



Child Support Act 1991

1991 CHAPTER 48

Jurisdiction

44 **Jurisdiction.** **E+W+S**

(1) [^{F1}The [^{F2}Secretary of State]] shall have jurisdiction to make a [^{F3}maintenance calculation] with respect to a person who is—

- (a) a person with care;
- (b) [^{F4}a non-resident parent]; or
- (c) a qualifying child,

only if that person is habitually resident in the United Kingdom^{F5}, 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.

[^{F6}(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 [^{F7}registered under the Companies Act 2006]; or
- (d) employed by a body of a prescribed description.]

^{F8}(3)

[^{F9}(4) The [^{F10}Secretary of State] does not have jurisdiction under this section if the exercise of jurisdiction would be contrary to the jurisdictional requirements of the Maintenance Regulation.

(5) In subsection (4) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement

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made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

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)
- F2** Words in s. 44(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. 55**
- F3** 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** 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.
- F5** 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)
- F6** 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)
- F7** Words in s. 44(2A)(c) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 123** (with art. 10)
- F8** 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.
- F9** S. 44(4)(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 13**
- F10** Words in s. 44(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. 55**

Commencement Information

- I1** 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. **E+W+S**

- (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 ^{F11}the First-tier 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^{F12}, the High Court or the family court; and]
 - in relation to Scotland, the Court of Session or the sheriff.

^{F13}(3)

^{F13}(4)

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^{F13}(5)

^{F14}(6)

(7) Any order under subsection (1) ^{F15}... 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.

[^{F16}(8) The functions of the Lord Chancellor under this section may be exercised only after consultation with the Lord Chief Justice.

(9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

Textual Amendments

- F11** Words in s. 45(1)(a) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 92(a)**
- F12** Words in s. 45(2)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 125**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F13** S. 45(3)-(5) repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 210**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F14** S. 45(6) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 92(b)**
- F15** Words in s. 45(7) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 92(c)**
- F16** S. 45(8)(9) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 4 para. 220**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(u)

Modifications etc. (not altering text)

- C1** S. 45 functions transferred (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) functions transferred 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)

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