



# Supplementary Benefits Act 1976

## 1976 CHAPTER 71

### PART II

#### LIABILITY TO MAINTAIN, RECOVERY OF EXPENDITURE AND OFFENCES

##### *Liability to maintain*

#### **17 Liability to maintain**

- (1) For the purposes of this Act—
  - (a) a man shall be liable to maintain his wife and his children; and
  - (b) a woman shall be liable to maintain her husband and her children.
- (2) In subsection (1) above—
  - (a) the reference to a man's children includes a reference to children of whom he has been adjudged to be the putative father, or, in Scotland, to children his paternity of whom has been admitted or otherwise established; and
  - (b) the reference to a woman's children includes a reference to her illegitimate children.

##### *Recovery of expenditure*

#### **18 Recovery of expenditure on supplementary benefits from persons liable for maintenance**

- (1) Where supplementary benefit is paid or claimed to meet requirements which are, or include, those of a person whom another person is, for the purposes of this Act, liable to maintain (in this section referred to respectively as " the dependant " and " the liable relative ") the Commission may make a complaint against the liable relative to a magistrates' court for an order under this section.
- (2) No complaint under subsection (1) above shall be made where the dependant is an illegitimate child and the liable relative is his father.

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- (3) On the hearing of a complaint under subsection (1) above the court shall have regard to all the circumstances and, in particular, to the resources of the liable relative, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate.
- (4) In determining whether to order any payments to be made in respect of supplementary benefit for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable relative's resources exceed the resources which were his during that period.
- (5) Any payments ordered to be made under this section shall be made—
  - (a) to the Secretary of State in so far as they are attributable to any supplementary benefit (whether paid before or after the making of the order);
  - (b) to the person claiming supplementary benefit or (if different) the dependant; or
  - (c) to such other person as appears to the court expedient in the interests of the dependant.
- (6) Where the order provides for the making of payments to the Secretary of State, the Commission shall be a party to any proceedings with respect to the enforcement, revocation or variation of the order to which, but for this subsection, the Secretary of State would be a party.
- (7) An order under this section shall be enforceable as an affiliation order, and any proceedings for such an order (but not proceedings for the enforcement, revocation or variation of such an order) shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts Act 1952; and section 56 of that Act (definition of " domestic proceedings ") shall have effect accordingly.
- (8) In the application of this section to Scotland, subsections (2) and (7) shall be omitted, and for the references to a complaint and to a magistrates' court there shall be substituted respectively references to an application and to the sheriff.

## **19 Affiliation orders**

- (1) The provisions of this section apply in any case in which supplementary benefit is paid to meet requirements which include those of an illegitimate child.
- (2) If no affiliation order is in force the Commission may, within three years from the time when any payment by way of supplementary benefit was made, make application to a justice of the peace acting for the petty sessions area in which the mother of the child resides for a summons to be served under section 1 of the Affiliation Proceedings Act 1957.
- (3) In any proceedings on an application under subsection (2) above the court shall hear such evidence as the Commission may produce, and shall in all other respects, subject to the provisions of subsection (4) below, proceed as on an application made by the mother under section 1 of the said Act of 1957.
- (4) An affiliation order—
  - (a) made on an application made by the Commission under subsection (2) above ;  
or
  - (b) made on an application made by the Commission in proceedings brought by the mother of the child under section 1 of the said Act of 1957 ;

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may be made so as to provide that the payments, or a part of the payments, to be made under the order shall, instead of being made to the mother or a person having custody of the child, be made to the Secretary of State or to such other person as the court may direct.

- (5) Any affiliation order, whether made before or after the commencement of this Act, may, on the application of the Commission, be varied so as to provide for the making of payments, or part thereof, as mentioned in subsection (4) above; and an application by the Commission under this subsection may be made—
  - (a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and
  - (b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.
- (6) Any affiliation order which provides for the making of payments, or part thereof, as mentioned in subsection (4) above may, on the application of the mother of the child, be varied so as to provide that the payments shall be made to the mother or a person having the custody of the child.
- (7) Where an affiliation order provides for the making of payments, or part thereof, to the Secretary of State, the Commission shall be a party to any proceedings with respect to the enforcement, revocation or variation of the order to which, but for this subsection, the Secretary of State would be a party.
- (8) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (2) to (7) above—
  - (a) the Commission shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child ;
  - (b) where in any action of affiliation and aliment in respect of the child, whether at the instance of the Commission under the foregoing paragraph or at the instance of the mother, the sheriff grants or has granted decree against any person for payment of aliment for the child, the sheriff may at the time of granting the decree or at any subsequent time on the application of the Commission, order that the sums due under the decree or any part thereof shall, instead of being paid to the mother of the child, be paid to the Secretary of State or to such other person as the sheriff may direct;
  - (c) if such an order is made in favour of the Secretary of State, the Commission, or, if it is made in favour of another person, that person, shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act 1882, as if the decree were a decree in favour of the Commission or other person.

## **20 Recovery in cases of misrepresentation or non-disclosure**

- (1) If, whether fraudulently or otherwise, any person misrepresents, or fails to disclose, any material fact, and in consequence of the misrepresentation or failure—
  - (a) the Secretary of State incurs any expenditure under this Act; or
  - (b) any sum recoverable under this Act by or on behalf of the Secretary of State is not recovered ;the Secretary of State shall be entitled to recover the amount thereof from that person.

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- (2) If, whether in connection with any legal proceedings or otherwise, any question arises whether any amount paid by way of supplementary benefit is recoverable by the Secretary of State under this section, or as to the amount so recoverable, the question shall be referred to the Appeal Tribunal, and the decision of the tribunal shall be conclusive for all purposes.
- (3) A certificate signed by the clerk of the Appeal Tribunal showing the decision of the tribunal upon a question referred to it under subsection (2) above shall be conclusive evidence of that decision in any legal proceedings; and any certificate purporting to be signed by the clerk of the Appeal Tribunal shall be deemed to be so signed unless the contrary is proved.
- (4) Where any amount paid by way of supplementary benefit is recoverable under this section, it may, without prejudice to any other method of recovery, be recovered by deduction from benefit under Part II of the Social Security Act 1975 or Part II of the Social Security Pensions Act 1975.
- (5) Until 6th April 1979, in subsection (4) above, the words " or Part II of the Social Security Pensions Act 1975 " shall be omitted.

### *Offences*

#### **21 False statements**

If any person—

- (a) for the purpose of obtaining supplementary benefit or any other payment under this Act for himself or for another person; or
- (b) for the purpose of avoiding or reducing any liability under this Act;

makes any statement or representation which he knows to be false, he shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.

#### **22 Impersonation of officers**

If any person, with intent to deceive, falsely represents himself to be a person authorised by the Secretary of State for Social Services or the Commission to act in any capacity (whether under this Act or otherwise) he shall be liable on summary conviction to a fine not exceeding £100.

#### **23 Illegal possession of documents**

(1) If any person—

- (a) as a pledge or a security for a debt; or
- (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person;

receives, detains or has in his possession any document issued by or on behalf of the Secretary of State for Social Services in connection with any benefit, pension or allowance (whether payable under this Act or otherwise), he shall be guilty of an offence.

- (2) If any person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him), he shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.

#### **24 Failure to notify cessation of employment or re-employment etc.**

- (1) If any person fails to comply with a provision to which this section applies requiring him to give notice of any matter to the Secretary of State, he shall be liable on summary conviction to a fine not exceeding £20.
- (2) This section applies to—
  - (a) any provision of regulations made, or having effect as if made, under section 14 of this Act in pursuance of paragraph 2 of Part III of Schedule 2 to this Act (notice to be given where, after service of a deduction notice under that Schedule in relation to any person, his employment ceases or he is re-employed); and
  - (b) the provisions of paragraph 4(5) of Part II of Schedule 2 to this Act (notice to be given where no deduction is made from an employee's earnings).

#### **25 Failure to maintain**

- (1) If any person persistently refuses or neglects to maintain himself or any person whom for the purposes of this Act he is liable to maintain, and in consequence of his refusal or neglect—
  - (a) supplementary benefit is awarded to meet requirements which are, or include, his or those of such a person ; or
  - (b) free board and lodging are provided for him or such a person in a reception centre provided under section 30 of this Act;he shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.
- (2) For the purposes of this section, a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

#### *Legal proceedings*

#### **26 Legal proceedings**

- (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under this Act before a magistrates' court although not a barrister or solicitor.
- (2) Without prejudice to any other method of recovery, any sum due under this Act to the Secretary of State, other than a sum due under an order enforceable as an affiliation order, shall be recoverable summarily as a civil debt.
- (3) Notwithstanding anything in any Act—

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- (a) proceedings under this Act for the recovery of a sum recoverable summarily as a civil debt may be begun at any time within three years after the sum became due;
  - (b) proceedings for an offence under this Act may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires.
- (4) For the purposes of subsection (3) above, a certificate purporting to be signed by, or on behalf of, the Secretary of State as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to his knowledge shall be conclusive evidence of that date.
- (5) In any proceedings for an offence under this Act the wife or husband of the accused shall be competent to give evidence, whether for or against the accused, but shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or to him by the accused during the marriage.
- (6) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) to (4) above—
- (a) proceedings for an offence under this Act may, notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, be commenced at any time within the period of three months from the date on which evidence sufficient in the opinion of the appropriate authority to justify proceedings comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires;
  - (b) for the purposes of this subsection—
    - (i) " the appropriate authority " means the Secretary of State or, in the case of proceedings which are not preceded by a report of the facts made by the Secretary of State to the Lord Advocate, means the Lord Advocate ;
    - (ii) a certificate of the appropriate authority as to the date on which such evidence as is mentioned above comes to his knowledge shall be conclusive evidence; and
    - (iii) subsection (3) of section 331 of the said Act of 1975 (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.