of child support maintenance to be taken into account in a decision as to the amount of child support maintenance payable by or to any person.
- (4) Section 175(3) and (5) of the Social Security Contributions and Benefits Act 1992 (supplemental power in relation to regulations) applies to regulations made under this section as it applies to regulations made under that Act.
- (5) The power to make regulations under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.