



Child Support Act 1991

1991 CHAPTER 48

Collection and enforcement

29 **Collection of child support maintenance.** **E+W+S**

- (1) The Secretary of State may arrange for the collection of any child support maintenance payable in accordance with a maintenance assessment where—
 - (a) the assessment is made by virtue of section 6; or
 - (b) an application has been made to the Secretary of State under section 4(2) or 7(3) for him to arrange for its collection.
- (2) Where a maintenance assessment is made under this Act, payments of child support maintenance under the assessment shall be made in accordance with regulations made by the Secretary of State.
- (3) The regulations may, in particular, make provision—
 - (a) for payments of child support maintenance to be made—
 - (i) to the person caring for the child or children in question;
 - (ii) to, or through, the Secretary of State; or
 - (iii) to, or through, such other person as the Secretary of State may, from time to time, specify;
 - (b) as to the method by which payments of child support maintenance are to be made;
 - (c) as to the intervals at which such payments are to be made;
 - (d) as to the method and timing of the transmission of payments which are made, to or through the Secretary of State or any other person, in accordance with the regulations;
 - (e) empowering the Secretary of State to direct any person liable to make payments in accordance with the assessment—
 - (i) to make them by standing order or by any other method which requires one person to give his authority for payments to be made from an account of his to an account of another's on specific dates

Status: Point in time view as at 08/09/1998.

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- during the period for which the authority is in force and without the need for any further authority from him;
- (ii) to open an account from which payments under the assessment may be made in accordance with the method of payment which that person is obliged to adopt;
- (f) providing for the making of representations with respect to matters with which the regulations are concerned.

Modifications etc. (not altering text)

- C1** S. 29 amended (5.4.1993) by [The Child Support \(Northern Ireland Reciprocal Arrangements\) Regulations 1993 \(S.I. 1993/584\)](#), [reg. 2\(2\)](#), [Sch.2](#)
- C2** S. 29(2)(3) applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643](#), [reg.3](#); s. 29(2)(3) applied (with modifications) (S.) (5.4.1993) by [S.I. 1992/2643](#), [reg.4](#)

Commencement Information

- II** S. 29 wholly in force; s. 29 not in force at Royal Assent see s. 58(2); s. 29(2)(3) in force at 17.6.1992 by [S.I. 1992/1431](#), [art. 2](#), [Sch.](#); s. 29 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644](#), [art. 2](#)

30 Collection and enforcement of other forms of maintenance. **E+W+S**

- (1) Where the Secretary of State is arranging for the collection of any payments under section 29 or subsection (2), he may also arrange for the collection of any periodical payments, or secured periodical payments, of a prescribed kind which are payable to or for the benefit of any person who falls within a prescribed category.
- (2) The Secretary of State may arrange for the collection of any periodical payments or secured periodical payments of a prescribed kind which are payable for the benefit of a child even though he is not arranging for the collection of child support maintenance with respect to that child.
- (3) Where—
- the Secretary of State is arranging, under this Act, for the collection of different payments (“the payments”) from the same absent parent;
 - an amount is collected by the Secretary of State from the absent parent which is less than the total amount due in respect of the payments; and
 - the absent parent has not stipulated how that amount is to be allocated by the Secretary of State as between the payments,
- the Secretary of State may allocate that amount as he sees fit.
- (4) In relation to England and Wales, the Secretary of State may by regulations make provision for sections 29 and 31 to 40 to apply, with such modifications (if any) as he considers necessary or expedient, for the purpose of enabling him to enforce any obligation to pay any amount which he is authorised to collect under this section.
- (5) In relation to Scotland, the Secretary of State may by regulations make provision for the purpose of enabling him to enforce any obligation to pay any amount which he is authorised to collect under this section—
- empowering him to bring any proceedings or take any other steps (other than diligence against earnings) which could have been brought or taken by or on behalf of the person to whom the periodical payments are payable;

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- (b) applying sections 29, 31 and 32 with such modifications (if any) as he considers necessary or expedient.

Modifications etc. (not altering text)

C3 S. 30 amended (5.4.1993) by [The Child Support \(Northern Ireland Reciprocal Arrangements\) Regulations 1993 \(S.I. 1993/584\)](#), reg. 2(2), [Sch. 2](#)

Commencement Information

I2 S. 30 partly in force; s. 30 not in force at Royal Assent see s. 58(2); s. 30(1)(4)(5) in force at 17.6.1992 by [S.I. 1992/1431](#), [art. 2](#), [Sch.](#); s. 30(3) in force at 5.4.1993 by [S.I. 1992/2644](#), [art. 2](#)

31 Deduction from earnings orders. E+W+S

- (1) This section applies where any person (“the liable person”) is liable to make payments of child support maintenance.
- (2) The Secretary of State may make an order (“a deduction from earnings order”) against a liable person to secure the payment of any amount due under the maintenance assessment in question.
- (3) A deduction from earnings order may be made so as to secure the payment of—
- (a) arrears of child support maintenance payable under the assessment;
 - (b) amounts of child support maintenance which will become due under the assessment; or
 - (c) both such arrears and such future amounts.
- (4) A deduction from earnings order—
- (a) shall be expressed to be directed at a person (“the employer”) who has the liable person in his employment; and
 - (b) shall have effect from such date as may be specified in the order.
- (5) A deduction from earnings order shall operate as an instruction to the employer to—
- (a) make deductions from the liable person’s earnings; and
 - (b) pay the amounts deducted to the Secretary of State.
- (6) The Secretary of State shall serve a copy of any deduction from earnings order which he makes under this section on—
- (a) the person who appears to the Secretary of State to have the liable person in question in his employment; and
 - (b) the liable person.
- (7) Where—
- (a) a deduction from earnings order has been made; and
 - (b) a copy of the order has been served on the liable person’s employer,
- it shall be the duty of that employer to comply with the order; but he shall not be under any liability for non-compliance before the end of the period of 7 days beginning with the date on which the copy was served on him.
- (8) In this section and in section 32 “earnings” has such meaning as may be prescribed.

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Modifications etc. (not altering text)

- C4** S. 31 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643, reg.3](#); s. 31 applied (with modifications) (S.) (5.4.1993) by [S.I. 1992/2643, reg.4](#)

Commencement Information

- I3** S. 31 wholly in force; s. 31 not in force at Royal Assent see s. 58(2); s. 31(8) in force at 17.6.1992 by [S.I. 1992/1431, art. 2, Sch.](#); s. 31 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644, art. 2](#)

32 Regulations about deduction from earnings orders. **E+W+S**

- (1) The Secretary of State may by regulations make provision with respect to deduction from earnings orders.
- (2) The regulations may, in particular, make provision—
 - (a) as to the circumstances in which one person is to be treated as employed by another;
 - (b) requiring any deduction from earnings under an order to be made in the prescribed manner;
 - (c) requiring an order to specify the amount or amounts to which the order relates and the amount or amounts which are to be deducted from the liable person's earnings in order to meet his liabilities under the maintenance assessment in question;
 - (d) requiring the intervals between deductions to be made under an order to be specified in the order;
 - (e) as to the payment of sums deducted under an order to the Secretary of State;
 - (f) allowing the person who deducts and pays any amount under an order to deduct from the liable person's earnings a prescribed sum towards his administrative costs;
 - (g) with respect to the notification to be given to the liable person of amounts deducted, and amounts paid, under the order;
 - (h) requiring any person on whom a copy of an order is served to notify the Secretary of State in the prescribed manner and within a prescribed period if he does not have the liable person in his employment or if the liable person ceases to be in his employment;
 - (i) as to the operation of an order where the liable person is in the employment of the Crown;
 - (j) for the variation of orders;
 - (k) similar to that made by section 31(7), in relation to any variation of an order;
 - (l) for an order to lapse when the employer concerned ceases to have the liable person in his employment;
 - (m) as to the revival of an order in such circumstances as may be prescribed;
 - (n) allowing or requiring an order to be discharged;
 - (o) as to the giving of notice by the Secretary of State to the employer concerned that an order has lapsed or has ceased to have effect.
- (3) The regulations may include provision that while a deduction from earnings order is in force—

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- (a) the liable person shall from time to time notify the Secretary of State, in the prescribed manner and within a prescribed period, of each occasion on which he leaves any employment or becomes employed, or re-employed, and shall include in such a notification a statement of his earnings and expected earnings from the employment concerned and of such other matters as may be prescribed;
 - (b) any person who becomes the liable person's employer and knows that the order is in force shall notify the Secretary of State, in the prescribed manner and within a prescribed period, that he is the liable person's employer, and shall include in such a notification a statement of the liable person's earnings and expected earnings from the employment concerned and of such other matters as may be prescribed.
- (4) The regulations may include provision with respect to the priority as between a deduction from earnings order and—
- (a) any other deduction from earnings order;
 - (b) any order under any other enactment relating to England and Wales which provides for deductions from the liable person's earnings;
 - (c) any diligence against earnings.
- (5) The regulations may include a provision that a liable person may appeal to a magistrates' court (or in Scotland to the sheriff) if he is aggrieved by the making of a deduction from earnings order against him, or by the terms of any such order, or there is a dispute as to whether payments constitute earnings or as to any other prescribed matter relating to the order.
- (6) On an appeal under subsection (5) the court or (as the case may be) the sheriff shall not question the maintenance assessment by reference to which the deduction from earnings order was made.
- (7) Regulations made by virtue of subsection (5) may include provision as to the powers of a magistrates' court, or in Scotland of the sheriff, in relation to an appeal (which may include provision as to the quashing of a deduction from earnings order or the variation of the terms of such an order).
- (8) If any person fails to comply with the requirements of a deduction from earnings order, or with any regulation under this section which is designated for the purposes of this subsection, he shall be guilty of an offence.
- (9) In subsection (8) "designated" means designated by the regulations.
- (10) It shall be a defence for a person charged with an offence under subsection (8) to prove that he took all reasonable steps to comply with the requirements in question.
- (11) Any person guilty of an offence under subsection (8) shall be liable on summary conviction to a fine not exceeding level two on the standard scale.

Modifications etc. (not altering text)

C5 S. 32 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643](#), [reg.3](#); s. 32 applied (with modifications) (S.) (5.4.1993) by [S.I. 1992/2643](#), [reg.4](#)

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Commencement Information

- I4** S. 32 wholly in force; s. 32 not in force at Royal Assent see s. 58(2); s. 32(1)-(5)(7)-(9) in force at 17.6.1992 by [S.I. 1992/1431](#), [art. 2](#), [Sch.](#); s. 32 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644](#), [art. 2](#)

33 Liability orders. **E+W+S**

- (1) This section applies where—
- (a) a person who is liable to make payments of child support maintenance (“the liable person”) fails to make one or more of those payments; and
 - (b) it appears to the Secretary of State that—
 - (i) it is inappropriate to make a deduction from earnings order against him (because, for example, he is not employed); or
 - (ii) although such an order has been made against him, it has proved ineffective as a means of securing that payments are made in accordance with the maintenance assessment in question.
- (2) The Secretary of State may apply to a magistrates’ court or, in Scotland, to the sheriff for an order (“a liability order”) against the liable person.
- (3) Where the Secretary of State applies for a liability order, the magistrates’ court or (as the case may be) sheriff shall make the order if satisfied that the payments in question have become payable by the liable person and have not been paid.
- (4) On an application under subsection (2), the court or (as the case may be) the sheriff shall not question the maintenance assessment under which the payments of child support maintenance fell to be made.
- [^{F1}(5) If the Secretary of State designates a liability order for the purposes of this subsection it shall be treated as a judgment entered in a county court for the purposes of section 73 of the County Courts Act 1984 (register of judgments and orders).]

Textual Amendments

- F1** S. 33(5) added (4.9.1995) by [Child Support Act 1995 \(c. 34\)](#), s. 30(4), [Sch. 3 para. 10](#); [S.I. 1995/2302](#), [art. 2](#), [Sch. Pt. 1](#)

Modifications etc. (not altering text)

- C6** S. 33 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643](#), [reg.3](#)

34 Regulations about liability orders. **E+W+S**

- (1) The Secretary of State may make regulations in relation to England and Wales—
- (a) prescribing the procedure to be followed in dealing with an application by the Secretary of State for a liability order;
 - (b) prescribing the form and contents of a liability order; and
 - (c) providing that where a magistrates’ court has made a liability order, the person against whom it is made shall, during such time as the amount in respect of which the order was made remains wholly or partly unpaid, be under a duty to supply relevant information to the Secretary of State.

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- (2) In subsection (1) “relevant information” means any information of a prescribed description which is in the possession of the liable person and which the Secretary of State has asked him to supply.

Modifications etc. (not altering text)

C7 S. 34 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643](#), [reg.3](#)

Commencement Information

I5 S. 34 partly in force; s. 34 not in force at Royal Assent see s. 58(2); s. 34(1) in force at 17.6.1992 by [S.I. 1992/1431](#), [art. 2](#), [Sch.](#)

35 Enforcement of liability orders by distress. E+W

- (1) Where a liability order has been made against a person (“the liable person”), the Secretary of State may levy the appropriate amount by distress and sale of the liable person’s goods.
- (2) In subsection (1), “the appropriate amount” means the aggregate of—
- (a) the amount in respect of which the order was made, to the extent that it remains unpaid; and
 - (b) an amount, determined in such manner as may be prescribed, in respect of the charges connected with the distress.
- (3) The Secretary of State may, in exercising his powers under subsection (1) against the liable person’s goods, seize—
- (a) any of the liable person’s goods except—
 - (i) such tools, books, vehicles and other items of equipment as are necessary to him for use personally by him in his employment, business or vocation;
 - (ii) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying his basic domestic needs; and
 - (b) any money, banknotes, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to the liable person.
- (4) For the purposes of subsection (3), the liable person’s domestic needs shall be taken to include those of any member of his family with whom he resides.
- (5) No person levying a distress under this section shall be taken to be a trespasser—
- (a) on that account; or
 - (b) from the beginning, on account of any subsequent irregularity in levying the distress.
- (6) A person sustaining special damage by reason of any irregularity in levying a distress under this section may recover full satisfaction for the damage (and no more) by proceedings in trespass or otherwise.
- (7) The Secretary of State may make regulations supplementing the provisions of this section.
- (8) The regulations may, in particular—

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- (a) provide that a distress under this section may be levied anywhere in England and Wales;
- (b) provide that such a distress shall not be deemed unlawful on account of any defect or want of form in the liability order;
- (c) provide for an appeal to a magistrates' court by any person aggrieved by the levying of, or an attempt to levy, a distress under this section;
- (d) make provision as to the powers of the court on an appeal (which may include provision as to the discharge of goods distrained or the payment of compensation in respect of goods distrained and sold).

Modifications etc. (not altering text)

C8 S. 35 applied (with modifications) (5.4.1993) by [S.I. 1992/2643, reg.3](#)

Commencement Information

I6 S. 35 wholly in force; s. 35 not in force at Royal Assent see s. 58(2); s. 35(2)(b)(7)(8) in force at 17.6.1992 by [S.I. 1992/1431, art. 2, Sch.](#); s. 35 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644, art. 2](#)

36 Enforcement in county courts. E+W+S

- (1) Where a liability order has been made against a person, the amount in respect of which the order was made, to the extent that it remains unpaid, shall, if a county court so orders, be recoverable by means of garnishee proceedings or a charging order, as if it were payable under a county court order.
- (2) In subsection (1) “charging order” has the same meaning as in section 1 of the ^{M1}Charging Orders Act 1979.

Modifications etc. (not altering text)

C9 S. 36 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643, reg.3](#)

Marginal Citations

M1 1979 c. 53.

37 Regulations about liability orders: Scotland. E+W+S

- (1) Section 34(1) does not apply to Scotland.
- (2) In Scotland, the Secretary of State may make regulations providing that where the sheriff has made a liability order, the person against whom it is made shall, during such time as the amount in respect of which the order was made remains wholly or partly unpaid, be under a duty to supply relevant information to the Secretary of State.
- (3) In this section “relevant information” has the same meaning as in section 34(2).

Modifications etc. (not altering text)

C10 S. 37 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643, reg.3](#)

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Commencement Information

I7 S. 37 partly in force; s. 37 not in force at Royal Assent see s. 58(2); s. 37(1) in force at 5.4.1993 by S.I. 1992/2644, [art. 2](#)

38 Enforcement of liability orders by diligence: Scotland. **E+W+S**

- (1) In Scotland, where a liability order has been made against a person, the order shall be warrant anywhere in Scotland—
 - (a) for the Secretary of State to charge the person to pay the appropriate amount and to recover that amount by a poinding and sale under Part II of the ^{M2}Debtors (Scotland) Act 1987 and, in connection therewith, for the opening of shut and lockfast places;
 - (b) for an arrestment (other than an arrestment of the person's earnings in the hands of his employers) and action of furthcoming or sale,and shall be apt to found a Bill of Inhibition or an action of adjudication at the instance of the Secretary of State.
- (2) In subsection (1) the “appropriate amount” means the amount in respect of which the order was made, to the extent that it remains unpaid.

Modifications etc. (not altering text)

C11 S. 38 applied (with modifications) (E.W.) (5.4.1993) by S.I. 1992/2643, [reg.3](#)

Marginal Citations

M2 1987 c. 18.

39 Liability orders: enforcement throughout United Kingdom. **E+W+S**

- (1) The Secretary of State may by regulations provide for—
 - (a) any liability order made by a court in England and Wales; or
 - (b) any corresponding order made by a court in Northern Ireland,to be enforced in Scotland as if it had been made by the sheriff.
- (2) The power conferred on the Court of Session by section 32 of the ^{M3}Sheriff Courts (Scotland) Act 1971 (power of Court of Session to regulate civil procedure in the sheriff court) shall extend to making provision for the registration in the sheriff court for enforcement of any such order as is referred to in subsection (1).
- (3) The Secretary of State may by regulations make provision for, or in connection with, the enforcement in England and Wales of—
 - (a) any liability order made by the sheriff in Scotland; or
 - (b) any corresponding order made by a court in Northern Ireland,as if it had been made by a magistrates' court in England and Wales.
- (4) Regulations under subsection (3) may, in particular, make provision for the registration of any such order as is referred to in that subsection in connection with its enforcement in England and Wales.

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Modifications etc. (not altering text)

C12 S. 39 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643, reg.3](#)

Marginal Citations

M3 [1971 c. 58.](#)

40 Commitment to prison. E+W+S

- (1) Where the Secretary of State has sought—
 - (a) to levy an amount by distress under this Act; or
 - (b) to recover an amount by virtue of section 36,
 and that amount, or any portion of it, remains unpaid he may apply to a magistrates' court for the issue of a warrant committing the liable person to prison.
- (2) On any such application the court shall (in the presence of the liable person) inquire as to—
 - (a) the liable person's means; and
 - (b) whether there has been wilful refusal or culpable neglect on his part.
- (3) 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) issue a warrant of commitment against him; or
 - (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as it thinks just.
- (4) Any such warrant—
 - (a) shall be made in respect of an amount equal to the aggregate of—
 - (i) the amount mentioned in section 35(1) or so much of it as remains outstanding; and
 - (ii) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the costs of commitment; and
 - (b) shall state that amount.
- (5) No warrant may be issued under this section against a person who is under the age of 18.
- (6) 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.
- (7) The maximum period of imprisonment which may be imposed by virtue of subsection (6) shall be calculated in accordance with Schedule 4 to the ^{M4}Magistrates' Courts Act 1980 (maximum periods of imprisonment in default of payment) but shall not exceed six weeks.
- (8) 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.

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- (9) A warrant issued under this section may be directed to such person or persons as the court issuing it thinks fit.
- (10) Section 80 of the Magistrates' Courts Act 1980 (application of money found on defaulter) shall apply in relation to a warrant issued under this section against 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—
- (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 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, a justice of the peace may issue a summons to him to appear before a magistrates' court and (if he does not obey) may issue a warrant for his arrest;
 - (e) that for the purpose of enabling such an inquiry, a justice of the peace may issue a warrant for the liable person's arrest without issuing a summons;
 - (f) as to the execution of a warrant for arrest.
- (12) Subsections (1) to (11) do not apply to Scotland.
- (13) For the avoidance of doubt, it is declared that a sum payable under a liability order is a sum decerned for aliment for the purposes of the ^{M5}Debtors (Scotland) Act 1880 and the ^{M6}Civil Imprisonment (Scotland) Act 1882.
- (14) Where a liability order has been made, the Secretary of State (and he alone) shall be regarded as, and may exercise all the powers of, the creditor for the purposes of section 4 (imprisonment for failure to obey decree for alimentary debt) of the ^{M7}Civil Imprisonment (Scotland) Act 1882.

Modifications etc. (not altering text)

C13 S. 40 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643, reg.3](#)

Commencement Information

I8 S. 40 wholly in force; s. 40 not in force at Royal Assent see s. 58(2); s. 40(4)(a)(ii)(8)(11) in force at 17.6.1992 by [S.I. 1992/1431, art. 2, Sch.](#); s. 40 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644, art. 2](#)

Marginal Citations

M4 1980 c. 43.
M5 1880 c. 34.
M6 1882 c. 42.
M7 1882 c. 42.

41 Arrears of child support maintenance. E+W+S

- (1) This section applies where—

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- (a) the Secretary of State is authorised under section 4, 6 or 7 to recover child support maintenance payable by an absent parent in accordance with a maintenance assessment; and
 - (b) the absent parent has failed to make one or more payments of child support maintenance due from him in accordance with that assessment.
- [^{F2}(2) Where the Secretary of State recovers any such arrears he may, in such circumstances as may be prescribed and to such extent as may be prescribed, retain them if he is satisfied that the amount of any benefit paid to or in respect of the person with care of the child or children in question would have been less had the absent parent made the payment or payments of child support maintenance in question.
- (2A) In determining for the purposes of subsection (2) whether the amount of any benefit paid would have been less at any time than the amount which was paid at that time, in a case where the maintenance assessment had effect from a date earlier than that on which it was made, the assessment shall be taken to have been in force at that time.]
- (3) In such circumstances as may be prescribed, the absent parent shall be liable to make such payments of interest with respect to the arrears of child support maintenance as may be prescribed.
- (4) The Secretary of State may by regulations make provision—
- (a) as to the rate of interest payable by virtue of subsection (3);
 - (b) as to the time at which, and person to whom, any such interest shall be payable;
 - (c) as to the circumstances in which, in a case where the Secretary of State has been acting under section 6, any such interest may be retained by him;
 - (d) for the Secretary of State, in a case where he has been acting under section 6 and in such circumstances as may be prescribed, to waive any such interest (or part of any such interest).
- (5) The provisions of this Act with respect to—
- (a) the collection of child support maintenance;
 - (b) the enforcement of any obligation to pay child support maintenance,
- shall apply equally to interest payable by virtue of this section.
- (6) Any sums retained by the Secretary of State by virtue of this section shall be paid by him into the Consolidated Fund.

Textual Amendments

F2 S. 41(2)(2A) substituted for s. 41(2) (1.10.1995) by [Child Support Act 1995 \(c. 34\), s. 30\(4\), Sch. 3 para. 11](#); [S.I. 1995/2302, art. 2, Sch. Pt. 2](#)

Commencement Information

I9 S. 41 wholly in force; s. 41 not in force at Royal Assent see s. 58(2); s. 41(2)-(4) in force at 17.6.1992 by [S.I. 1992/1431, art. 2, Sch.](#); s. 41 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644, art. 2](#)

Status: Point in time view as at 08/09/1998.

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[^{F3}**41B** **Repayment of overpaid child support maintenance.** **E+W+S**]

- (1) This section applies where it appears to the Secretary of State that an absent parent has made a payment by way of child support maintenance which amounts to an overpayment by him of that maintenance and that—
 - (a) it would not be possible for the absent parent to recover the amount of the overpayment by way of an adjustment of the amount payable under a maintenance assessment; or
 - (b) it would be inappropriate to rely on an adjustment of the amount payable under a maintenance assessment as the means of enabling the absent parent to recover the amount of the overpayment.
- (2) The Secretary of State may make such payment to the absent parent by way of reimbursement, or partial reimbursement, of the overpayment as the Secretary of State considers appropriate.
- (3) Where the Secretary of State has made a payment under this section he may, in such circumstances as may be prescribed, require the relevant person to pay to him the whole, or a specified proportion, of the amount of that payment.
- (4) Any such requirement shall be imposed by giving the relevant person a written demand for the amount which the Secretary of State wishes to recover from him.
- (5) Any sum which a person is required to pay to the Secretary of State under this section shall be recoverable from him by the Secretary of State as a debt due to the Crown.
- (6) The Secretary of State may by regulations make provision in relation to any case in which—
 - (a) one or more overpayments of child support maintenance are being reimbursed to the Secretary of State by the relevant person; and
 - (b) child support maintenance has continued to be payable by the absent parent concerned to the person with care concerned, or again becomes so payable.
- (7) For the purposes of this section any payments made by a person under a maintenance assessment which was not validly made shall be treated as overpayments of child support maintenance made by an absent parent.
- (8) In this section “relevant person”, in relation to an overpayment, means the person with care to whom the overpayment was made.
- (9) Any sum recovered by the Secretary of State under this section shall be paid by him into the Consolidated Fund.]

Textual Amendments

- F3** S. 41B inserted (4.9.1995 for specified purposes, 1.10.1995 for specified purposes) by [Child Support Act 1995 \(c. 34\)](#), **ss. 23, 30(4)**; S.I. 1995/2302, art. 2, Sch. Pts. 1, 2

Status:

Point in time view as at 08/09/1998.

Changes to legislation:

Child Support Act 1991, Cross Heading: Collection and enforcement is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.