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SCHEDULES

SCHEDULE 2

LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

Modifications etc. (not altering text)

- C1** Sch. 2 modified (temp.) (12.2.2009 for E. and 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(3), 44, [Sch. 2 para. 2](#); S.I. 2009/268, [art. 3\(1\)\(b\)](#); S.I. 2010/749, [art. 2\(a\)](#)

Commencement Information

- II** Sch. 2 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and S.I. 1991/828, [art. 3\(2\)](#)

PART III

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES

Modifications etc. (not altering text)

- C1** Sch. 2 Pt. III modified (30.12.2005) by [2002 c. 38](#), ss. [53\(4\)-\(6\)](#), 148 (with [Sch. 4 paras. 1, 6-8](#)); S.I. 2005/2213, {[art. 2\(c\)](#)}

Liability to contribute

- 21 (1) Where a local authority are looking after a child (other than in the cases mentioned in sub-paragraph (7)) they shall consider whether they 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 they consider it reasonable to do so.
- (3) The persons liable to contribute are—
- where the child is under sixteen, each of his parents;
 - where he has reached the age of sixteen, the child himself.
- (4) A parent is not liable to contribute during any period when he is in receipt of income support [^{F1}under][^{F2}Part VII of the Social Security Contributions and Benefits Act 1992][^{F3}, of any element of child tax credit other than the family element, of working tax credit][^{F4}or of an income-based jobseeker's allowance].

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- (5) 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 allowed by the authority (under section 23(5)) to live with a parent of his.
- (6) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Part of this Schedule.
- (7) The cases are where the child is looked after by a local authority under—
- (a) section 21;
 - (b) an interim care order;
 - (c) [^{F5}section 92 of the Powers of Criminal Courts (Sentencing) Act 2000].

Textual Amendments

- F1** Words in Sch. 2 para. 21(4) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 20(a); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to transitional savings and provisions in arts. 3 and 4)
- F2** Words in Sch. 2 Pt. III para. 21(4) substituted (1.7.1992) by **Social Security (Consequential Provisions) Act 1992 (c. 6)**, ss. 4, 7(2), **Sch. 2 para. 108(c)**
- F3** Words in Sch. 2 para. 21(4) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 20(b); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to transitional provisions and savings in arts. 3 and 4)
- F4** Words in Sch. 2 para. 21(4) added (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(5)**; S.I. 1996/2208, **art. 2**
- F5** Words in Sch. 2 Pt. III para. 21(7)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 130**

Modifications etc. (not altering text)

- C2** Sch. 2 para. 21: power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, ss. 53(2)(b), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**
- C3** Sch. 2 para. 21 excluded (30.12.2005) by: **The Adoption Agencies Regulations 2005 (S.I. 2005/389)**, **reg. 45(2)(d)**; **The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313)**, **reg. 46(2)(d)**

Commencement Information

- II** Sch. 2 Pt. III para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Agreed contributions

- 22 (1) Contributions towards a child's maintenance may only be recovered if the local authority have served a notice ("a contribution notice") on the contributor specifying—
- (a) the weekly sum which they consider that he should contribute; and
 - (b) arrangements for payment.
- (2) The contribution notice must be in writing and dated.
- (3) Arrangements for payment shall, 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.

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- (4) The authority may specify in a contribution notice a weekly sum which is a standard contribution determined by them for all children looked after by them.
- (5) The authority may not specify in a contribution notice a weekly sum greater than that which they consider—
 - (a) they would normally be prepared to pay if they 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 means).
- (6) An authority may at any time withdraw a contribution notice (without prejudice to their power to serve another).
- (7) Where the authority and the contributor agree—
 - (a) the sum 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 so agrees, the authority may recover summarily as a civil debt any contribution which is overdue and unpaid.
- (8) A contributor may, by serving a notice in writing on the authority, withdraw his agreement in relation to any period of liability falling after the date of service of the notice.
- (9) Sub-paragraph (7) is without prejudice to any other method of recovery.

Commencement Information

I2 Sch. 2 Pt. III para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Contribution orders

- 23
- (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 22(7) within the period of one month beginning with the day on which the contribution notice was served; or
 - (b) served a notice under paragraph 22(8) withdrawing his 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 sum towards the child’s maintenance in accordance with arrangements for payment specified by the court.
 - (3) A contribution order—
 - (a) shall not specify a weekly sum greater than that specified in the contribution notice; and
 - (b) shall be made with due regard to the contributor’s means.
 - (4) A contribution order shall not—
 - (a) take effect before the date specified in the contribution notice; or
 - (b) have effect while the contributor is not liable to contribute (by virtue of paragraph 21); or

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- (c) remain in force after the child has ceased to be looked after by the authority who obtained the order.
- (5) An authority may not apply to the court under sub-paragraph (1) in relation to a contribution notice which they have withdrawn.
- (6) Where—
 - (a) a contribution order is in force;
 - (b) the authority serve another contribution notice; and
 - (c) the contributor and the authority reach an agreement under paragraph 22(7) in respect of that other contribution notice,
 the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect.
- (7) Where an agreement is reached under sub-paragraph (6) the authority shall 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 shall specify—
 - (a) the weekly sum which, having regard to paragraph 22, they propose 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) shall not specify a weekly sum greater than that specified by the authority in the proceedings for variation; and
 - (b) shall be made with due regard to the contributor's means.
- (11) An appeal shall lie in accordance with rules of court from any order made under this paragraph.

Commencement Information

I3 Sch. 2 Pt. III para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Enforcement of contribution orders etc.

- 24 (1) A contribution order made by a magistrates' court shall be enforceable as a magistrates' court maintenance order (within the meaning of section 150(1) of the ^{MI}Magistrates' Courts Act 1980).
- (2) Where a contributor has agreed, or has been ordered, to make contributions to a local authority, any other local authority within whose area the contributor is for the time being living may—
 - (a) at the request of the local authority who served the contribution notice; and
 - (b) subject to agreement as to any sum to be deducted in respect of services rendered,

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

- (3) In sub-paragraph (2) the reference to any other local authority includes a reference to—
- (a) a local authority within the meaning of section 1(2) of the ^{M2}Social Work (Scotland) Act 1968; and
 - (b) a Health and Social Services Board established under Article 16 of the ^{M3}Health and Personal Social Services (Northern Ireland) Order 1972.
- (4) The power to collect sums under sub-paragraph (2) 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 (2) shall be paid (subject to any agreed deduction) to the local authority who 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 23; and
 - (b) certified as a true copy by the [^{F6}justices' chief executive for] the court, shall be 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 who obtained the contribution order; and
 - (b) states that any sum due to the authority under the order is overdue and unpaid, shall be evidence that the sum is overdue and unpaid.

Textual Amendments

F6 Words in Sch. 2 para. 24(6) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 162** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

Commencement Information

I4 Sch. 2 Pt. III para. 24 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M1 1980 c. 43.

M2 1968 c. 49.

M3 S.I. 1972/1265 (N.I.14).

Regulations

- 25 The Secretary of State may make regulations—
- (a) as to the considerations which a local authority must take into account in deciding—
 - (i) whether it is reasonable to recover contributions; and

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- (ii) what the arrangements for payment should be;
- (b) as to the procedures they must follow in reaching agreements with—
 - (i) contributors (under paragraphs 22 and 23); and
 - (ii) any other local authority (under paragraph 23).

Commencement Information

I5 Sch. 2 Pt. III para. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

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