



# Child Support Act 1991

## 1991 CHAPTER 48

### *Reviews and appeals*

#### **[<sup>F1</sup>16 Revision of decisions**

- (1) Any decision [<sup>F2</sup>to which subsection (1A) applies] may be revised by the Secretary of State—
- (a) either within the prescribed period or in prescribed cases or circumstances; and
  - (b) either on an application made for the purpose or on his own initiative;
- and regulations may prescribe the procedure by which a decision of the Secretary of State may be so revised.

[<sup>F3</sup>(1A) This subsection applies to—

- (a) a decision of the Secretary of State under section 11, 12 or 17;
- <sup>F4</sup>(b) .....
- (c) a decision of an appeal tribunal on a referral under section 28D(1)(b).

(1B) Where the Secretary of State revises a decision under section 12(1)—

- (a) he may (if appropriate) do so as if he were revising a decision under section 11; and
- (b) if he does that, his decision as revised is to be treated as one under section 11 instead of section 12(1) (and, in particular, is to be so treated for the purposes of an appeal against it under section 20).]

- (2) In making a decision under subsection (1), the Secretary of State need not consider any issue that is not raised by the application or, as the case may be, did not cause him to act on his own initiative.
- (3) Subject to subsections (4) and (5) and section 28ZC, a revision under this section shall take effect as from the date on which the original decision took (or was to take) effect.
- (4) Regulations may provide that, in prescribed cases or circumstances, a revision under this section shall take effect as from such other date as may be prescribed.

*Status: Point in time view as at 14/07/2008.*

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- (5) Where a decision is revised under this section, for the purpose of any rule as to the time allowed for bringing an appeal, the decision shall be regarded as made on the date on which it is so revised.
- (6) Except in prescribed circumstances, an appeal against a decision of the Secretary of State shall lapse if the decision is revised under this section before the appeal is determined.]

#### Textual Amendments

- F1** S. 16 substituted (16.11.1998 for specified purposes, 7.12.1998 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), ss. 40, 87\(2\)](#); [S.I. 1998/2780, art. 2](#) (with art. 3) (as amended (2.4.2001) by 2000 c. 19, Sch. 9 Pt. 1; [S.I. 2001/1252, art. 2\(1\)\(d\)\(iii\)](#))
- F2** Words in s. 16(1) substituted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 8\(2\), 86\(1\)\(a\)\(2\)](#) (with [ss. 28, 83\(6\)](#)); [S.I. 2003/192, art. 3, Sch.](#)
- F3** S. 16(1A)(1B) inserted (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 8\(3\), 86\(1\)\(a\)\(2\)](#) (with [ss. 28, 83\(6\)](#)); [S.I. 2003/192, art. 3, Sch.](#)
- F4** S. 16(1A)(b) 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\(2\)\(c\)\(i\)](#)

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

- C1** S. 16 applied by [The Social Security and Child Support \(Decisions and Appeals\) Regulations 1999 \(S.I. 1999/991\), reg. 3A](#) (as inserted (3.3.2003 for specified purposes) by [S.I. 2000/3185, regs. 1, 5](#); [S.I. 2003/192, art. 3\(1\), Sch.](#))

### [<sup>F5</sup>17 Decisions superseding earlier decisions

- (1) Subject to subsection (2), the following, namely—
- (a) any decision of the Secretary of State under section 11 or 12 or this section, whether as originally made or as revised under section 16;
  - (b) any decision of an appeal tribunal under section 20; <sup>F6</sup>...
  - <sup>F7</sup>(c) .....
  - <sup>F8</sup>(d) any decision of an appeal tribunal on a referral under section 28D(1)(b);
  - (e) any decision of a Child Support Commissioner on an appeal from such a decision as is mentioned in paragraph (b) or (d)],

may be superseded by a decision made by the Secretary of State, either on an application made for the purpose or on his own initiative.

- (2) In making a decision under subsection (1), the Secretary of State need not consider any issue that is not raised by the application or, as the case may be, did not cause him to act on his own initiative.

- (3) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this section.

- [<sup>F9</sup>(4) Subject to subsection (5) and section 28ZC, a decision under this section shall take effect as from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which the application was made.

- (4A) In subsection (4), a “maintenance period” is (except where a different meaning is prescribed for prescribed cases) a period of seven days, the first one beginning on the

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effective date of the first decision made by the Secretary of State under section 11 or (if earlier) his first default or interim maintenance decision (under section 12) in relation to the non-resident parent in question, and each subsequent one beginning on the day after the last day of the previous one.]

- (5) Regulations may provide that, in prescribed cases or circumstances, a decision under this section shall take effect as from such other date as may be prescribed.]

**Textual Amendments**

- F5** S. 17 substituted for ss. 17–19 (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. 41**, 87(2); [S.I. 1999/528](#), art. 2(a), Sch.; [S.I. 1999/1510](#), art. 2(d) (for a transitional provision see [S.I. 1999/1510](#), art. 48(2))
- F6** Word in s. 17(1) repealed (3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(e)(2), **Sch. 9 Pt. 1** (with s. 83(6)); [S.I. 2003/192](#), art. 3, Sch.
- F7** S. 17(1)(c) 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)
- F8** S. 17(1)(c)–(e) substituted for s. 17(1)(c) (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 9(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.
- F9** S. 17(4)(4A) substituted for s. 17(4) (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 9(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.

**<sup>F5</sup>18 Reviews of decisions of child support officers.**

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**Textual Amendments**

- F5** S. 17 substituted for ss. 17–19 (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. 41**, 87(2); [S.I. 1999/528](#), art. 2(a), Sch.; [S.I. 1999/1510](#), art. 2(d) (for a transitional provision see [S.I. 1999/1510](#), art. 48(2))

**<sup>F5</sup>19 Reviews at instigation of child support officers.**

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**Textual Amendments**

- F5** S. 17 substituted for ss. 17–19 (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. 41**, 87(2); [S.I. 1999/528](#), art. 2(a), Sch.; [S.I. 1999/1510](#), art. 2(d) (for a transitional provision see [S.I. 1999/1510](#), art. 48(2))

**[<sup>F10</sup>20 Appeals to appeal tribunals.**

- (1) A qualifying person has a right of appeal to an appeal tribunal—
- (a) a decision of the Secretary of State under section 11, 12 or 17 (whether as originally made or as revised under section 16);

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- (b) a decision of the Secretary of State not to make a maintenance calculation under section 11 or not to supersede a decision under section 17;
- <sup>F11</sup>(c) .....
- (d) the imposition (by virtue of section 41A) of a requirement to make penalty payments, or their amount;
- <sup>F12</sup>(e) .....
- (2) In subsection (1), “qualifying person” means—
  - (a) in relation to paragraphs (a) and (b)—
    - (i) the person with care, or non-resident parent, with respect to whom the Secretary of State made the decision, or
    - (ii) in a case relating to a maintenance calculation which was applied for under section 7, either of those persons or the child concerned;
  - <sup>F13</sup>(b) .....
  - (c) in relation to paragraph (d), the parent who has been required to make penalty payments; and
  - (d) in relation to paragraph (e), the person required to pay fees.
- (3) A person with a right of appeal under this section shall be given such notice as may be prescribed of—
  - (a) that right; and
  - (b) the relevant decision, or the imposition of the requirement.
- (4) Regulations may make—
  - (a) provision as to the manner in which, and the time within which, appeals are to be brought; and
  - (b) such provision with respect to proceedings before appeal tribunals as the Secretary of State considers appropriate.
- (5) The regulations may in particular make any provision of a kind mentioned in Schedule 5 to the Social Security Act 1998.
- <sup>F14</sup>(6) .....
- (7) In deciding an appeal under this section, an appeal tribunal—
  - (a) need not consider any issue that is not raised by the appeal; and
  - (b) shall not take into account any circumstances not obtaining at the time when the Secretary of State made the decision or imposed the requirement.
- (8) If an appeal under this section is allowed, the appeal tribunal may—
  - (a) itself make such decision as it considers appropriate; or
  - (b) remit the case to the Secretary of State, together with such directions (if any) as it considers appropriate.]

**Textual Amendments**

- F10** S. 20 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. 10**, 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.**
- F11** [S. 20\(1\)\(c\)](#) 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)**

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- F12** S. 20(1)(e) 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)
- F13** S. 20(2)(b) 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)
- F14** S. 20(6) 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)

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

- C2** S. 20 modified (E.W.) (21.7.2002) by The Child Support Appeals (Jurisdiction of Courts) Order 2002 (S.I. 2002/1915), arts. 1(2), 3 (with art. 1(3))
- C3** S. 20 applied by The Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991), reg. 30A (as inserted (3.3.2003 for specified purposes) by S.I. 2000/3185, regs. 1, 12; S.I. 2003/192, art. 3(1), Sch.)

**<sup>F15</sup>20A Lapse of appeals.**

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**Textual Amendments**

- F15** S. 20 substituted for ss. 20–21 (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. 42, 87(2); S.I. 1999/528, art. 2(a), Sch.; S.I. 1999/1510, art. 2(d)

**<sup>F15</sup>21 Child support appeal tribunals.**

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**Textual Amendments**

- F15** S. 20 substituted for ss. 20–21 (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. 42, 87(2); S.I. 1999/528, art. 2(a), Sch.; S.I. 1999/1510, art. 2(d)

**22 Child Support Commissioners.**

- (1) Her Majesty may from time to time appoint a Chief Child Support Commissioner and such number of other Child Support Commissioners as she may think fit.
- (2) The Chief Child Support Commissioner and the other Child Support Commissioners shall be appointed from among persons who—
  - (a) have a 10 year general qualification; or
  - (b) are advocates or solicitors in Scotland of 10 years' standing.
- (3) The Lord Chancellor, after consulting the Lord Advocate, may make such regulations with respect to proceedings before Child Support Commissioners as he considers appropriate.
- (4) The regulations—

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- (a) may, in particular, make any provision of a kind mentioned in [<sup>F16</sup>Schedule 5 to the Social Security Act 1998]; and
- (b) shall provide that any hearing before a Child Support Commissioner shall be in public except in so far as the Commissioner for special reasons directs otherwise.

(5) Schedule 4 shall have effect with respect to Child Support Commissioners.

#### Textual Amendments

**F16** Words in s. 22(4)(a) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 29; S.I. 1999/1510, art. 2\(g\)\(iii\)](#)

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

**C4** S. 22: 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.](#)

**C5** S. 22(3) 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](#)

**C6** S. 22(3): 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 \(with art. 7\)](#)

#### Commencement Information

**I1** S. 22 wholly in force; s. 22 not in force at Royal Assent see s. 58(2); s. 22(3)(4) in force at 17.6.1992 by [S.I. 1992/1431, art. 2, Sch.](#); s. 22(1)(2)(5) in force at 1.9.1992 by [S.I. 1992/1938, art. 2](#); s. 22 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644, art. 2](#)

## 23 Child Support Commissioners for Northern Ireland.

- (1) Her Majesty may from time to time appoint a Chief Child Support Commissioner for Northern Ireland and such number of other Child Support Commissioners for Northern Ireland as she may think fit.
- (2) The Chief Child Support Commissioner for Northern Ireland and the other Child Support Commissioners for Northern Ireland shall be appointed from among persons who are barristers or solicitors of not less than 10 years' standing.
- (3) Schedule 4 shall have effect with respect to Child Support Commissioners for Northern Ireland, subject to the modifications set out in paragraph 8.

<sup>F17</sup>(4) .....

<sup>F17</sup>(5) .....

#### Textual Amendments

**F17** S. 23(4)(5) repealed (2.12.1999) by [Northern Ireland Act 1998 \(c. 47\), ss. 100\(2\), 101\(3\), Sch. 15 \(with s. 95, Sch. 14\); S.I. 1999/3209, art. 2, Sch.](#)

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

**C7** S. 23 applied (18.6.1992) by [S.I. 1991/2628, art. 2; S.R. 1992/278, art.2, Sch.](#)

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

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**[<sup>F18</sup>23A Redetermination of appeals.**

- (1) This section applies where an application is made to a person under section 24(6)(a) for leave to appeal from a decision of an appeal tribunal.
- (2) If the person who constituted, or was the chairman of, the appeal tribunal considers that the decision was erroneous in law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.
- (3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.
- (4) The “principal parties” are—
  - (a) the Secretary of State; and
  - (b) those who are qualifying persons for the purposes of section 20(2) in relation to the decision in question.]

**Textual Amendments**

**F18** S. 23A inserted (15.2.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 11, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/3354, art. 2(2)

**24 Appeal to Child Support Commissioner.**

- (1) Any person who is aggrieved by a decision of [<sup>F19</sup>an appeal tribunal, and the Secretary of State], may appeal to a Child Support Commissioner on a question of law.  
<sup>F20</sup>(1A) .....
- (2) Where, on an appeal under this section, a Child Support Commissioner holds that the decision appealed against was wrong in law he shall set it aside.
- (3) Where a decision is set aside under subsection (2), the Child Support Commissioner may—
  - (a) if he can do so without making fresh or further findings of fact, give the decision which he considers should have been given by [<sup>F21</sup>the appeal tribunal];
  - (b) if he considers it expedient, make such findings and give such decision as he considers appropriate in the light of those findings; or
  - [<sup>F22</sup>(c) on an appeal by the Secretary of State, refer the case to [<sup>F23</sup>an appeal tribunal] with directions for its determination; or
  - (d) on any other appeal, refer the case to [<sup>F24</sup>the Secretary of State] or, if he considers it appropriate, to [<sup>F23</sup>an appeal tribunal] with directions for its determination.]
- [<sup>F25</sup>(4) The reference under subsection (3) to the Secretary of State shall, subject to any direction of the Child Support Commissioner, be to an officer of his, or a person providing him with services, who has taken no part in the decision originally appealed against.]

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- (5) On a reference under subsection (3) to [<sup>F26</sup>an appeal tribunal], the tribunal shall, subject to any direction of the Child Support Commissioner, consist of persons who were not members of the tribunal which gave the decision which has been appealed against.
- (6) No appeal lies under this section without the leave—
- (a) of the person [<sup>F27</sup>who constituted, or was the chairman of, the appeal tribunal] when the decision appealed against was given or of [<sup>F28</sup>such other person] as may be determined in accordance with regulations made by the Lord Chancellor; or
  - (b) subject to and in accordance with regulations so made, of a Child Support Commissioner.
- (7) The Lord Chancellor may by regulations make provision as to the manner in which, and the time within which, appeals under this section are to be brought and applications for leave under this section are to be made.
- (8) Where a question which would otherwise fall to be determined by [<sup>F29</sup>the Secretary of State] first arises in the course of an appeal to a Child Support Commissioner, he may, if he thinks fit, determine it even though it has not been considered by [<sup>F29</sup>the Secretary of State].
- (9) Before making any regulations under subsection (6) or (7), the Lord Chancellor shall consult the Lord Advocate.

#### Textual Amendments

- F19** Words in s. 24(1) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(1\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F20** S. 24(1A) repealed (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(2\), Sch. 8; S.I. 1999/1510, art. 2\(f\)\(iii\)\(g\)\(iii\)](#)
- F21** Words in s. 24(3) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(3\)\(a\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F22** S. 24(3)(c)(d) substituted for s. 24(3)(c) (2.12.1996) by [Child Support Act 1995 \(c. 34\), s. 30\(4\), Sch. 3 para. 7\(3\)](#); S.I. 1996/2630, art. 2, Sch. Pt. 2
- F23** Words in s. 24(3) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(3\)\(b\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F24** Words in s. 24(3) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(3\)\(c\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F25** S. 24(4) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(4\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F26** Words in s. 24(5) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(5\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F27** Words in s. 24(6) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(6\)\(a\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F28** Words in s. 24(6) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(6\)\(b\)](#); S.I. 1999/1510, art. 2(g)(iii)
- F29** Words in s. 24(8) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 30\(7\)](#); S.I. 1999/1510, art. 2(g)(iii)

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

- C8** S. 24: 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.](#)



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- C9** S. 24(9) 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**
- C10** S. 24(9): 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)

#### **Commencement Information**

- I2** S. 24 wholly in force; s. 24 not in force at Royal Assent see s. 58(2); s. 24(6)(7) in force at 17.6.1992 by [S.I. 1992/1431, art. 2, Sch.](#); s. 24(9) in force at 1.9.1992 by [S.I. 1992/1938, art. 2](#); s. 24 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644, art. 2](#)

## **25 Appeal from Child Support Commissioner on question of law.**

- (1) An appeal on a question of law shall lie to the appropriate court from any decision of a Child Support Commissioner.
- (2) No such appeal may be brought except—
  - (a) with leave of the Child Support Commissioner who gave the decision or, where regulations made by the Lord Chancellor so provide, of a Child Support Commissioner selected in accordance with the regulations; or
  - (b) if the Child Support Commissioner refuses leave, with the leave of the appropriate court.
- (3) An application for leave to appeal under this section against a decision of a Child Support Commissioner (“the appeal decision”) may only be made by—
  - (a) a person who was a party to the proceedings in which the original decision, or appeal decision, was given;
  - (b) the Secretary of State; or
  - (c) any other person who is authorised to do so by regulations made by the Lord Chancellor.
- [<sup>F30</sup>(3A) The Child Support Commissioner to whom an application for leave to appeal under this section is made shall specify as the appropriate court either the Court of Appeal or the Court of Session.
- (3B) In determining the appropriate court, the Child Support Commissioner shall have regard to the circumstances of the case, and in particular the convenience of the persons who may be parties to the appeal.]
- (4) In this section—

“appropriate court” [<sup>F31</sup>, except in subsections (3A) and (3B), means the court specified in accordance with those subsections]; and

“original decision” means the decision to which the appeal decision in question relates.
- (5) The Lord Chancellor may by regulations make provision with respect to—
  - (a) the manner in which and the time within which applications must be made to a Child Support Commissioner for leave under this section; and
  - (b) the procedure for dealing with such applications.
- (6) Before making any regulations under subsection (2), (3) or (5), the Lord Chancellor shall consult the Lord Advocate.

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

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### Textual Amendments

- F30** S. 25(3A)(3B) inserted (4.9.1995) by [Child Support Act 1995 \(c. 34\)](#), s. 30(4), [Sch. 3 para. 8\(1\)](#); S.I. 1995/2302, art. 2, [Sch. Pt. 1](#)
- F31** Words in s. 25(4) substituted (4.9.1995) by [Child Support Act 1995 \(c. 34\)](#), s. 30(4), [Sch. 3 para. 8\(2\)](#); S.I. 1995/2302, art. 2, [Sch. Pt. 1](#)

### Modifications etc. (not altering text)

- C11** S. 25: 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.](#)
- C12** S. 25(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](#)
- C13** S. 25(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)

### Commencement Information

- I3** S. 25 wholly in force; s. 25 not in force at Royal Assent see s. 58(2); s. 25(2)(a)(3)(c)(5)(6) in force at 17.6.1992 by [S.I. 1992/1431](#), art. 2, [Sch.](#); s. 25 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644](#), art. 2

## 26 Disputes about parentage.

(1) Where a person who is alleged to be a parent of the child with respect to whom an application for a [<sup>F32</sup>maintenance calculation] has been made [<sup>F33</sup>or treated as made] (“the alleged parent”) denies that he is one of the child’s parents, [<sup>F34</sup>the Secretary of State] shall not make a [<sup>F32</sup>maintenance calculation] on the assumption that the alleged parent is one of the child’s parents unless the case falls within one of those set out in subsection (2).

(2) The Cases are —  
[<sup>F35</sup>CASE A1

Where—

- (a) the child is habitually resident in England and Wales;
- (b) the Secretary of State is satisfied that the alleged parent was married to the child’s mother at some time in the period beginning with the conception and ending with the birth of the child; and
- (c) the child has not been adopted.

CASE A2

Where—

- (a) the child is habitually resident in England and Wales;
- (b) the alleged parent has been registered as father of the child under section 10 or 10A of the Births and Deaths Registration Act 1953, or in any register kept under section 13 (register of births and still-births) or section 44 (Register of Corrections Etc) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965, or under Article 14 or 18(1)(b)(ii) of the Births and Deaths Registration (Northern Ireland) Order 1976; and
- (c) the child has not subsequently been adopted.

CASE A3

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Where the result of a scientific test (within the meaning of section 27A) taken by the alleged parent would be relevant to determining the child's parentage, and the alleged parent—

- (a) refuses to take such a test; or
- (b) has submitted to such a test, and it shows that there is no reasonable doubt that the alleged parent is a parent of the child.]

CASE A

Where the alleged parent is a parent of the child in question by virtue of having adopted him.

CASE B

Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the <sup>M1</sup>Human Fertilisation and Embryology Act 1990 (parental orders in favour of gamete donors).

[<sup>F36</sup>CASE B1

Where the Secretary of State is satisfied that the alleged parent is a parent of the child in question by virtue of section 27 or 28 of that Act (meaning of “mother” and of “father” respectively).]

CASE C

Where—

- (a) either—
  - (i) a declaration that the alleged parent is a parent of the child in question (or a declaration which has that effect) is in force under section [<sup>F37</sup>55A or] 56 of the <sup>M2</sup>Family Law Act 1986 [<sup>F38</sup>or Article 32 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989] (declarations of parentage); or
  - (ii) a declarator by a court in Scotland that the alleged parent is a parent of the child in question (or a declarator which has that effect) is in force; and
- (b) the child has not subsequently been adopted.

CASE D

<sup>F39</sup> .....

CASE E

Where—

- (a) the child is habitually resident in Scotland;
- (b) [<sup>F40</sup>the Secretary of State] is satisfied that one or other of the presumptions set out in section 5(1) of the <sup>M3</sup>Law Reform (Parent and Child) (Scotland) Act 1986 applies; and
- (c) the child has not subsequently been adopted.

CASE F

Where—

- (a) the alleged parent has been found, or adjudged, to be the father of the child in question—
  - (i) in proceedings before any court in England and Wales which are relevant proceedings for the purposes of section 12 of the

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<sup>M4</sup>Civil Evidence Act 1968 [<sup>F41</sup>or in proceedings before any court in Northern Ireland which are relevant proceedings for the purposes of section 8 of the Civil Evidence Act (Northern Ireland) 1971]; or

(ii) in affiliation proceedings before any court in the United Kingdom,

(whether or not he offered any defence to the allegation of paternity) and that finding or adjudication still subsists; and

(b) the child has not subsequently been adopted.

(3) In this section—

“adopted” means adopted within the meaning of Part IV of the <sup>M5</sup>Adoption Act 1976 [<sup>F42</sup>or Chapter 4 of Part 1 of the Adoption and Children Act 2002] or, in relation to Scotland, Part IV of the <sup>M6</sup>Adoption (Scotland) Act 1978; and

“affiliation proceedings”, in relation to Scotland, means any action of affiliation and aliment.

#### Textual Amendments

- F32** 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.
- F33** Words in s. 26(1) inserted (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(8)** (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F34** Words in s. 26(1) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 31(1)**; S.I. 1999/1510, art. 2(g)(iii)
- F35** Words in s. 26(2) inserted (31.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 15(1)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/3354, art. 2(1)(a)
- F36** Words in s. 26(2) inserted (31.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 15(2)**, 86(1)(a)(2) (with ss. 28, 83(6)); S.I. 2000/3354, art. 2(1)(a)
- F37** Words in s. 26(2) inserted (1.4.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(d)(2), **Sch. 8 para. 12** (with s. 83(6)); S.I. 2001/774, art. 2
- F38** Words in s. 26(2) inserted (4.11.1996) by The Children (Northern Ireland Consequential Amendments) Order 1995 (S.I. 1995/756), arts. 1(2), **13(a)** (with art. 16); S.R. 1996/297, art. 3
- F39** Words in s. 26(2) repealed (1.4.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(e)(2), **Sch. 9 Pt. 9** (with s. 83(6)); S.I. 2001/774, art. 2(d)
- F40** Words in s. 26(2) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 31(2)**; S.I. 1999/1510, art. 2(g)(iii)
- F41** Words in s. 26(2) inserted (4.11.1996) by The Children (Northern Ireland Consequential Amendments) Order 1995 (S.I. 1995/756), arts. 1(2), **13(b)** (with art. 16); S.R. 1996/297, art. 3
- F42** Words in s. 26(3) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 81** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o) (as amended (15.10.2005) by S.I. 2005/2897, art. 14(3))

#### Marginal Citations

- M1** 1990 c. 37.  
**M2** 1986 c. 55.  
**M3** 1986 c. 9.  
**M4** 1968 c. 64.  
**M5** 1976 c. 36.  
**M6** 1978 c. 28.

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## [<sup>F43</sup>27 Applications for declaration of parentage under Family Law Act 1986.

- (1) This section applies where—
  - (a) an application for a maintenance calculation has been made (or is treated as having been made), or a maintenance calculation is in force, with respect to a person (“the alleged parent”) who denies that he is a parent of a child with respect to whom the application or calculation was made or treated as made;
  - (b) the Secretary of State is not satisfied that the case falls within one of those set out in section 26(2); and
  - (c) the Secretary of State or the person with care makes an application for a declaration under section 55A of the Family Law Act 1986 as to whether or not the alleged parent is one of the child’s parents.
- (2) Where this section applies—
  - (a) if it is the person with care who makes the application, she shall be treated as having a sufficient personal interest for the purposes of subsection (3) of that section; and
  - (b) if it is the Secretary of State who makes the application, that subsection shall not apply.
- (3) This section does not apply to Scotland.]

### Textual Amendments

**F43** S. 27 substituted (1.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(d)(2), [Sch. 8 para. 13](#) (with s. 83(6)); [S.I. 2001/774](#), art. 2

## [<sup>F44</sup>27A Recovery of fees for scientific tests.

- (1) This section applies in any case where—
  - (a) an application for a [<sup>F32</sup>maintenance calculation] has been made [<sup>F45</sup>or treated as made] or a [<sup>F32</sup>maintenance calculation] is in force;
  - (b) scientific tests have been carried out (otherwise than under a direction or in response to a request) in relation to bodily samples obtained from a person who is alleged to be a parent of a child with respect to whom the application or [<sup>F46</sup>calculation] is made [<sup>F47</sup>or, as the case may be, treated as made];
  - (c) the results of the tests do not exclude the alleged parent from being one of the child’s parents; and
  - (d) one of the conditions set out in subsection (2) is satisfied.
- (2) The conditions are that—
  - (a) the alleged parent does not deny that he is one of the child’s parents;
  - (b) in proceedings under [<sup>F48</sup>section 55A of the Family Law Act 1986], a court has made a declaration that the alleged parent is a parent of the child in question; or
  - (c) in an action under section 7 of the Law Reform (Parent and Child) (Scotland) Act 1986, brought by the Secretary of State by virtue of section 28, a court has granted a decree of declarator of parentage to the effect that the alleged parent is a parent of the child in question.

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

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- (3) In any case to which this section applies, any fee paid by the Secretary of State in connection with scientific tests may be recovered by him from the alleged parent as a debt due to the Crown.
- (4) In this section—
- “bodily sample” means a sample of bodily fluid or bodily tissue taken for the purpose of scientific tests;
- “direction” means a direction given by a court under section 20 of the Family Law Reform Act 1969 (tests to determine paternity);
- “request” means a request made by a court under section 70 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (blood and other samples in civil proceedings); and
- “scientific tests” means scientific tests made with the object of ascertaining the inheritable characteristics of bodily fluids or bodily tissue.
- (5) Any sum recovered by the Secretary of State under this section shall be paid by him into the Consolidated Fund.]

#### Textual Amendments

- F32** 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** S. 27A inserted (4.9.1995) by [Child Support Act 1995 \(c. 34\)](#), **ss. 21, 30(4)**; S.I. 1995/2302, art. 2, Sch. Pt. 1
- F45** Words in s. 27A(1)(a) inserted (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(9)(a)** (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F46** 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.
- F47** Words in s. 27A(1)(b) inserted (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(9)(b)** (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F48** Words in s. 27A(2)(b) substituted (1.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(d)(2), **Sch. 8 para. 14** (with s. 83(6)); S.I. 2001/774, art. 2

## 28 Power of Secretary of State to initiate or defend actions of declarator: Scotland.

- [<sup>F49</sup>(1) Subsection (1A) applies in any case where—
- (a) an application for a [<sup>F32</sup>maintenance calculation] has been made [<sup>F50</sup>or treated as made], or a [<sup>F32</sup>maintenance calculation] is in force, with respect to a person (“the alleged parent”) who denies that he is a parent of a child with respect to whom the application [<sup>F51</sup>was made or treated as made or the calculation was made]; and
- (b) [<sup>F52</sup>the Secretary of State] is not satisfied that the case falls within one of those set out in section 26(2).
- (1A) In any case where this subsection applies, the Secretary of State may bring an action for declarator of parentage under section 7 of the Law Reform (Parent and Child) (Scotland) Act 1986.]

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- (2) The Secretary of State may defend an action for declarator of non-parentage or illegitimacy brought by a person named as the alleged parent in an application for a [F32maintenance calculation][F53] or in a [F32maintenance calculation] which is in force].
- (3) This section applies to Scotland only.

#### Textual Amendments

- F32** 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.
- F49** S. 28(1)(1A) substituted for s. 28(1) (4.9.1995) by Child Support Act 1995 (c. 34), ss. 20(6), 30(4); S.I. 1995/2302, art. 2, Sch. Pt. 1
- F50** Words in s. 28(1)(a) inserted (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(10)(a) (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F51** Words in s. 28(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(10)(b) (with s. 83(6)); S.I. 2003/192, art. 3, Sch.
- F52** Words in s. 28(1) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 33; S.I. 1999/1510, art. 2(g)(iii)
- F53** Words in s. 28(2) inserted (4.9.1995) by Child Support Act 1995 (c. 34), ss. 20(7), 30(4); S.I. 1995/2302, art. 2, Sch. Pt. 1

**Status:**

Point in time view as at 14/07/2008.

**Changes to legislation:**

Child Support Act 1991, Cross Heading: Reviews and appeals is up to date with all changes known to be in force on or before 03 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.