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## SCHEDULE 1

(introduced by section 85)

### CONTRIBUTIONS TOWARDS MAINTENANCE OF LOOKED AFTER CHILDREN

#### *Liability to contribute*

- 1 (1) Where a local authority is looking after a child (other than in the cases mentioned in sub-paragraph (8) [<sup>F1</sup>, and in cases where charging is prohibited by or under an enactment]) it must consider whether it should recover contributions towards the child's maintenance from any person liable to contribute (“a contributor”).
- (2) An authority may only recover contributions from a contributor if it considers it reasonable to do so.
- (3) A person is liable to contribute if he or she is an adult with parental responsibility for the child.
- (4) A person is not liable to contribute during any period when the person is in receipt of a benefit which falls within a category specified in regulations.
- (5) In sub-paragraph (4) “benefit” includes any allowance, payment, credit or loan.
- (6) A person is not liable to contribute towards the maintenance of a child in the care of a local authority in respect of any period during which the child is living with a parent of the child under arrangements made by the authority in accordance with section 81.
- (7) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Schedule.
- (8) The cases are those in which the child is looked after by a local authority under—
- (a) section 76;
  - (b) an interim care order under the Children Act 1989;
  - [<sup>F2</sup>(c) section 260 of the Sentencing Code.]

#### **Textual Amendments**

- F1** Words in Sch. 1 para. 1(1) inserted (1.9.2021 for specified purposes) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), **ss. 49(5)**, 100(3); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2)
- F2** Sch. 1 para. 1(8)(c) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 306(1)** (with Sch. 27); S.I. 2020/1236, reg. 2

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

- C1** Sch. 1 para. 1 excluded by S.I. 2012/2813, regs. 2A(c), 5A (as inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) \(Secondary Legislation\) Regulations 2016 \(S.I. 2016/211\)](#), reg. 1(2), Sch. 3 paras. 131, **132**)
- C2** Sch. 1 para. 1 excluded by S.I. 2005/1313, reg. 46A(2) (as inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) and Care Planning, Placement and Case Review \(Miscellaneous Amendments\) \(Wales\) Regulations 2016 \(S.I. 2016/216\)](#), regs. 1(2), **5(8)**)

#### **Commencement Information**

- I1** Sch. 1 para. 1 in force at 6.4.2016 by S.I. 2016/412, **art. 2** (with art. 4, Schs. 1, 2)

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### *Agreed contributions*

- 2 (1) Contributions towards a child's maintenance may only be recovered if the local authority has served a notice (“a contribution notice”) on the contributor specifying—
- (a) the weekly amount which it considers should be contributed, and
  - (b) arrangements for payment.
- (2) The contribution notice must be in writing and dated.
- (3) Arrangements for payment must, in particular, include—
- (a) the date on which liability to contribute begins (which must not be earlier than the date of the notice),
  - (b) the date on which liability under the notice will end (if the child has not, before that date, ceased to be looked after by the authority), and
  - (c) the date on which the first payment is to be made.
- (4) The authority may specify in a contribution notice a weekly amount which is a standard contribution determined by the authority for all children looked after by it.
- (5) The authority may not specify in a contribution notice a weekly amount greater than that which it considers—
- (a) it would normally be prepared to pay if it had placed a similar child with local authority foster parents, and
  - (b) it is reasonably practicable for the contributor to pay (having regard to his or her means).
- (6) An authority may at any time withdraw a contribution notice (without affecting its power to serve another).
- (7) Where the authority and the contributor agree—
- (a) the amount which the contributor is to contribute, and
  - (b) arrangements for payment,
- (whether as specified in the contribution notice or otherwise) and the contributor notifies the authority in writing that he or she so agrees, the authority may recover summarily, as a civil debt, any contribution which is overdue and unpaid.
- (8) Sub-paragraph (7) is without prejudice to any other method of recovery.
- (9) A contributor may, by serving a notice in writing on the authority, withdraw his or her agreement in relation to any period of liability falling after the date of service of the notice.

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### *Contribution orders*

- 3 (1) Where a contributor has been served with a contribution notice and has—
- (a) failed to reach any agreement with the local authority as mentioned in paragraph 2(7) within the period of one month beginning with the day on which the contribution notice was served, or

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- (b) served a notice under paragraph 2(9) withdrawing his or her agreement, the authority may apply to the court for an order under this paragraph.
- (2) On such an application the court may make an order (“a contribution order”) requiring the contributor to contribute a weekly amount towards the child's maintenance in accordance with arrangements for payment specified by the court.
- (3) A contribution order—
- (a) may not specify a weekly amount greater than that specified in the contribution notice, and
  - (b) must be made with regard to the contributor's means.
- (4) A contribution order may not—
- (a) take effect before the date specified in the contribution notice,
  - (b) have effect while the contributor is not liable to contribute (by virtue of paragraph 1), or
  - (c) remain in force after the child has ceased to be looked after by the authority which obtained the order.
- (5) An authority may not apply to the court under sub-paragraph (1) in relation to a contribution notice which it has withdrawn.
- (6) Where—
- (a) a contribution order is in force,
  - (b) the authority serves another contribution notice, and
  - (c) the contributor and the authority reach an agreement under paragraph 2(7) in respect of that other contribution notice,
- the effect of the agreement is to discharge the order from the date on which it is agreed that the agreement is to take effect.
- (7) Where an agreement is reached in the circumstances described in sub-paragraph (6) the authority must notify the court—
- (a) of the agreement, and
  - (b) of the date on which it took effect.
- (8) A contribution order may be varied or revoked on the application of the contributor or the authority.
- (9) In proceedings for the variation of a contribution order, the authority must specify—
- (a) the weekly amount which, having regard to paragraph 2, it proposes that the contributor should contribute under the order as varied, and
  - (b) the proposed arrangements for payment.
- (10) Where a contribution order is varied, the order—
- (a) may not specify a weekly amount greater than that specified by the authority in the proceedings for variation, and
  - (b) must be made with regard to the contributor's means.
- (11) An appeal lies in accordance with rules of court from any order made under this paragraph.
- [<sup>F3</sup>(12) A contribution order in relation to a child, if it would otherwise still be in force, ceases to have effect when the child reaches the age of 18.]

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#### Textual Amendments

**F3** Sch. 1 para. 3(12) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **320**

#### Commencement Information

**I3** Sch. 1 para. 3 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

### *Enforcement of contribution orders etc*

4 <sup>F4</sup>(1) .....

<sup>F4</sup>(2) .....

(3) Where a contributor has agreed, or has been ordered, to make contributions to a local authority, any other local authority [<sup>F5</sup>or a local authority in England] within whose area the contributor is for the time being living may—

- (a) at the request of the local authority which served the contribution notice, and
- (b) subject to agreement as to any amount to be deducted in respect of services rendered,

collect from the contributor any contributions due on behalf of the authority which served the notice.

(4) The power to collect amounts under sub-paragraph (3) includes the power to—

- (a) receive and give a discharge for any contributions due, and
- (b) (if necessary) enforce payment of any contributions,

even though those contributions may have fallen due at a time when the contributor was living elsewhere.

(5) Any contribution collected under sub-paragraph (3) is to be paid (subject to any agreed deduction) to the local authority which served the contribution notice.

(6) In any proceedings under this paragraph, a document which purports to be—

- (a) a copy of an order made by a court under or by virtue of paragraph 3, and
- (b) certified as a true copy by the designated officer for the court,

is to be accepted as evidence of the order.

(7) In any proceedings under this paragraph, a certificate which—

- (a) purports to be signed by the clerk or some other duly authorised officer of the local authority which obtained the contribution order, and
- (b) states that any amount due to the authority under the order is overdue and unpaid,

is to be accepted as evidence that the amount is overdue and unpaid.

#### Textual Amendments

**F4** Sch. 1 para. 4(1)(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **321(a)**

**F5** Words in Sch. 1 para. 4(3) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **321(b)**

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**I4** Sch. 1 para. 4 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

*Regulations*

- 5 Regulations may provide for—
- (a) the considerations which a local authority must take into account in deciding—
    - (i) whether it is reasonable to recover contributions, and
    - (ii) what the arrangements for payment should be;
  - (b) the procedures a local authority must follow in reaching agreements with—
    - (i) contributors (under paragraphs 2 and 3), and
    - (ii) any other local authority (under paragraph 4).

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

*Service of contribution notice*

- 6 (1) A contribution notice required under this Schedule to be served on a contributor may be served on the contributor—
- (a) by being delivered personally to the contributor, or
  - (b) by being sent to the contributor—
    - (i) by a registered post service (as defined by section 125(1) of the Postal Services Act 2000), or
    - (ii) by a postal service which provides for the delivery of the document to be recorded.
- (2) For the purposes of section 7 of the Interpretation Act 1978 in its application to this paragraph, a contributor's proper address is the contributor's last known address.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

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