



# Welfare Reform Act 2012

## 2012 CHAPTER 5

### PART 6

#### MISCELLANEOUS

##### *Child support maintenance*

#### **136 Supporting maintenance agreements**

- (1) In section 9 of the Child Support Act 1991 (maintenance agreements), after subsection (2) there is inserted—

“(2A) The [<sup>F1</sup>Secretary of State] may, with a view to reducing the need for applications under sections 4 and 7—

- (a) take such steps as [<sup>F2</sup>the Secretary of State] considers appropriate to encourage the making and keeping of maintenance agreements, and
- (b) in particular, before accepting an application under those sections, invite the applicant to consider with the [<sup>F3</sup>Secretary of State] whether it is possible to make such an agreement.”

- (2) In Schedule 5 to the Child Maintenance and Other Payments Act 2008 (maintenance calculations: transfer of cases to new rules), in paragraph 3, after sub-paragraph (2) there is inserted—

“(3) The [<sup>F4</sup>Secretary of State] may before accepting an application required by provision under sub-paragraph (2)(b) invite the applicant to consider with the [<sup>F4</sup>Secretary of State] whether it is possible to make a maintenance agreement (within the meaning of section 9 of the Child Support Act 1991).”

*Status: Point in time view as at 23/06/2014. This version of this cross heading contains provisions that are not valid for this point in time.*

**Changes to legislation:** Welfare Reform Act 2012, Cross Heading: Child support maintenance is up to date with all changes known to be in force on or before 01 September 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. (See end of Document for details)

### Textual Amendments

- F1** Words in s. 136(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(2)(a)**
- F2** Words in s. 136(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(2)(b)**
- F3** Words in s. 136(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(2)(c)**
- F4** Words in s. 136(2) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(3)**

### Commencement Information

- II** [S. 136](#) in force at 25.11.2013 by [S.I. 2013/2947](#), **art. 6**

VALID FROM 30/06/2014

## 137 Collection of child support maintenance

- (1) The Child Support Act 1991 is amended as follows.
- (2) In section 4 (child support maintenance)—
- in subsection (2), the words from “or” to “made” are repealed;
  - after subsection (2) there is inserted—
 

“(2A) The [<sup>F5</sup>Secretary of State] may only make arrangements under subsection (2)(a) if—

    - the non-resident parent agrees to the arrangements, or
    - the [<sup>F5</sup>Secretary of State] is satisfied that without the arrangements child support maintenance is unlikely to be paid in accordance with the calculation.”
- (3) In section 7 (right of child in Scotland to apply for calculation)—
- in subsection (3), for the words from “person with care” to “made or” there is substituted “person with care or”;
  - after subsection (3) there is inserted—
 

“(3A) The [<sup>F6</sup>Secretary of State] may only make arrangements under subsection (3)(a) if—

    - the non-resident parent agrees to the arrangements, or
    - the [<sup>F6</sup>Secretary of State] is satisfied that without the arrangements child support maintenance is unlikely to be paid in accordance with the calculation.”
- (4) In section 29 (collection of child support maintenance), in subsection (1), after “may” there is inserted “(subject to section 4(2A) and 7(3A))”.

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#### Textual Amendments

- F5** Words in s. 137(2)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 106(2)**
- F6** Words in s. 137(3)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 106(3)**

#### PROSPECTIVE

### 138 Indicative maintenance calculations

After section 9 of the Child Support Act 1991 there is inserted—

#### “9A Maintenance agreements: indicative calculations

- (1) A person with care or non-resident parent in relation to any qualifying child or qualifying children may apply to the [<sup>F7</sup>Secretary of State] for an indicative calculation with respect to that child or any of those children.
- (2) A qualifying child who has attained the age of 12 years and is habitually resident in Scotland may apply to the [<sup>F7</sup>Secretary of State] for an indicative calculation with respect to himself or herself.
- (3) An indicative calculation is a calculation of the amount of child support maintenance which the [<sup>F7</sup>Secretary of State] considers would in accordance with section 11 be fixed by a maintenance calculation if such a calculation were made with respect to the child or children in question.
- (4) An indicative calculation does not create any liability on any person to pay child support maintenance.
- (5) The [<sup>F8</sup>Secretary of State] may limit the number of applications [<sup>F8</sup>the Secretary of State] will accept under this section in any particular case in such manner as [<sup>F8</sup>the Secretary of State] thinks fit.
- (6) Where a person who is alleged to be the parent of a child with respect to whom an application for an indicative calculation has been made denies being one of the child's parents, the [<sup>F9</sup>Secretary of State] shall not make the indicative calculation on the assumption that the person is one of the child's parents unless the case falls within paragraph (b) of Case A3 in section 26(2).”

#### Textual Amendments

- F7** Words in s. 138 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 107(2)**
- F8** Words in s. 138 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 107(3)**

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- F9** Words in s. 138 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 107(4)**

### 139 Recovery of child support maintenance by deduction from benefit

In section 43 of the Child Support Act 1991 (as substituted by the Child Support, Pensions and Social Security Act 2000), for subsections (1) and (2) there is substituted—

- “(1) 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) of that section may be exercised with a view to securing the making of payments in respect of child support maintenance by a non-resident parent.
- (2) The reference in subsection (1) to the making of payments in respect of child support maintenance includes the recovery of—
- (a) arrears of child support maintenance, and
  - (b) fees payable under section 6 of the Child Maintenance and Other Payments Act 2008.”

#### Commencement Information

- I2** [S. 139](#) in force at 4.2.2014 by [S.I. 2014/209](#), **art. 6**

### 140 Fees

In section 6 of the Child Maintenance and Other Payments Act 2008 (fees), in subsection (2)—

- (a) in paragraph (d), at the end there is inserted “”; “(including provision for the apportionment of fees and the matters to be taken into account in determining an apportionment)”
- (b) in paragraph (g), “waiver” is repealed;
- (c) after paragraph (g) there is inserted—
  - “(h) about waiver of fees (including the matters to be taken into account in determining a waiver).”

#### Commencement Information

- I3** [S. 140](#) in force at 25.11.2013 by [S.I. 2013/2947](#), **art. 6**

### 141 Review of fees regulations

In section 6 of the Child Maintenance and Other Payments Act 2008 (fees), after subsection (3) there is inserted—

- “(3A) The Secretary of State must review the effect of the first regulations made under subsection (1).

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- (3B) The review must take place before the end of the period of 30 months beginning with the day on which those regulations come into force.
- (3C) After the review, the Secretary of State must make and publish a report containing—
- (a) the conclusions of the review, and
  - (b) a statement as to what the Secretary of State proposes to do in view of those conclusions.
- (3D) The report must be laid before Parliament by the Secretary of State.”

**Commencement Information**

**I4** [S. 141](#) in force at 25.11.2013 by [S.I. 2013/2947](#), [art. 6](#)

**142 Exclusion from individual voluntary arrangements**

- (1) In the Insolvency Act 1986, in section 382 (meaning of “bankruptcy debt” etc), at the end there is inserted—
- “(5) Liability under the Child Support Act 1991 to pay child support maintenance to any person is not a debt or liability for the purposes of Part 8.”
- (2) In the heading to that section, after “bankruptcy debt” there is substituted “, “liability””.

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