



Child Support, Pensions and Social Security Act 2000

2000 CHAPTER 19

PART I

CHILD SUPPORT

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)(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.
- (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.