



Child Support Act 1991

1991 CHAPTER 48

Jurisdiction

44 Jurisdiction.

(1) [^{F1}The Secretary of State] shall have jurisdiction to make a [^{F2}maintenance calculation] with respect to a person who is—

- (a) a person with care;
- (b) [^{F3}a non-resident parent]; or
- (c) a qualifying child,

only if that person is habitually resident in the United Kingdom^[F4], except in the case of a non-resident parent who falls within subsection (2A)].

(2) Where the person with care is not an individual, subsection (1) shall have effect as if paragraph (a) were omitted.

[^{F5}(2A) A non-resident parent falls within this subsection if he is not habitually resident in the United Kingdom, but is—

- (a) employed in the civil service of the Crown, including Her Majesty's Diplomatic Service and Her Majesty's Overseas Civil Service;
- (b) a member of the naval, military or air forces of the Crown, including any person employed by an association established for the purposes of Part XI of the Reserve Forces Act 1996;
- (c) employed by a company of a prescribed description registered under the Companies Act 1985 in England and Wales or in Scotland, or under the Companies (Northern Ireland) Order 1986; or
- (d) employed by a body of a prescribed description.]

^{F6}(3)

Textual Amendments

- F1** Words in s. 44(1) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 41; S.I. 1999/1510, art. 2\(g\)\(iii\)](#)

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- 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** 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.
- F4** Words in s. 44(1) inserted (31.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 22(2), 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/3354, art. 2(1)(a)
- F5** S. 44(2A) inserted (10.11.2000 for specified purposes, 31.1.2001 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 22(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(1)(a)
- F6** S. 44(3) repealed (3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 22(4), 86(1)(a)(2), Sch. 9 Pt. 1 (with s. 83(6)); S.I. 2003/192, art. 3, Sch.

Commencement Information

- II** S. 44 wholly in force; s. 44 not in force at Royal Assent see s. 58(2); s. 44(3) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; s. 44 in force in so far as not already in force at 5.4.1993 by S.I. 1992/2644, art. 2

45 Jurisdiction of courts in certain proceedings under this Act.

- (1) The Lord Chancellor or, in relation to Scotland, the Lord Advocate may by order make such provision as he considers necessary to secure that appeals, or such class of appeals as may be specified in the order—
- shall be made to a court instead of being made to [^{F7}an appeal tribunal]; or
 - shall be so made in such circumstances as may be so specified.
- (2) In subsection (1), “court” means—
- in relation to England and Wales and subject to any provision made under Schedule 11 to the ^{M1}Children Act 1989 (jurisdiction of courts with respect to certain proceedings relating to children) the High Court, a county court or a magistrates’ court; and
 - in relation to Scotland, the Court of Session or the sheriff.
- (3) Schedule 11 to the Act of 1989 shall be amended in accordance with subsections (4) and (5).
- (4) The following sub-paragraph shall be inserted in paragraph 1, after sub-paragraph (2) —
- “(2A) Sub-paragraphs (1) and (2) shall also apply in relation to proceedings—
- under section 27 of the Child Support Act 1991 (reference to court for declaration of parentage); or
 - which are to be dealt with in accordance with an order made under section 45 of that Act (jurisdiction of courts in certain proceedings under that Act)”.
- (5) In paragraphs 1(3) and 2(3), the following shall be inserted after “Act 1976”—
- “(bb) section 20 (appeals) or 27 (reference to court for declaration of parentage) of the Child Support Act 1991;”.
- (6) Where the effect of any order under subsection (1) is that there are no longer any appeals which fall to be dealt with by [^{F8}appeal tribunals], the Lord Chancellor after

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consultation with the Lord Advocate may by order provide for the abolition of those tribunals.

- (7) Any order under subsection (1) or (6) may make—
- (a) such modifications of any provision of this Act or of any other enactment; and
 - (b) such transitional provision,
- as the Minister making the order considers appropriate in consequence of any provision made by the order.

Textual Amendments

- F7** Words in s. 45(1) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 42\(1\)](#); [S.I. 1999/1510, art. 2\(g\)\(iii\)](#)
- F8** Words in s. 45(6) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 42\(2\)](#); [S.I. 1999/1510, art. 2\(g\)\(iii\)](#)

Modifications etc. (not altering text)

- C1** S. 45: transfer of functions (19.5.1999) by [The Transfer of Functions \(Lord Advocate and Secretary of State\) Order 1999 \(S.I. 1999/678\), arts. 1, 2\(1\), Sch.](#)
- C2** S. 45(1)(6): transfer of functions in relation to Scotland (1.7.1999) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 1999 \(S.I. 1999/1750\), arts. 1\(1\), 2, Sch. 1 \(with art. 7\)](#)
- C3** S. 45(6) functions treated as exercisable in Scotland (30.6.1999) by [The Scotland Act 1998 \(Functions Exercisable in or as Regards Scotland\) Order 1999 \(S.I. 1999/1748\), arts. 1, 3, Sch. 1 para. 12](#)

Marginal Citations

- M1** 1989 c. 41.

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