



# Child Support Act 1991

## 1991 CHAPTER 48

### *[<sup>F1</sup>Decisions and appeals dependent on other cases*

#### **Textual Amendments**

- F1** Ss. 28ZA, 28ZB and cross-heading inserted (4.3.1999 for specified purposes, 1.6.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), ss. 43, 87\(2\)](#); [S.I. 1999/528, art. 2\(a\)](#), [Sch.](#); [S.I. 1999/1510, art. 2\(d\)](#)

#### **28ZA Decisions involving issues that arise on appeal in other cases**

- (1) This section applies where—
  - (a) a decision by the Secretary of State falls to be made under section 11, 12, 16 or 17 <sup>F2</sup>... ; and
  - <sup>F3</sup>(b) an appeal is pending against a decision given in relation to a different matter by a Child Support Commissioner or a court.]
- (2) If the Secretary of State considers it possible that the result of the appeal will be such that, if it were already determined, it would affect the decision in some way—
  - (a) he need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;
  - (b) he may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.
- (3) Where the Secretary of State acts in accordance with subsection (2)(b), following the determination of the appeal he shall if appropriate revise his decision (under section 16) in accordance with that determination.
- (4) For the purposes of this section, an appeal against a decision is pending if—
  - (a) an appeal against the decision has been brought but not determined;
  - (b) an application for leave to appeal against the decision has been made but not determined; or

*Status: Point in time view as at 14/07/2008.*

*Changes to legislation: Child Support Act 1991, Cross Heading: Decisions and appeals dependent on other cases is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (5) In paragraphs (a), (b) and (c) of subsection (4), any reference to an appeal, or an application for leave to appeal, against a decision includes a reference to—
- (a) an application for, or for leave to apply for, judicial review of the decision under section 31 of the Supreme Court Act 1981; or
  - (b) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.

#### Textual Amendments

- F2** Words in s. 28ZA(1)(a) repealed (14.7.2008) by [Child Maintenance and Other Payments Act 2008](#) (c. 6), s. 62(3), [Sch. 8](#); S.I. 2008/1476, art. 2(2)(c)(i)
- F3** S. 28ZA(1)(b) substituted (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\(1\)\(b\)](#) (with s. 83(6)); S.I. 2003/192, art. 3, Sch.

## 28ZB Appeals involving issues that arise on appeal in other cases

- (1) This section applies where—
- [<sup>F4</sup>(a) an appeal (“appeal A”) in relation to a decision or the imposition of a requirement falling within section 20(1) is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner;] and
  - (b) an appeal (“appeal B”) is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) If the Secretary of State considers it possible that the result of appeal B will be such that, if it were already determined, it would affect the determination of appeal A, he may serve notice requiring the tribunal or Child Support Commissioner—
- (a) not to determine appeal A but to refer it to him; or
  - (b) to deal with the appeal in accordance with subsection (4).
- (3) Where appeal A is referred to the Secretary of State under subsection (2)(a), following the determination of appeal B and in accordance with that determination, he shall if appropriate—
- (a) in a case where appeal A has not been determined by the tribunal, revise (under section 16) his decision which gave rise to that appeal; or
  - (b) in a case where appeal A has been determined by the tribunal, make a decision (under section 17) superseding the tribunal’s decision.
- (4) Where appeal A is to be dealt with in accordance with this subsection, the appeal tribunal or Child Support Commissioner shall either—
- (a) stay appeal A until appeal B is determined; or
  - (b) if the tribunal or Child Support Commissioner considers it to be in the interests of the appellant to do so, determine appeal A as if—
    - (i) appeal B had already been determined; and
    - (ii) the issues arising on appeal B had been decided in the way that was most unfavourable to the appellant.

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In this subsection “the appellant” means the person who appealed or, as the case may be, first appealed against the decision [<sup>F5</sup>or the imposition of the requirement] mentioned in subsection (1)(a).

- (5) Where the appeal tribunal or Child Support Commissioner acts in accordance with subsection (4)(b), following the determination of appeal B the Secretary of State shall, if appropriate, make a decision (under section 17) superseding the decision of the tribunal or Child Support Commissioner in accordance with that determination.
- (6) For the purposes of this section, an appeal against a decision is pending if—
- (a) an appeal against the decision has been brought but not determined;
  - (b) an application for leave to appeal against the decision has been made but not determined; or
  - (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (7) In this section—
- (a) the reference in subsection (1)(a) to an appeal to a Child Support Commissioner includes a reference to an application for leave to appeal to a Child Support Commissioner; and
  - (b) any reference in paragraph (a), (b) or (c) of subsection (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to—
    - (i) an application for, or for leave to apply for, judicial review of the decision under section 31 of the Supreme Court Act 1981; or
    - (ii) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.
- (8) Regulations may make provision supplementing that made by this section.]

#### Textual Amendments

- F4** S. 28ZB(1)(a) substituted (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\(12\)\(a\)](#) (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F5** Words in s. 28ZB(4) substituted (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\(12\)\(b\)](#) (with s. 83(6)); S.I. 2003/192, art. 3, Sch.

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