



# Child Support Act 1991

## 1991 CHAPTER 48

### *Collection and enforcement*

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

- (1) The [<sup>F1</sup>Secretary of State] may arrange for the collection of any child support maintenance payable in accordance with a [<sup>F2</sup>maintenance calculation] where—
  - <sup>F3</sup>(a) .....
  - (b) an application has been made to the [<sup>F1</sup>Secretary of State] under section 4(2) or 7(3) for [<sup>F1</sup>the Secretary of State] to arrange for its collection.
- (2) Where a [<sup>F2</sup>maintenance calculation] is made under this Act, payments of child support maintenance under the [<sup>F4</sup>calculation] 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 [<sup>F5</sup>Secretary of State]; or
    - (iii) to, or through, such other person as the [<sup>F5</sup>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;
  - <sup>F6</sup>(c) for determining, on the basis of prescribed assumptions, the total amount of the payments of child support maintenance payable in a reference period (including provision for adjustments to such an amount);]
  - <sup>F6</sup>(ca) requiring payments of child support maintenance to be made—
    - (i) by reference to such an amount and a reference period; and
    - (ii) at prescribed intervals falling in a reference period;]
  - (d) as to the method and timing of the transmission of payments which are made, to or through the [<sup>F5</sup>Secretary of State] or any other person, in accordance with the regulations;

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- (e) empowering the [<sup>F5</sup>Secretary of State] to direct any person liable to make payments in accordance with the [<sup>F4</sup>calculation]—
    - (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 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 [<sup>F4</sup>calculation] 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.
- [<sup>F7</sup>(3A) In subsection (3)(c) and (ca) “a reference period” means—
- (a) a period of 52 weeks beginning with a prescribed date; or
  - (b) in prescribed circumstances, a prescribed period.]
- [<sup>F8</sup>(4) If the regulations include provision for payment by means of deduction in accordance with an order under section 31, they must make provision—
- (a) for that method of payment not to be used in any case where there is good reason not to use it; and
  - (b) for the person against whom the order under section 31 would be made to have a right of appeal to a magistrates' court (or, in Scotland, to the sheriff) against a decision that the exclusion required by paragraph (a) does not apply.
- (5) On an appeal under regulations made under subsection (4)(b) the court or (as the case may be) the sheriff shall not question the maintenance calculation by reference to which the order under section 31 would be made.
- (6) Regulations under subsection (4)(b) may include—
- (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
  - (b) provision with respect to the powers of a magistrates' court (or, in Scotland, of the sheriff) in relation to an appeal under the regulations.
- (7) If the regulations include provision for payment by means of deduction in accordance with an order under section 31, they may make provision—
- (a) prescribing matters which are, or are not, to be taken into account in determining whether there is good reason not to use that method of payment;
  - (b) prescribing circumstances in which good reason not to use that method of payment is, or is not, to be regarded as existing.]

#### Textual Amendments

- F1** Words in s. 29(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. 30(a)**
- F2** Words in [Act](#) substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 1(2)(a)**, 86(1)(a)(2) (with [ss. 28](#), 83(6)); [S.I. 2003/192](#), art. 3, **Sch.**
- F3** [S. 29\(1\)\(a\)](#) repealed (27.10.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), **Sch. 8**; [S.I. 2008/2548](#), art. 3(d)(i)

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- F4** Word in Act substituted (3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 1(2)(b)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2003/192, art. 3, Sch.
- F5** Words in s. 29(3) 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. 30(b)**
- F6** S. 29(3)(c)(ca) substituted for s. 29(3)(c) (8.10.2012) by Welfare Reform Act 2009 (c. 24), **ss. 54(2)**, 61(3); S.I. 2012/2523, art. 2(1)(e)
- F7** S. 29(3A) inserted (8.10.2012) by Welfare Reform Act 2009 (c. 24), **ss. 54(3)**, 61(3); S.I. 2012/2523, art. 2(1)(e)
- F8** S. 29(4)-(7) inserted (26.9.2008 for specified purposes, 27.10.2008 in so far as not already in force) by Child Maintenance and Other Payments Act 2008 (c. 6), **ss. 20**, 62(3); S.I. 2008/2548, art. 2(a)

**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** Ss. 29-41B modified by The Child Support (Transitional Provisions) Regulations 2000 (S.I. 2000/3186), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C3** 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**

- I1** 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 [<sup>F9</sup>Secretary of State] is arranging for the collection of any payments under section 29 or subsection (2), [<sup>F9</sup>the Secretary of State] 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.
- [<sup>F10</sup>(2) The [<sup>F9</sup>Secretary of State] may, except in prescribed cases, 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 [<sup>F9</sup>the Secretary of State] is not arranging for the collection of child support maintenance with respect to that child.]
- (3) Where—
- the [<sup>F11</sup>Secretary of State] is arranging, under this Act, for the collection of different payments (“the payments”) from the same [<sup>F12</sup>non-resident parent];
  - an amount is collected by the [<sup>F11</sup>Secretary of State] from the [<sup>F12</sup>non-resident parent] which is less than the total amount due in respect of the payments; and
  - the [<sup>F12</sup>non-resident parent] has not stipulated how that amount is to be allocated by the [<sup>F11</sup>Secretary of State] as between the payments,
- the [<sup>F11</sup>Secretary of State] may allocate that amount as [<sup>F11</sup>the Secretary of State] 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 [<sup>F13</sup>enabling the Secretary of State

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to enforce any obligation to pay any amount for the collection of which the Secretary of State is authorised under this section to make arrangements] .

- (5) In relation to Scotland, the Secretary of State may by regulations make provision for the purpose of [<sup>F13</sup>enabling the Secretary of State to enforce any obligation to pay any amount for the collection of which the Secretary of State is authorised under this section to make arrangements]—
- (a) empowering [<sup>F14</sup>the [<sup>F15</sup>Secretary of State]] 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;
  - (b) applying sections 29, 31 and 32 with such modifications (if any) as he considers necessary or expedient.

#### Textual Amendments

- F9** Words in s. 30(1)(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. 31(a)**
- F10** S. 30(2) substituted (3.3.2003) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(a)(2), **Sch. 3 para. 11(15)** (with s. 83(6)); S.I. 2003/192, art. 7
- F11** Words in s. 30(3) 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. 31(b)**
- F12** Words in Act substituted (31.1.2001 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(a)(2), **Sch. 3 para. 11(2)** (with s. 83(6)); S.I. 2000/3354, art. 2(1)(b); S.I. 2003/192, art. 3, Sch.
- F13** Words in s. 30(4)(5) 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. 31(c)**
- F14** Words in s. 30(5) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), **Sch. 3 para. 33(4)(a)**; S.I. 2008/2675, art. 3(b)
- F15** Words in s. 30(5)(a) 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. 31(d)**

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C4** 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.

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- (2) The [F16Secretary 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 [F2maintenance calculation] in question.
- (3) A deduction from earnings order may be made so as to secure the payment of—
- arrears of child support maintenance payable under the [F4calculation];
  - amounts of child support maintenance which will become due under the [F4calculation]; or
  - both such arrears and such future amounts.
- (4) A deduction from earnings order—
- shall be expressed to be directed at a person (“the employer”) who has the liable person in his employment; and
  - 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—
- make deductions from the liable person’s earnings; and
  - pay the amounts deducted to the [F17Secretary of State].
- (6) The [F18Secretary of State] shall serve a copy of any deduction from earnings order [F18made] under this section on—
- the person who appears to the [F18Secretary of State] to have the liable person in question in his employment; and
  - the liable person.
- (7) Where—
- a deduction from earnings order has been made; and
  - 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.

#### Textual Amendments

- F2** Words in Act substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 1\(2\)\(a\)](#), 86(1)(a)(2) (with [ss. 28, 83\(6\)](#)); S.I. 2003/192, art. 3, Sch.
- F4** Word in Act substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 1\(2\)\(b\)](#), 86(1)(a)(2) (with [ss. 28, 83\(6\)](#)); S.I. 2003/192, art. 3, Sch.
- F16** Words in s. 31(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. 32\(a\)](#)
- F17** Words in s. 31(5)(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. 32\(a\)](#)
- F18** Words in s. 31(6) 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. 32\(b\)](#)

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#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), [reg. 16\(2A\)](#) (as inserted (21.2.2003) by [S.I. 2003/328](#), [regs. 1\(3\)\(a\)](#), [9\(7\)\(b\)](#))
- C5** 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;
  - <sup>[F19]</sup>(bb) for the amount or amounts which are to be deducted from the liable person's earnings not to exceed a prescribed proportion of his earnings (as determined by the employer);]
  - (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 <sup>[F2]</sup>maintenance calculation] 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 <sup>[F20]</sup>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 <sup>[F20]</sup>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;

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- (o) as to the giving of notice by the [<sup>F20</sup>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—
  - (a) the liable person shall from time to time notify the [<sup>F20</sup>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 [<sup>F20</sup>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 [<sup>F2</sup>maintenance calculation] by reference to which the deduction from earnings order was made.
- (7) Regulations made by virtue of subsection (5) may include [<sup>F21</sup>—
  - (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
  - (b)] 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.

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### Textual Amendments

- F2** Words in *Act* substituted (3.3.2003 for specified purposes) by *Child Support, Pensions and Social Security Act 2000 (c. 19)*, **ss. 1(2)(a)**, 86(1)(a)(2) (with **ss. 28, 83(6)**); S.I. 2003/192, art. 3, **Sch.**
- F19** S. 32(2)(bb) inserted (3.3.2003 for specified purposes, 26.9.2008 for specified purposes, 27.10.2008 in so far as not already in force) by *Child Support, Pensions and Social Security Act 2000 (c. 19)*, s. 86(1)(a)(2), **Sch. 3 para. 11(16)** (with s. 83(6)); S.I. 2003/192, art. 3, **Sch.**; S.I. 2008/2545, art. 3(a)(b)
- F20** Words in s. 32(2)(3) 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. 33**
- F21** Words in s. 32(7) inserted (1.6.2009) by *Child Maintenance and Other Payments Act 2008 (c. 6)*, s. 62(3), **Sch. 7 para. 1(9)**; S.I. 2009/1314, art. 2(2)(b)(i)

### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by *The Child Support (Transitional Provisions) Regulations 2000 (S.I. 2000/3186)*, **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, **regs. 1(3)(a), 9(7)(b)**)
- C6** 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**

### 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**

## [<sup>F22</sup>32A Orders for regular deductions from accounts **E+W+S**

- (1) If in relation to any person it appears to the [<sup>F23</sup>Secretary of State]—
- that the person has failed to pay an amount of child support maintenance; and
  - that the person holds an account with a deposit-taker;
- [<sup>F23</sup>the Secretary of State] may make an order against that person to secure the payment of any amount due under the maintenance calculation in question by means of regular deductions from the account.
- (2) An order under this section may be made so as to secure the payment of—
- arrears of child support maintenance payable under the calculation;
  - amounts of child support maintenance which will become payable under the calculation; or
  - both such arrears and such future amounts.
- (3) An order under this section may be made in respect of amounts due under a maintenance calculation which is the subject of an appeal only if it appears to the [<sup>F24</sup>Secretary of State]—
- that liability for the amounts would not be affected were the appeal to succeed; or
  - where paragraph (a) does not apply, that the making of an order under this section in respect of the amounts would nonetheless be fair in all the circumstances.
- (4) An order under this section—
- may not be made in respect of an account of a prescribed description; and



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- (b) may be made in respect of a joint account which is held by the person against whom the order is made and one or more other persons, and which is not of a description prescribed under paragraph (a), if (but only if) regulations made by the Secretary of State so provide.
- (5) An order under this section—
- (a) shall specify the account in respect of which it is made;
  - (b) shall be expressed to be directed at the deposit-taker with which the account is held; and
  - (c) shall have effect from such date as may be specified in the order.
- (6) An order under this section shall operate as an instruction to the deposit-taker at which it is directed to—
- (a) make deductions from the amount (if any) standing to the credit of the account specified in the order; and
  - (b) pay the amount deducted to the [<sup>F25</sup>Secretary of State].
- (7) The [<sup>F26</sup>Secretary of State] shall serve a copy of any order made under this section on—
- (a) the deposit-taker at which it is directed;
  - (b) the person against whom it is made; and
  - (c) if the order is made in respect of a joint account, the other account-holders.
- (8) Where—
- (a) an order under this section has been made; and
  - (b) a copy of the order has been served on the deposit-taker at which it is directed, it shall be the duty of that deposit-taker to comply with the order; but the deposit-taker shall not be under any liability for non-compliance before the end of the period of 7 days beginning with the day on which the copy was served on the deposit-taker.
- (9) Where regulations have been made under section 29(3)(a), a person liable to pay an amount of child support maintenance is to be taken for the purposes of this section to have failed to pay an amount of child support maintenance unless it is paid to or through the person specified in, or by virtue of, the regulations for the case in question.

#### Textual Amendments

- F22** Ss. 32A-32D inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 22, 62\(3\)](#); S.I. 2009/1314, [art. 2\(1\)\(a\)](#)
- F23** Words in s. 32A(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. 34\(a\)](#)
- F24** Words in s. 32A(3) 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. 34\(b\)](#)
- F25** Words in s. 32A(6)(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. 34\(b\)](#)
- F26** Words in s. 32A(7) 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. 34\(b\)](#)

*Status: Point in time view as at 06/04/2014.*

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#### Modifications etc. (not altering text)

- C7 S. 32A modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 48\), s. 59\(4\)\(5\)](#); S.I. 2008/1476, art. 2(6)

### 32B Orders under section 32A: joint accounts **E+W+S**

- (1) Before making an order under section 32A in respect of a joint account the [<sup>F27</sup>Secretary of State] shall offer each of the account-holders an opportunity to make representations about—
  - (a) the proposal to make the order; and
  - (b) the amounts to be deducted under the order, if it is made.
- (2) The amounts to be deducted from a joint account under such an order shall not exceed the amounts that appear to the [<sup>F27</sup>Secretary of State] to be fair in all the circumstances.
- (3) In determining those amounts the [<sup>F27</sup>Secretary of State] shall have particular regard to—
  - (a) any representations made in accordance with subsection (1)(b);
  - (b) the amount contributed to the account by each of the account-holders; and
  - (c) such other matters as may be prescribed.

#### Textual Amendments

- F22 Ss. 32A-32D inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 22, 62\(3\)](#); S.I. 2009/1314, art. 2(1)(a)
- F27 Words in s. 32B 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. 35](#)

### 32C Regulations about orders under section 32A **E+W+S**

- (1) The Secretary of State may by regulations make provision with respect to orders under section 32A.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) requiring an order to specify the amount or amounts in respect of which it is made;
  - (b) requiring an order to specify the amounts which are to be deducted under it in order to meet liabilities under the maintenance calculation in question;
  - (c) requiring an order to specify the dates on which deductions are to be made under it;
  - (d) for the rate of deduction under an order not to exceed such rate as may be specified in, or determined in accordance with, the regulations;
  - (e) as to circumstances in which amounts standing to the credit of an account are to be disregarded for the purposes of section 32A;
  - (f) as to the payment of sums deducted under an order to the [<sup>F28</sup>Secretary of State];
  - (g) allowing the deposit-taker at which an order is directed to deduct from the amount standing to the credit of the account specified in the order a prescribed

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- amount towards its administrative costs before making any deduction required by section 32A(6)(a);
- (h) with respect to notifications to be given to the person against whom an order is made (and, in the case of an order made in respect of a joint account, to the other account-holders) of amounts deducted, and amounts paid, under the order;
  - (i) requiring the deposit-taker at which an order is directed to notify the [<sup>F28</sup>Secretary of State] in the prescribed manner and within a prescribed period—
    - (i) if the account specified in the order does not exist at the time at which the order is served on the deposit-taker;
    - (ii) of any other accounts held with the deposit-taker at that time by the person against whom the order is made;
  - (j) requiring the deposit-taker at which an order is directed to notify the [<sup>F28</sup>Secretary of State] in the prescribed manner and within a prescribed period if, after the time at which the order is served on the deposit-taker—
    - (i) the account specified in the order is closed;
    - (ii) a new account of any description is opened with the deposit-taker by the person against whom the order is made;
  - (k) as to circumstances in which the deposit-taker at which an order is directed, the person against whom the order is made and (in the case of an order made in respect of a joint account) the other account-holders may apply to the [<sup>F28</sup>Secretary of State] for [<sup>F29</sup>the Secretary of State] to review the order and as to such a review;
    - (l) for the variation of orders;
  - (m) similar to that made by section 32A(8), in relation to any variation of an order;
  - (n) for an order to lapse in such circumstances as may be prescribed;
  - (o) as to the revival of an order in such circumstances as may be prescribed;
  - (p) allowing or requiring an order to be discharged;
  - (q) as to the giving of notice by the [<sup>F28</sup>Secretary of State] to the deposit-taker that an order has lapsed or ceased to have effect.
- (3) The Secretary of State may by regulations make provision with respect to priority as between an order under section 32A and—
- (a) any other order under that section;
  - (b) any order under any other enactment relating to England and Wales which provides for deductions from the same account;
  - (c) any diligence done in Scotland against the same account.
- (4) The Secretary of State shall by regulations make provision for any person affected to have a right to appeal to a court—
- (a) against the making of an order under section 32A;
  - (b) against any decision made by the [<sup>F30</sup>Secretary of State] on an application under regulations made under subsection (2)(k).
- (5) On an appeal under regulations made under subsection (4)(a), the court shall not question the maintenance calculation by reference to which the order was made.
- (6) Regulations under subsection (4) may include—
- (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;

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- (b) provision with respect to the powers of the court to which the appeal under the regulations lies.

#### Textual Amendments

- F22** Ss. 32A-32D inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 22**, 62(3); S.I. 2009/1314, **art. 2(1)(a)**
- F28** Words in s. 32C(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. 36(a)**
- F29** Words in s. 32C(2)(k) 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. 36(a)**
- F30** Words in s. 32C(4) 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. 36(b)**

#### Modifications etc. (not altering text)

- C8** S. 32C modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 48\)](#), **s. 59(5)**; S.I. 2008/1476, art. 2(6)

### 32D Orders under section 32A: offences **E+W+S**

- (1) A person who fails to comply with the requirements of—
- an order under section 32A, or
  - any regulation under section 32C which is designated by the regulations for the purposes of this paragraph,
- commits an offence.
- (2) It shall be a defence for a person charged with an offence under subsection (1) to prove that the person took all reasonable steps to comply with the requirements in question.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level two on the standard scale.]

#### Textual Amendments

- F22** Ss. 32A-32D inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 22**, 62(3); S.I. 2009/1314, **art. 2(1)(a)**

### <sup>F31</sup>32E Lump sum deductions: interim orders **E+W+S**

- (1) The [<sup>F32</sup>Secretary of State] may make an order under this section if it appears to the [<sup>F32</sup>Secretary of State] that a person (referred to in this section and sections 32F to 32J as “the liable person”) has failed to pay an amount of child support maintenance and—
- an amount stands to the credit of an account held by the liable person with a deposit-taker; or
  - an amount not within paragraph (a) that is of a prescribed description is due or accruing to the liable person from another person (referred to in this section and sections 32F to 32J as the “third party”).

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- (2) An order under this section—
  - (a) may not be made by virtue of subsection (1)(a) in respect of an account of a prescribed description; and
  - (b) may be made by virtue of subsection (1)(a) in respect of a joint account which is held by the liable person and one or more other persons, and which is not of a description prescribed under paragraph (a) of this subsection, if (but only if) regulations made by the Secretary of State so provide.
- (3) The Secretary of State may by regulations make provision as to conditions that are to be disregarded in determining whether an amount is due or accruing to the liable person for the purposes of subsection (1)(b).
- (4) An order under this section—
  - (a) shall be expressed to be directed at the deposit-taker or third party in question;
  - (b) if made by virtue of subsection (1)(a), shall specify the account in respect of which it is made; and
  - (c) shall specify the amount of arrears of child support maintenance in respect of which the [<sup>F33</sup>Secretary of State] proposes to make an order under section 32F.
- (5) An order under this section may specify an amount of arrears due under a maintenance calculation which is the subject of an appeal only if it appears to the [<sup>F34</sup>Secretary of State]—
  - (a) that liability for the amount would not be affected were the appeal to succeed; or
  - (b) where paragraph (a) does not apply, that the making of an order under section 32F in respect of the amount would nonetheless be fair in all the circumstances.
- (6) The [<sup>F34</sup>Secretary of State] shall serve a copy of any order made under this section on—
  - (a) the deposit-taker or third party at which it is directed;
  - (b) the liable person; and
  - (c) if the order is made in respect of a joint account, the other account-holders.
- (7) An order under this section shall come into force at the time at which it is served on the deposit-taker or third party at which it is directed.
- (8) An order under this section shall cease to be in force at the earliest of the following—
  - (a) the time at which the prescribed period ends;
  - (b) the time at which the order under this section lapses or is discharged; and
  - (c) the time at which an order under section 32F made in pursuance of the proposal specified in the order under this section is served on the deposit-taker or third party at which that order is directed.
- (9) Where regulations have been made under section 29(3)(a), a person liable to pay an amount of child support maintenance is to be taken for the purposes of this section to have failed to pay the amount unless it is paid to or through the person specified in, or by virtue of, the regulations for the case in question.

#### Textual Amendments

**F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 23, 62(3); S.I. 2009/1314, art. 2(1)(b)

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- F32** Words in s. 32E(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. 37**
- F33** Words in s. 32E(4)(c) 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. 37**
- F34** Words in s. 32E(5)(6) 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. 37**

**Modifications etc. (not altering text)**

- C9** S. 32E modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 48\)](#), **s. 59(4)(5)**; S.I. 2008/1476, art. 2(6)

**32F Lump sum deductions: final orders** **E+W+S**

- (1) The [<sup>F35</sup>Secretary of State] may make an order under this section in pursuance of a proposal specified in an order under section 32E if—
- the order in which the proposal was specified (“the interim order”) is in force;
  - the period prescribed for the making of representations to the [<sup>F35</sup>Secretary of State] in respect of the proposal specified in the interim order has expired; and
  - the [<sup>F35</sup>Secretary of State] has considered any representations made to [<sup>F35</sup>the Secretary of State] during that period.
- (2) An order under this section—
- shall be expressed to be directed at the deposit-taker or third party at which the interim order was directed;
  - if the interim order was made by virtue of section 32E(1)(a), shall specify the account specified in the interim order; and
  - shall specify the amount of arrears of child support maintenance in respect of which it is made.
- (3) The amount so specified—
- shall not exceed the amount of arrears specified in the interim order which remain unpaid at the time at which the order under this section is made; and
  - if the order is made in respect of a joint account, shall not exceed the amount that appears to the Commission to be fair in all the circumstances.
- (4) In determining the amount to be specified in an order made in respect of a joint account the [<sup>F36</sup>Secretary of State] shall have particular regard—
- to the amount contributed to the account by each of the account-holders; and
  - to such other matters as may be prescribed.
- (5) An order under this section may specify an amount of arrears due under a maintenance calculation which is the subject of an appeal only if it appears to the [<sup>F36</sup>Secretary of State]—
- that liability for the amount would not be affected were the appeal to succeed; or
  - where paragraph (a) does not apply, that the making of an order under this section in respect of the amount would nonetheless be fair in all the circumstances.

*Status: Point in time view as at 06/04/2014.*

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- (6) The [<sup>F37</sup>Secretary of State] shall serve a copy of any order made under this section on—
- (a) the deposit-taker or third party at which it is directed;
  - (b) the liable person; and
  - (c) if the order is made in respect of a joint account, the other account-holders.

#### Textual Amendments

- F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), ss. 23, 62(3); S.I. 2009/1314, art. 2(1)(b)
- F35** Words in s. 32F(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. 38\(a\)](#)
- F36** Words in s. 32F(4)(5) 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. 38\(b\)](#)
- F37** Words in s. 32F(6) 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. 38\(b\)](#)

#### Modifications etc. (not altering text)

- C10** S. 32F modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 48\)](#), s. 59(4)(5); S.I. 2008/1476, art. 2(6)

### 32G Orders under sections 32E and 32F: freezing of accounts etc. **E+W+S**

- (1) During the relevant period, an order under section 32E or 32F which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker not to do anything that would reduce the amount standing to the credit of the account below the amount specified in the order (or, if already below that amount, that would further reduce it).
- (2) During the relevant period, any other order under section 32E or 32F shall operate as an instruction to the third party at which it is directed not to do anything that would reduce the amount due to the liable person below the amount specified in the order (or, if already below that amount, that would further reduce it).
- (3) Subsections (1) and (2) have effect subject to regulations made under section 32I(1).
- (4) In this section “the relevant period”, in relation to an order under section 32E, means the period during which the order is in force.
- (5) In this section and section 32H “the relevant period”, in relation to an order under section 32F, means the period which—
  - (a) begins with the service of the order on the deposit-taker or third party at which it is directed; and
  - (b) (subject to subsection (6)) ends with the end of the period during which an appeal can be brought against the order by virtue of regulations under section 32J(5).
- (6) If an appeal is brought by virtue of the regulations, the relevant period ends at the time at which—

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- (a) proceedings on the appeal (including any proceedings on a further appeal) have been concluded; and
  - (b) any period during which a further appeal may ordinarily be brought has ended.
- (7) References in this section and sections 32H and 32J to the amount due to the liable person are to be read as references to the total of any amounts within section 32E(1) (b) that are due or accruing to the liable person from the third party in question.

#### Textual Amendments

**F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 23, 62(3); S.I. 2009/1314, art. 2(1)(b)

### 32H Orders under section 32F: deductions and payments **E+W+S**

- (1) Once the relevant period has ended, an order under section 32F which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker—
  - (a) if the amount standing to the credit of the account is less than the remaining amount, to pay to the [<sup>F38</sup>Secretary of State] the amount standing to the credit of the account; and
  - (b) otherwise, to deduct from the account and pay to the [<sup>F38</sup>Secretary of State] the remaining amount.
- (2) If an amount of arrears specified in the order remains unpaid after any payment required by subsection (1) has been made, the order shall operate until the relevant time as an instruction to the deposit-taker—
  - (a) to pay to the [<sup>F38</sup>Secretary of State] any amount (not exceeding the remaining amount) standing to the credit of the account specified in the order; and
  - (b) not to do anything else that would reduce the amount standing to the credit of the account.
- (3) Once the relevant period has ended, any other order under section 32F shall operate as an instruction to the third party at which it is directed—
  - (a) if the amount due to the liable person is less than the remaining amount, to pay to the [<sup>F38</sup>Secretary of State] the amount due to the liable person; and
  - (b) otherwise, to deduct from the amount due to the liable person and pay to the [<sup>F38</sup>Secretary of State] the remaining amount.
- (4) If an amount of arrears specified in the order remains unpaid after any payment required by subsection (3) has been made, the order shall operate until the relevant time as an instruction to the third party—
  - (a) to pay to the [<sup>F38</sup>Secretary of State] any amount (not exceeding the remaining amount) due to the liable person; and
  - (b) not to do anything else that would reduce any amount due to the liable person.
- (5) This section has effect subject to regulations made under sections 32I(1) and 32J(2)(c).
- (6) In this section—
 

“the relevant time” means the earliest of the following—

  - (a) the time at which the remaining amount is paid;
  - (b) the time at which the order lapses or is discharged; and



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(c) the time at which a prescribed event occurs or prescribed circumstances arise;

“the remaining amount”, in relation to any time, means the amount of arrears specified in the order under section 32F which remains unpaid at that time.

#### Textual Amendments

- F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 23, 62(3); S.I. 2009/1314, art. 2(1)(b)
- F38** Words in s. 32H(1)-(4) 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. 39

### 32I Power to disapply sections 32G(1) and (2) and 32H(2)(b) and (4)(b) **E+W+S**

- (1) The Secretary of State may by regulations make provision as to circumstances in which things that would otherwise be in breach of sections 32G(1) and (2) and 32H(2)(b) and (4)(b) may be done.
- (2) Regulations under subsection (1) may require the [<sup>F39</sup>Secretary of State’s] consent to be obtained in prescribed circumstances.
- (3) Regulations under subsection (1) which require the [<sup>F39</sup>Secretary of State’s] consent to be obtained may provide for an application for that consent to be made—
- by the deposit-taker or third party at which the order under section 32E or 32F is directed;
  - by the liable person; and
  - if the order is made in respect of a joint account, by any of the other account-holders.
- (4) If regulations under subsection (1) require the [<sup>F39</sup>Secretary of State’s] consent to be obtained, the Secretary of State shall by regulations provide for a person of a prescribed description to have a right of appeal to a court against the withholding of that consent.
- (5) Regulations under subsection (4) may include—
- provision with respect to the period within which a right of appeal under the regulations may be exercised;
  - provision with respect to the powers of the court to which the appeal under the regulations lies.

#### Textual Amendments

- F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 23, 62(3); S.I. 2009/1314, art. 2(1)(b)
- F39** Words in s. 32I(2)-(4) 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. 40

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### **32J Regulations about orders under section 32E or 32F** E+W+S

- (1) The Secretary of State may by regulations make provision with respect to orders under section 32E or 32F.
- (2) The regulations may, in particular, make provision—
  - (a) as to circumstances in which amounts standing to the credit of an account are to be disregarded for the purposes of sections 32E, 32G and 32H;
  - (b) as to the payment to the [<sup>F40</sup>Secretary of State] of sums deducted under an order under section 32F;
  - (c) allowing a deposit-taker or third party at which an order under section 32F is directed to deduct from the amount standing to the credit of the account specified in the order, or due to the liable person, a prescribed amount towards its administrative costs before making any payment to the [<sup>F40</sup>Secretary of State] required by section 32H;
  - (d) with respect to notifications to be given to the liable person (and, in the case of an order made in respect of a joint account, to the other account-holders) as to amounts deducted, and amounts paid, under an order under section 32F;
  - (e) requiring a deposit-taker or third party at which an order under section 32E or 32F is directed to supply information of a prescribed description to the [<sup>F40</sup>Secretary of State], or to notify the [<sup>F40</sup>Secretary of State] if a prescribed event occurs or prescribed circumstances arise;
  - (f) for the variation of an order under section 32E or 32F;
  - (g) for an order under section 32E or 32F to lapse in such circumstances as may be prescribed;
  - (h) as to the revival of an order under section 32E or 32F in such circumstances as may be prescribed;
  - (i) allowing or requiring an order under section 32E or 32F to be discharged.
- (3) Where regulations under subsection (1) make provision for the variation of an order under section 32E or 32F, the power to vary the order shall not be exercised so as to increase the amount of arrears of child support maintenance specified in the order.
- (4) The Secretary of State may by regulations make provision with respect to priority as between an order under section 32F and—
  - (a) any other order under that section;
  - (b) any order under any other enactment relating to England and Wales which provides for payments to be made from amounts to which the order under section 32F relates;
  - (c) any diligence done in Scotland against amounts to which the order under section 32F relates.
- (5) The Secretary of State shall by regulations make provision for any person affected by an order under section 32F to have a right to appeal to a court against the making of the order.
- (6) On an appeal under regulations under subsection (5), the court shall not question the maintenance calculation by reference to which the order under section 32F was made.
- (7) Regulations under subsection (5) may include—
  - (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;

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- (b) provision with respect to the powers of the court to which the appeal under the regulations lies.

**Textual Amendments**

- F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 23**, 62(3); S.I. 2009/1314, **art. 2(1)(b)**
- F40** Words in s. 32J(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. 41**

**Modifications etc. (not altering text)**

- C11** S. 32J modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 48\)](#), **s. 59(4)(5)**; S.I. 2008/1476, art. 2(6)

**32K Lump sum deduction orders: offences** **E+W+S**

- (1) A person who fails to comply with the requirements of—
- an order under section 32E or 32F; or
  - any regulation under section 32J which is designated by the regulations for the purposes of this paragraph,
- commits an offence.
- (2) It shall be a defence for a person charged with an offence under subsection (1) to prove that the person took all reasonable steps to comply with the requirements in question.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level two on the standard scale.]

**Textual Amendments**

- F31** Ss. 32E-32K inserted (1.6.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 23**, 62(3); S.I. 2009/1314, **art. 2(1)(b)**

**[<sup>F41</sup>32L Orders preventing avoidance** **E+W+S**

- (1) The [<sup>F42</sup>Secretary of State] may apply to the court, on the grounds that a person—
- has failed to pay an amount of child support maintenance, and
  - with the intention of avoiding payment of child support maintenance, is about to make a disposition or to transfer out of the jurisdiction or otherwise deal with any property,
- for an order restraining or, in Scotland, interdicting the person from doing so.
- (2) The [<sup>F43</sup>Secretary of State] may apply to the court, on the grounds that a person—
- has failed to pay an amount of child support maintenance, and
  - with the intention of avoiding payment of child support maintenance, has at any time made a reviewable disposition,
- for an order setting aside or, in Scotland, reducing the disposition.

*Status: Point in time view as at 06/04/2014.*

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- (3) If the court is satisfied of the grounds mentioned in subsection (1) or (2) it may make an order under that subsection.
- (4) Where the court makes an order under subsection (1) or (2) it may make such consequential provision by order or directions as it thinks fit for giving effect to the order (including provision requiring the making of any payments or the disposal of any property).
- (5) Any disposition is a reviewable disposition for the purposes of subsection (2), unless it was made for valuable or, in Scotland, adequate consideration (other than marriage) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of an intention to avoid payment of child support maintenance.
- (6) Subsection (7) applies where an application is made under this section with respect to—
- (a) a disposition or other dealing with property which is about to take place, or
  - (b) a disposition which took place after the making of the application on which the maintenance calculation concerned was made.
- (7) If the court is satisfied—
- (a) in a case falling within subsection (1), that the disposition or other dealing would (apart from this section) have the consequence of making ineffective a step that has been or may be taken to recover the amount outstanding, or
  - (b) in a case falling within subsection (2), that the disposition has had that consequence,
- it is to be presumed, unless the contrary is shown, that the person who disposed of or is about to dispose of or deal with the property did so or, as the case may be, is about to do so, with the intention of avoiding payment of child support maintenance.
- (8) In this section “disposition” does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.
- (9) This section does not apply to a disposition made before the coming into force of section 24 of the Child Maintenance and Other Payments Act 2008.
- (10) In this section “the court” means—
- (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session or the sheriff.
- (11) An order under this section interdicting a person—
- (a) is effective for such period (including an indefinite period) as the order may specify;
  - (b) may, on application to the court, be varied or recalled.]

#### Textual Amendments

**F41** S. 32L inserted (6.4.2010) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 24, 62\(3\); S.I. 2010/697, art. 2\(a\)](#)

**F42** Words in s. 32L(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. 42](#)

*Status: Point in time view as at 06/04/2014.*

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**F43** Words in s. 32L(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. 42**

**Modifications etc. (not altering text)**

**C12** S. 32L modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 59(4)(5); S.I. 2008/1476, art. 2(6)

**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 <sup>F44</sup>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 <sup>F2</sup>maintenance calculation] in question.
- (2) The <sup>F45</sup>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 <sup>F45</sup>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 <sup>F2</sup>maintenance calculation] under which the payments of child support maintenance fell to be made.
- <sup>F46</sup>(5) If the <sup>F47</sup>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 <sup>F48</sup>section 98 of the Courts Act 2003 (register of judgments and orders etc).]
- <sup>F49</sup>(6) Where regulations have been made under section 29(3)(a)—
- (a) the liable person fails to make a payment (for the purposes of subsection (1) (a) of this section); and
  - (b) a payment is not paid (for the purposes of subsection (3)),
- unless the payment is made to, or through, the person specified in or by virtue of those regulations for the case of the liable person in question.]

**Textual Amendments**

- F2** Words in Act substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 1(2)(a), 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2003/192, art. 3, Sch.
- F44** Words in s. 33(1)(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. 43**
- F45** Words in s. 33(2)(3) 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. 43**

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- F46** 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
- F47** Words in s. 33(5) 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. 43**
- F48** Words in s. 33(5) substituted (6.4.2006) by The Courts Act 2003 (Consequential Amendment) Order 2006 (S.I. 2006/1001), arts. 1(1), 2
- F49** S. 33(6) inserted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(a)(2), **Sch. 3 para. 11(17)** (with s. 83(6)); S.I. 2000/2994, art. 2(3)

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by The Child Support (Transitional Provisions) Regulations 2000 (S.I. 2000/3186), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C13** 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 [<sup>F50</sup>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 [<sup>F51</sup>Secretary of State].
- (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 [<sup>F52</sup>Secretary of State] has asked him to supply.

#### Textual Amendments

- F50** Words in s. 34(1)(a) 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. 44**
- F51** Words in s. 34(1)(c) 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. 44**
- F52** Words in s. 34(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. 44**

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by The Child Support (Transitional Provisions) Regulations 2000 (S.I. 2000/3186), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C14** 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.**

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**35 Enforcement of liability orders by [<sup>F53</sup>taking control of goods]. **E+W****

(1) Where a liability order has been made against a person (“the liable person”), the [<sup>F54</sup>Secretary of State] may [<sup>F55</sup>use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the amount in respect of which the order was made, to the extent that it remains unpaid.]

- <sup>F56</sup>(2) .....
- <sup>F56</sup>(3) .....
- <sup>F56</sup>(4) .....
- <sup>F56</sup>(5) .....
- <sup>F56</sup>(6) .....
- <sup>F56</sup>(7) .....
- <sup>F56</sup>(8) .....

**Textual Amendments**

- F53** Words in s. 35 heading substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 94(2)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F54** Words in s. 35(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. 45(a)**
- F55** Words in s. 35(1) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 94(3)** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F56** S. 35(2)-(8) repealed (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 94(4), **Sch. 23 Pt. 3** (with s. 89); S.I. 2014/768, art. 2(1)(b)

**Modifications etc. (not altering text)**

- C2** Ss. 29-41B modified by The Child Support (Transitional Provisions) Regulations 2000 (S.I. 2000/3186), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C15** S. 35 applied (with modifications) (5.4.1993) by S.I. 1992/2643, **reg.3**
- C16** S. 35 modified (10.6.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), **ss. 59(6), 62(3)**; S.I. 2008/1476, art. 2(6)

**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 [<sup>F57</sup>a third party debt order] or a charging order, as if it were payable under a county court order.

- <sup>F58</sup>(2) .....

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#### Textual Amendments

- F57** Words in s. 36(1) substituted (1.6.2009) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 7 para. 1\(10\)](#); S.I. 2009/1314, art. 2(2)(b)(i)
- F58** S. 36(2) repealed (1.6.2009) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 8](#); S.I. 2009/1314, art. 2(2)(c)(i)

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), [reg. 16\(2A\)](#) (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C17** S. 36 applied (with modifications) (E.W.) (5.4.1993) by S.I. 1992/2643, [reg.3](#)
- C18** S. 36 modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), [ss. 59\(6\)](#), 62(3); S.I. 2008/1476, art. 2(6)

### 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 <sup>F59</sup>Secretary of State].
- (3) In this section “relevant information” has the same meaning as in section 34(2).

#### Textual Amendments

- F59** Words in s. 37(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. 46](#)

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), [reg. 16\(2A\)](#) (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C19** S. 37 applied (with modifications) (E.W.) (5.4.1993) by S.I. 1992/2643, [reg.3](#)

#### 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 <sup>F60</sup>Secretary of State] to charge the person to pay the appropriate amount and to recover that amount by <sup>F61</sup>an attachment] 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,
  - <sup>F62</sup>(c) for an inhibition.]



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[<sup>F62</sup>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.

#### Textual Amendments

- F60** Words in s. 38(1)(a) 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. 47**
- F61** Words in s. 38(1)(a) substituted (S.) (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. 64(2), **Sch. 3 para. 20** (with s. 63)
- F62** S. 38(1)(c) substituted for closing words in s. 38(1) (S.) (22.4.2009 for specified purposes) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **Sch. 5 para. 18(a)(ii)** (with s. 223); S.S.I. 2009/67, art. 3(2)(3), Sch. 1 (with art. 6)

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C20** S. 38 applied (with modifications) (E.W.) (5.4.1993) by S.I. 1992/2643, **reg.3**
- C21** S. 38 modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 59(6), 62(3)**; S.I. 2008/1476, art. 2(6)

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

- (1) The Secretary of State may by regulations provide for—
- any liability order made by a court in England and Wales; or
  - 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 <sup>M1</sup>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—
- any liability order made by the sheriff in Scotland; or
  - 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.

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C22** S. 39 applied (with modifications) (E.W.) (5.4.1993) by S.I. 1992/2643, **reg.3**

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### Marginal Citations

**M1** 1971 c. 58.

## [<sup>F63</sup>39A Commitment to prison and disqualification from driving. **E+W+S**

- (1) Where the [<sup>F64</sup>Secretary of State] has sought—
  - (a) in England and Wales to [<sup>F65</sup>recover an amount by virtue of section 35(1)]; or
  - (b) to recover an amount by virtue of section 36 or 38,
 and that amount, or any portion of it, remains unpaid [<sup>F64</sup>the Secretary of State] may apply to the court under this section.
- (2) An application under this section is for whichever the court considers appropriate in all the circumstances of—
  - (a) the issue of a warrant committing the liable person to prison; or
  - (b) an order for him to be disqualified from holding or obtaining a driving licence.
- (3) On any such application the court shall (in the presence of the liable person) inquire as to—
  - (a) whether he needs a driving licence to earn his living;
  - (b) his means; and
  - (c) whether there has been wilful refusal or culpable neglect on his part.
- (4) The [<sup>F66</sup>Secretary of State] may make representations to the court as to whether [<sup>F66</sup>the Secretary of State] thinks it more appropriate to commit the liable person to prison or to disqualify him from holding or obtaining a driving licence; and the liable person may reply to those representations.
- (5) In this section and section 40B, “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988.
- (6) In this section “the court” means—
  - (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff.]

### Textual Amendments

- F63** S. 39A inserted (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 16(1)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2000/3354, art. 2
- F64** Words in s. 39A(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. 48(a)**
- F65** Words in s. 39A(1)(a) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 13 para. 95** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F66** Words in s. 39A(4) 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. 48(b)**

### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))

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#### 40 Commitment to prison. **E+W**

- <sup>F67</sup>(1) .....
- <sup>F67</sup>(2) .....
- (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—
    - <sup>F68</sup>(i) the amount outstanding, as defined by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods); 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 <sup>M2</sup>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.
- (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;

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- (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.

[<sup>F69</sup>(12) This section does not apply to Scotland.]

#### Textual Amendments

- F67** S. 40(1)(2) repealed (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 16(2), 86(1)(a)(2), [Sch. 9 Pt. 1](#) (with s. 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2000/3354, art. 2
- F68** S. 40(4)(a)(i) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 96](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F69** S. 40(12) substituted for s. 40(12)-(14) (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 17(1), 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2000/3354, art. 2

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), [reg. 16\(2A\)](#) (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C23** S. 40 applied (with modifications) (E.W.) (5.4.1993) by S.I. 1992/2643, [reg. 3](#)
- C24** S. 40 modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), ss. 59(5), 62(3); S.I. 2008/1476, art. 2(6)
- C25** S. 40 modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), ss. 59(6), 62(3); S.I. 2008/1476, art. 2(6)

#### 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

- M2** 1980 c. 43.

#### [<sup>F70</sup>40A Commitment to prison: Scotland. **S**

- (1) If, but only if, the sheriff is satisfied that there has been wilful refusal or culpable neglect on the part of the liable person he may—
  - (a) issue a warrant for his committal to prison; or
  - (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as he thinks just.
- (2) A warrant under this section—
  - (a) shall be made in respect of an amount equal to the aggregate of—
    - (i) the appropriate amount under section 38; and
    - (ii) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the expenses of commitment; and

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- (b) shall state that amount.
- (3) No warrant may be issued under this section against a person who is under the age of 18.
- (4) 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.
- (5) The maximum period of imprisonment which may be imposed by virtue of subsection (4) is six weeks.
- (6) 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.
- (7) A warrant issued under this section may be directed to such person as the sheriff thinks fit.
- (8) The power of the Court of Session by Act of Sederunt to regulate the procedure and practice in civil proceedings in the sheriff court shall include power to 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 sufficient 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, the sheriff may issue a citation to him to appear before the sheriff and (if he does not obey) may issue a warrant for his arrest;
  - (e) that for the purpose of enabling such an inquiry, the sheriff may issue a warrant for the liable person's arrest without issuing a citation;
  - (f) as to the execution of a warrant of arrest.]

#### Textual Amendments

**F70** S. 40A inserted (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 17(2)**, 86(1)(a)(2) (with **ss. 28**, 83(6)); [S.I. 2000/2994](#), art. 2, Sch. Pt. 1; [S.I. 2000/3354](#), **art. 2**

#### Modifications etc. (not altering text)

**C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), **reg. 16(2A)** (as inserted (21.2.2003) by [S.I. 2003/328](#), **regs. 1(3)(a)**, 9(7)(b))

**C26** S. 40A modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 59(5)**, 62(3); [S.I. 2008/1476](#), art. 2(6)

#### [<sup>F71</sup>40B Disqualification from driving: further provision. **E+W+S**]

- (1) 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—

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- (a) order him to be disqualified, for such period specified in the order but not exceeding two years as it thinks fit, from holding or obtaining a driving licence (a “disqualification order”); or
  - (b) make a disqualification order but suspend its operation until such time and on such conditions (if any) as it thinks just.
- (2) The court may not take action under both section 40 and this section.
- (3) A disqualification order must state the amount in respect of which it is made, which is to be the aggregate of—
- [<sup>F72</sup>(a) the amount outstanding, as defined by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods); and]
  - (b) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the costs of the application under section 39A.
- (4) A court which makes a disqualification order shall require the person to whom it relates to produce any driving licence held by him, and its counterpart (within the meaning of section 108(1) of the Road Traffic Act 1988).
- (5) On an application by the [<sup>F73</sup>Secretary of State] or the liable person, the court—
- (a) may make an order substituting a shorter period of disqualification, or make an order revoking the disqualification order, if part of the amount referred to in subsection (3) (the “amount due”) is paid to any person authorised to receive it; and
  - (b) must make an order revoking the disqualification order if all of the amount due is so paid.
- (6) The [<sup>F73</sup>Secretary of State] may make representations to the court as to the amount which should be paid before it would be appropriate to make an order revoking the disqualification order under subsection (5)(a), and the person liable may reply to those representations.
- (7) The [<sup>F74</sup>Secretary of State] may make a further application under section 39A if the amount due has not been paid in full when the period of disqualification specified in the disqualification order expires.
- (8) Where a court—
- (a) makes a disqualification order;
  - (b) makes an order under subsection (5); or
  - (c) allows an appeal against a disqualification order,
- it shall send notice of that fact to the [<sup>F74</sup>Secretary of State]; and the notice shall contain such particulars and be sent in such manner and to such address as the [<sup>F74</sup>Secretary of State] may determine.
- (9) Where a court makes a disqualification order, it shall also send the driving licence and its counterpart, on their being produced to the court, to the [<sup>F75</sup>Secretary of State] at such address as [<sup>F75</sup>the Secretary of State] may determine.
- (10) Section 80 of the Magistrates’ Courts Act 1980 (application of money found on defaulter) shall apply in relation to a disqualification order under this section in relation to a liable person as it applies in relation to the enforcement of a sum mentioned in subsection (1) of that section.

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- (11) The Secretary of State may by regulations make provision in relation to disqualification orders corresponding to the provision he may make under section 40(11).
- (12) In the application to Scotland of this section—
- (a) in subsection (2) for “section 40” substitute “section 40A”;
  - (b) in subsection (3) for paragraph (a) substitute—
    - “(a) the appropriate amount under section 38;”;
  - (c) subsection (10) is omitted; and
  - (d) for subsection (11) substitute—
    - “(11) The power of the Court of Session by Act of Sederunt to regulate the procedure and practice in civil proceedings in the sheriff court shall include power to make, in relation to disqualification orders, provision corresponding to that which may be made by virtue of section 40A(8).”]

#### Textual Amendments

- F71** S. 40B inserted (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by *Child Support, Pensions and Social Security Act 2000* (c. 19), **ss. 16(3)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2000/3354, art. 2
- F72** S. 40B(3)(a) substituted (6.4.2014) by *Tribunals, Courts and Enforcement Act 2007* (c. 15), s. 148, **Sch. 13 para. 97** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F73** Words in s. 40B(5)(6) 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. 49(a)**
- F74** Words in s. 40B(7)(8) 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. 49(a)**
- F75** Words in s. 40B(9) 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. 49(b)**

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by *The Child Support (Transitional Provisions) Regulations 2000* (S.I. 2000/3186), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C27** S. 40B modified (10.6.2008) by *Child Maintenance and Other Payments Act 2008* (c. 6), **ss. 59(5)**, 62(3); S.I. 2008/1476, art. 2(6)
- C28** S. 40B modified (10.6.2008) by *Child Maintenance and Other Payments Act 2008* (c. 6), **ss. 59(6)**, 62(3); S.I. 2008/1476, art. 2(6)

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

- (1) This section applies where—
- (a) the [F76Secretary of State] is authorised under section 4<sup>F77</sup>... or 7 to recover child support maintenance payable by [F12a non-resident parent] in accordance with a [F2maintenance calculation]; and
  - (b) the [F12non-resident parent] has failed to make one or more payments of child support maintenance due from him in accordance with that [F4calculation].

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[<sup>F78</sup>(2) Where the [<sup>F79</sup>Secretary of State] recovers any such arrears [<sup>F79</sup>the Secretary of State] may, in such circumstances as may be prescribed and to such extent as may be prescribed, retain them if [<sup>F79</sup>the Secretary of State] 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 [<sup>F12</sup>non-resident 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 [<sup>F2</sup>maintenance calculation] had effect from a date earlier than that on which it was made, the [<sup>F4</sup>calculation] shall be taken to have been in force at that time.]

<sup>F80</sup>(3) .....

<sup>F80</sup>(4) .....

<sup>F80</sup>(5) .....

(6) Any sums retained by the [<sup>F81</sup>Secretary of State] by virtue of this section shall be paid by [<sup>F81</sup>the Secretary of State] into the Consolidated Fund.

#### Textual Amendments

- F2** Words in Act substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 1\(2\)\(a\)](#), 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2003/192, art. 3, Sch.
- F4** Word in Act substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 1\(2\)\(b\)](#), 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2003/192, art. 3, Sch.
- F12** Words in Act substituted (31.1.2001 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), s. 86\(1\)\(a\)\(2\)](#), [Sch. 3 para. 11\(2\)](#) (with s. 83(6)); S.I. 2000/3354, art. 2(1)(b); S.I. 2003/192, art. 3, Sch.
- F76** Words in s. 41(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. 50\(a\)](#)
- F77** Word in s. 41(1)(a) repealed (27.10.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 8](#); S.I. 2008/2548, art. 3(d)(i)
- F78** 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
- F79** Words in s. 41(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. 50\(b\)](#)
- F80** S. 41(3)-(5) repealed (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 18(1), 86(1)(a)(2), [Sch. 9 Pt. 1](#) (with s. 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2003/192, art. 3, Sch.
- F81** Words in s. 41(6) 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. 50\(c\)](#)

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), [reg. 16\(2A\)](#) (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))
- C29** S. 41(4) (as originally enacted) amended (14.7.2008 for specified purposes, 1.6.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 7 para. 1\(34\)\(a\)](#); S.I. 2008/1476, art. 2(3)(b)(4)(5); S.I. 2009/1314, art. 2(2)(b)(i)



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### Commencement Information

- 19** 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

### [<sup>F82</sup>41A Penalty payments. **E+W+S**

- (1) The Secretary of State may by regulations make provision for the payment to [<sup>F83</sup>the [<sup>F84</sup>Secretary of State]] by non-resident parents who are in arrears with payments of child support maintenance of penalty payments determined in accordance with the regulations.
- (2) The amount of a penalty payment in respect of any week may not exceed 25% of the amount of child support maintenance payable for that week, but otherwise is to be determined by the [<sup>F84</sup>Secretary of State].
- (3) The liability of a non-resident parent to make a penalty payment does not affect his liability to pay the arrears of child support maintenance concerned.
- (4) Regulations under subsection (1) may, in particular, make provision—
  - (a) as to the time at which a penalty payment is to be payable;
  - (b) for the [<sup>F85</sup>Secretary of State] to waive a penalty payment, or part of it.
- (5) The provisions of this Act with respect to—
  - (a) the collection of child support maintenance;
  - (b) the enforcement of an obligation to pay child support maintenance,apply equally (with any necessary modifications) to penalty payments payable by virtue of regulations under this section.
- (6) The [<sup>F86</sup>Secretary of State] shall pay penalty payments received by [<sup>F86</sup>the Secretary of State] into the Consolidated Fund.]

### Textual Amendments

- F82** S. 41A substituted (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 18(2), 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2003/192, art. 3, Sch. (note that Child Support Act 1995 (c. 34), s. 22, which inserted s. 41A of this Act, was never brought into force)
- F83** Words in s. 41A(1) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), Sch. 3 para. 44(2); S.I. 2008/2675, art. 3(b)
- F84** Words in s. 41A(1)(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. 51(a)
- F85** Words in s. 41A(4)(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. 51(a)
- F86** Words in s. 41A(6) 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. 51(b)

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#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), [reg. 16\(2A\)](#) (as inserted (21.2.2003) by S.I. 2003/328, [regs. 1\(3\)\(a\), 9\(7\)\(b\)](#))
- C30** S. 41A (as originally enacted) amended (14.7.2008 for specified purposes, 1.6.2009 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), [s. 62\(3\)](#), [Sch. 7 para. 1\(34\)\(a\)](#); S.I. 2008/1476, [art. 2\(3\)\(b\)\(4\)\(5\)](#); S.I. 2009/1314, [art. 2\(2\)\(b\)\(i\)](#)

#### [<sup>F87</sup> 41B Repayment of overpaid child support maintenance. **E+W+S**

- (1) This section applies where it appears to the [<sup>F88</sup>Secretary of State] that [<sup>F12</sup>a non-resident parent] has made a payment by way of child support maintenance which amounts to an overpayment by him of that maintenance and that—
- it would not be possible for the [<sup>F12</sup>non-resident parent] to recover the amount of the overpayment by way of an adjustment of the amount payable under a [<sup>F2</sup>maintenance calculation]; or
  - it would be inappropriate to rely on an adjustment of the amount payable under a [<sup>F2</sup>maintenance calculation] as the means of enabling the [<sup>F12</sup>non-resident parent] to recover the amount of the overpayment.

[ This section also applies where the non-resident parent has made a voluntary payment  
<sup>F89</sup>(1A) and it appears to the [<sup>F90</sup>Secretary of State]—

- that he is not liable to pay child support maintenance; or
  - 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 [<sup>F90</sup>the Secretary of State] that subsection (1)(a) or (b) applies.]
- (2) The [<sup>F91</sup>Secretary of State] may make such payment to the [<sup>F12</sup>non-resident parent] by way of reimbursement, or partial reimbursement, of the overpayment as the [<sup>F91</sup>Secretary of State] considers appropriate.
- (3) Where the [<sup>F92</sup>Secretary of State] has made a payment under this section [<sup>F92</sup>the Secretary of State] may, in such circumstances as may be prescribed, require the relevant person to pay to [<sup>F92</sup>the Secretary of State] 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 [<sup>F93</sup>Secretary of State] wishes to recover from him.
- (5) Any sum which a person is required to pay to the [<sup>F93</sup>Secretary of State] under this section shall be recoverable from him by the [<sup>F93</sup>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—
- one or more overpayments of child support maintenance are being reimbursed to the [<sup>F94</sup>Secretary of State] by the relevant person; and
  - child support maintenance has continued to be payable by the [<sup>F12</sup>non-resident parent] concerned to the person with care concerned, or again becomes so payable.

[<sup>F95</sup>(7) For the purposes of this section—

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- (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.]
- (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 [F96Secretary of State] under this section shall be paid by [F96the Secretary of State] into the Consolidated Fund.]

#### Textual Amendments

- F2** Words in Act substituted (3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 1(2)(a)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2003/192, art. 3, Sch.
- F12** Words in Act substituted (31.1.2001 for specified purposes, 3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(a)(2), **Sch. 3 para. 11(2)** (with s. 83(6)); S.I. 2000/3354, art. 2(1)(b); S.I. 2003/192, art. 3, Sch.
- F87** 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
- F88** Words in s. 41B(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. 52(a)**
- F89** S. 41B(1A) inserted (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 20(3)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2003/192, art. 3, Sch.
- F90** Words in s. 41B(1A) 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. 52(b)**
- F91** Words in s. 41B(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. 52(c)**
- F92** Words in s. 41B(3) 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. 52(d)**
- F93** Words in s. 41B(4)(5) 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. 52(e)**
- F94** Words in s. 41B(6)(a) 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. 52(e)**
- F95** S. 41B(7) substituted (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 20(4)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2003/192, art. 3, Sch.
- F96** Words in s. 41B(9) 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. 52(f)**

#### Modifications etc. (not altering text)

- C2** Ss. 29-41B modified by The Child Support (Transitional Provisions) Regulations 2000 (S.I. 2000/3186), **reg. 16(2A)** (as inserted (21.2.2003) by S.I. 2003/328, regs. 1(3)(a), 9(7)(b))

*Status: Point in time view as at 06/04/2014.*

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### **[<sup>F97</sup>41C Power to treat liability as satisfied E+W+S**

- (1) The Secretary of State may by regulations—
  - (a) make provision enabling the [<sup>F98</sup>Secretary of State] in prescribed circumstances to set off liabilities to pay child support maintenance to which this section applies;
  - (b) make provision enabling the [<sup>F98</sup>Secretary of State] in prescribed circumstances to set off against a person's liability to pay child support maintenance to which this section applies a payment made by the person which is of a prescribed description.
- (2) Liability to pay child support maintenance shall be treated as satisfied to the extent that it is the subject of setting off under regulations under subsection (1).
- (3) In subsection (1), the references to child support maintenance to which this section applies are to child support maintenance for the collection of which the [<sup>F98</sup>Secretary of State] is authorised to make arrangements.]

#### **Textual Amendments**

**F97** S. 41C inserted (26.11.2009 for specified purposes, 25.1.2010 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 31, 62\(3\)](#); S.I. 2009/3072, art. 2(1)

**F98** Words in s. 41C 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. 53**

#### **Modifications etc. (not altering text)**

**C31** S. 41C modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 48\)](#), s. 59(4); S.I. 2008/1476, art. 2(6)

### **[<sup>F99</sup>41D Power to accept part payment of arrears in full and final satisfaction E+W+S**

- (1) The [<sup>F100</sup>Secretary of State] may, in relation to any arrears of child support maintenance, accept payment of part in satisfaction of liability for the whole.
- (2) The Secretary of State must by regulations make provision with respect to the exercise of the power under subsection (1).
- (3) The regulations must provide that unless one of the conditions in subsection (4) is satisfied the [<sup>F100</sup>Secretary of State] may not exercise the power under subsection (1) without the appropriate consent.
- (4) The conditions are—
  - (a) that the [<sup>F101</sup>Secretary of State] would be entitled to retain the whole of the arrears under section 41(2) if [<sup>F101</sup>Secretary of State] recovered them;
  - (b) that the [<sup>F101</sup>Secretary of State] would be entitled to retain part of the arrears under section 41(2) if [<sup>F101</sup>Secretary of State] recovered them, and the part of the arrears that the [<sup>F101</sup>Secretary of State] would not be entitled to retain is equal to or less than the payment accepted under subsection (1).
- (5) Unless the maintenance calculation was made under section 7, the appropriate consent is the written consent of the person with care with respect to whom the maintenance calculation was made.

*Status: Point in time view as at 06/04/2014.*

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- (6) If the maintenance calculation was made under section 7, the appropriate consent is—
- (a) the written consent of the child who made the application under section 7(1), and
  - (b) if subsection (7) applies, the written consent of the person with care of that child.
- (7) This subsection applies if—
- (a) the maintenance calculation was made under section 7(2), or
  - (b) the Secretary of State has made arrangements under section 7(3) on the application of the person with care.]

#### Textual Amendments

**F99** S. 41D inserted (8.10.2012 for specified purposes, 10.12.2012 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 32, 62\(3\); S.I. 2012/2523, art. 2\(2\)\(d\); S.I. 2012/3042, art. 4\(a\)](#)

**F100** Words in s. 41D(1)(3) 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. 3\(2\), Sch. para. 84\(2\)](#)

**F101** Words in s. 41D(4) 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. 3\(2\), Sch. para. 84\(3\)](#)

#### Modifications etc. (not altering text)

**C32** S. 41D modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 59\(4\); S.I. 2008/1476, art. 2\(6\)](#)

#### [<sup>F102</sup>41E Power to write off arrears **E+W+S**

- (1) The [<sup>F103</sup>Secretary of State] may extinguish liability in respect of arrears of child support maintenance if it appears to [<sup>F103</sup>the Secretary of State]—
- (a) that the circumstances of the case are of a description specified in regulations made by the Secretary of State, and
  - (b) that it would be unfair or otherwise inappropriate to enforce liability in respect of the arrears.
- (2) The Secretary of State may by regulations make provision with respect to the exercise of the power under subsection (1).]

#### Textual Amendments

**F102** S. 41E inserted (8.10.2012 for specified purposes, 10.12.2012 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 33, 62\(3\); S.I. 2012/2523, art. 2\(2\)\(d\); S.I. 2012/3042, art. 4\(a\)](#)

**F103** Words in s. 41E(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. 3\(2\), Sch. para. 85](#)

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**Modifications etc. (not altering text)**

**C33** S. 41E modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 59\(4\)](#); [S.I. 2008/1476, art. 2\(6\)](#)

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