



# 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 [<sup>F3</sup>Commission]—
- (a) either within the prescribed period or in prescribed cases or circumstances; and
  - (b) either on an application made for the purpose or on [<sup>F4</sup>its] own initiative; and regulations may prescribe the procedure by which a decision of the [<sup>F3</sup>Commission] may be so revised.

[<sup>F5</sup>(1A) This subsection applies to—

- (a) a decision of the [<sup>F3</sup>Commission] under section 11, 12 or 17;
- [<sup>F6</sup>(b) . . . . .]
- (c) a decision of [<sup>F7</sup>the First-tier Tribunal] on a referral under section 28D(1)(b).

(1B) Where the [<sup>F3</sup>Commission] revises a decision under section 12(1)—

- (a) [<sup>F8</sup>it] may (if appropriate) do so as if [<sup>F8</sup>it] were revising a decision under section 11; and
- (b) if [<sup>F8</sup>it] does that, [<sup>F4</sup>its] 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 [<sup>F3</sup>Commission] need not consider any issue that is not raised by the application or, as the case may be, did not cause [<sup>F9</sup>it] to act on [<sup>F4</sup>its] 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*Status: Point in time view as at 12/04/2010.*

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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 [F<sup>3</sup>Commission] 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** Word in s. 16 substituted (1.11.2008) by *Child Maintenance and Other Payments Act 2008 (c. 6), s. 62(3), Sch. 3 para. 12(a)*; S.I. 2008/2675, art. 3(b)
- F4** Word in s. 16 substituted (1.11.2008) by *Child Maintenance and Other Payments Act 2008 (c. 6), s. 62(3), Sch. 3 para. 12(b)*; S.I. 2008/2675, art. 3(b)
- F5** 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.
- F6** 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)
- F7** Words in s. 16(1A)(c) substituted (3.11.2008) by *The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), Sch. 3 para. 78*
- F8** Word in s. 16 substituted (1.11.2008) by *Child Maintenance and Other Payments Act 2008 (c. 6), s. 62(3), Sch. 3 para. 12(c)*; S.I. 2008/2675, art. 3(b)
- F9** Word in s. 16 substituted (1.11.2008) by *Child Maintenance and Other Payments Act 2008 (c. 6), s. 62(3), Sch. 3 para. 12(d)*; S.I. 2008/2675, art. 3(b)

#### 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.)

#### [F<sup>10</sup>17 Decisions superseding earlier decisions

- (1) Subject to subsection (2), the following, namely—
- (a) any decision of the [F<sup>11</sup>Commission] under section 11 or 12 or this section, whether as originally made or as revised under section 16;
  - (b) any decision of [F<sup>12</sup>the First-tier Tribunal] under section 20; F<sup>13</sup>...
  - F<sup>14</sup>(c) .....
  - F<sup>15</sup>(d) any decision of [F<sup>16</sup>the First-tier Tribunal] on a referral under section 28D(1)(b);
  - (e) any decision of [F<sup>17</sup>the Upper Tribunal] on an appeal from such a decision as is mentioned in paragraph (b) or (d)],
- may be superseded by a decision made by the [F<sup>11</sup>Commission], either on an application made for the purpose or on [F<sup>18</sup>its] own initiative.

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- (2) In making a decision under subsection (1), the [F11Commission] need not consider any issue that is not raised by the application or, as the case may be, did not cause [F19it] to act on [F18its] 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.
- [F20(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 effective date of the first decision made by the [F11Commission] under section 11 or (if earlier) [F18its] 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

- F10** 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))
- F11** Word in s. 17 substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), **Sch. 3 para. 13(a)**; S.I. 2008/2675, art. 3(b)
- F12** Words in s. 17(1)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 79(a)**
- F13** 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.
- F14** 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)
- F15** 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.
- F16** Words in s. 17(1)(d) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 79(a)**
- F17** Words in s. 17(1)(e) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 79(b)**
- F18** Word in s. 17 substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), **Sch. 3 para. 13(b)**; S.I. 2008/2675, art. 3(b)
- F19** Word in s. 17 substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), **Sch. 3 para. 13(c)**; S.I. 2008/2675, art. 3(b)
- F20** 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.

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## <sup>F10</sup>18 **Reviews of decisions of child support officers.**

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### **Textual Amendments**

**F10** 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>19 **Reviews at instigation of child support officers.**

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### **Textual Amendments**

**F10** 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>F21</sup>20 **Appeals to [<sup>F22</sup>First-tier Tribunal].**

- (1) A qualifying person has a right of appeal to [<sup>F23</sup>the First-tier Tribunal] against—
  - (a) a decision of the [<sup>F24</sup>Commission] under section 11, 12 or 17 (whether as originally made or as revised under section 16);
  - (b) a decision of the [<sup>F25</sup>Commission] not to make a maintenance calculation under section 11 or not to supersede a decision under section 17;
  - <sup>F26</sup>(c) .....
  - (d) the imposition (by virtue of section 41A) of a requirement to make penalty payments, or their amount;
  - (e) the imposition (by virtue of section 47) of a requirement to pay fees.
- (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 [<sup>F27</sup>Commission] 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>F28</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—

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- (a) provision as to the manner in which, and the time within which, appeals are to be brought; <sup>F29</sup>...
- <sup>F29</sup>(b) .....
- (5) The regulations may in particular make any provision of a kind mentioned in Schedule 5 to the Social Security Act 1998.
- <sup>F30</sup>(6) .....
- (7) In deciding an appeal under this section, [<sup>F31</sup>the First-tier 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 [<sup>F32</sup>Commission] made the decision or imposed the requirement.
- (8) If an appeal under this section is allowed, the [<sup>F33</sup>First-tier Tribunal] may—
  - (a) itself make such decision as it considers appropriate; or
  - (b) remit the case to the [<sup>F34</sup>Commission], together with such directions (if any) as it considers appropriate.]

**Textual Amendments**

- F21** 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.](#)
- F22** Words in s. 20 heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 81\(a\)](#)
- F23** Words in s. 20(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 81\(b\)](#)
- F24** Word in s. 20(1)(a) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 3 para. 14\(2\); S.I. 2008/2675, art. 3\(b\)](#)
- F25** Word in s. 20(1)(b) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 3 para. 14\(2\); S.I. 2008/2675, art. 3\(b\)](#)
- F26** 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\(2\)\(c\)\(i\)](#)
- F27** Word in s. 20(2)(a)(i) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 3 para. 14\(2\); S.I. 2008/2675, art. 3\(b\)](#)
- F28** 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\(2\)\(c\)\(i\)](#)
- F29** S. 20(4)(b) and preceding word omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 81\(c\)](#)
- F30** 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\(2\)\(c\)\(i\)](#)
- F31** Words in s. 20(7) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 81\(b\)](#)
- F32** Word in s. 20(7)(b) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 3 para. 14\(2\); S.I. 2008/2675, art. 3\(b\)](#)
- F33** Words in s. 20(8) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 81\(d\)](#)
- F34** Word in s. 20(8)(b) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 3 para. 14\(2\); S.I. 2008/2675, art. 3\(b\)](#)

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

- C2** S. 20 (as originally enacted) amended (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 80**
- C3** 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))
- C4** 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.)
- C5** S. 20(3)-(5)(7)(8) applied (24.7.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 6(6)**, 62(3); [S.I. 2008/2033](#), art. 2(1)

### <sup>F35</sup>**20A Lapse of appeals.**

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#### Textual Amendments

- F35** 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>F35</sup>**21 Child support appeal tribunals.**

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#### Textual Amendments

- F35** 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>F36</sup>**22 Child Support Commissioners.**

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#### Textual Amendments

- F36** S. 22 omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 82** (see also as to the transfer of functions arts. 3(2)(3), 4, 5, **Sch. 1**)

### **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 [<sup>F37</sup>other Child Support Commissioners for Northern Ireland].
- (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 [<sup>F38</sup>7] years' standing.

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(3) Schedule 4 shall have effect with respect to Child Support Commissioners for Northern Ireland <sup>F39</sup>...

<sup>F40</sup>(4) .....

<sup>F40</sup>(5) .....

**Textual Amendments**

**F37** Words in s. 23(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 22** (with **Sch. 5 para. 16**); S.I. 2010/812, art. 2

**F38** Figure in s. 23(2) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 22(3)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)

**F39** Words in s. 23(3) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 83**

**F40** 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)**

**C6** S. 23 applied (18.6.1992) by S.I. 1991/2628, **art. 2**; S.R. 1992/278, **art.2, Sch.**

**[<sup>F41</sup>23A Redetermination of appeals.**

(1) This section applies where an application is made [<sup>F42</sup>to the First-tier Tribunal for permission to appeal to the Upper Tribunal from any decision of the First-tier Tribunal under section 20].

<sup>F43</sup>(2) .....

(3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, [<sup>F44</sup>the First-tier Tribunal] shall set aside the decision and refer the case for determination by a differently constituted [<sup>F45</sup>First-tier Tribunal].

(4) The “principal parties” are—

<sup>F46</sup>(za) [ the Commission;]

(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**

**F41** 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)

**F42** Words in s. 23A(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 84(a)**

**F43** S. 23A(2) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 84(b)**

**F44** Words in s. 23A(3) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 84(c)(i)**

**F45** Words in s. 23A(3) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 84(c)(ii)**

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**F46** S. 23A(4)(za) inserted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 3 para. 15](#); S.I. 2008/2675, art. 3(b)

## 24 <sup>F47</sup> Appeals to Upper Tribunal

<sup>F48</sup>(1) Each of the following may appeal <sup>F49</sup> to the Upper Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007 from any decision of the First-tier Tribunal under section 20 of this Act—

- (a) the Commission,
- (b) the Secretary of State, and
- (c) any person who is aggrieved by the decision of an appeal tribunal.]

<sup>F50</sup>(1A) . . . . .

<sup>F51</sup>(2) Where a question which would otherwise fall to be determined by the Commission or the Secretary of State under this Act first arises in the course of an appeal to the Upper Tribunal, that tribunal may, if it thinks fit, determine the question even though it has not been considered by the Commission or the Secretary of State.]

### Textual Amendments

- F47** S. 24 heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 85\(a\)](#)
- F48** S. 24(1) substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 3 para. 16\(2\)](#); S.I. 2008/2675, art. 3(b)
- F49** Words in s. 24(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 85\(c\)](#)
- F50** 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)
- F51** S. 24(2) substituted for s. 24(2)-(9) (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 85\(d\)](#)

### Modifications etc. (not altering text)

- C7** 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.](#)
- C8** S. 24(1) (as originally enacted) amended (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 85\(b\)](#)

### Commencement Information

- I1** 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

## <sup>F52</sup>25 Appeal from Child Support Commissioner on question of law.

. . . . .



*Status: Point in time view as at 12/04/2010.*

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### Textual Amendments

**F52** S. 25 omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 86](#)

## 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>F53</sup>maintenance calculation] has been made <sup>F54</sup>... (“the alleged parent”) denies that he is one of the child’s parents, [<sup>F55</sup>the [<sup>F56</sup>Commission]] shall not make a [<sup>F53</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>F57</sup>CASE A1

Where—

- (a) the child is habitually resident in England and Wales;
- (b) the [<sup>F56</sup>Commission] 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

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.

[<sup>F58</sup>CASE B

Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the Human Fertilisation and Embryology Act 1990

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or section 54 of the Human Fertilisation and Embryology Act 2008 (parental orders).]

[<sup>F58</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 the Human Fertilisation and Embryology Act 1990 or any of sections 33 to 46 of the Human Fertilisation and Embryology Act 2008 (which relate to children resulting from assisted reproduction).]

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>F59</sup>55A or] 56 of the <sup>M1</sup>Family Law Act 1986 [<sup>F60</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>F61</sup>  
.....

CASE E

Where—

- (a) the child is habitually resident in Scotland;
- (b) [<sup>F62</sup>the [<sup>F56</sup>Commission]] is satisfied that one or other of the presumptions set out in section 5(1) of the <sup>M2</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 <sup>M3</sup>Civil Evidence Act 1968 [<sup>F63</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—

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“adopted” means adopted within the meaning of Part IV of the <sup>M4</sup>Adoption Act 1976 [<sup>F64</sup>or Chapter 4 of Part 1 of the Adoption and Children Act 2002] or, in relation to Scotland, Part IV of the <sup>M5</sup>Adoption (Scotland) Act 1978 [<sup>F65</sup>or Chapter 3 of Part 1 of the Adoption and Children (Scotland) Act 2007 (asp 4)]; and

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

#### Textual Amendments

- F53** 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. 62(3), **Sch. 8**; S.I. 2008/2548, art. 3(d)(i)
- F54** Words in s. 26(1) 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)
- F55** 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)
- F56** Word in s. 26 substituted (1.11.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), s. 62(3), **Sch. 3 para. 18**; S.I. 2008/2675, **art. 3(b)** (with art. 4)
- F57** 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)
- F58** Words in s. 26(2) substituted (6.4.2009 for specified purposes, 6.4.2010 in so far as not already in force) by Human Fertilisation and Embryology Act 2008 (c. 22), s. 68(2), **Sch. 6 para. 36**; S.I. 2009/479, art. 6(1)(d) (with art. 7, Sch.); S.I. 2010/987, art. 2(g)
- F59** 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
- F60** 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
- F61** 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)
- F62** 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)
- F63** 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
- F64** 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))
- F65** Words in s. 26(3) inserted (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **Sch. 2 para. 7**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

#### Marginal Citations

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

[<sup>F66</sup>27 Applications for declaration of parentage under Family Law Act 1986.

(1) This section applies where—

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- (a) an application for a maintenance calculation has been made <sup>F67</sup>... , 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 <sup>F67</sup>... ;
  - (b) the [<sup>F68</sup>Commission] is not satisfied that the case falls within one of those set out in section 26(2); and
  - (c) the [<sup>F68</sup>Commission] 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 [<sup>F68</sup>Commission] who makes the application, that subsection shall not apply.
- (3) This section does not apply to Scotland.]

#### Textual Amendments

- F66** 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
- F67** Words in s. 27(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)
- F68** Word in s. 27 substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), [Sch. 3 para. 19](#); S.I. 2008/2675, [art. 3\(b\)](#) (with art. 4)

#### <sup>F69</sup>27A Recovery of fees for scientific tests.

- (1) This section applies in any case where—
- (a) an application for a [<sup>F53</sup>maintenance calculation] has been made <sup>F70</sup>... or a [<sup>F53</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>F71</sup>calculation] is made <sup>F72</sup>... ;
  - (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>F73</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 [<sup>F74</sup>Commission] 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.

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- (3) In any case to which this section applies, any fee paid by the <sup>F74</sup>Commission] in connection with scientific tests may be recovered by <sup>F75</sup>it] 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 <sup>F74</sup>Commission] under this section shall be paid by <sup>F75</sup>it] into the Consolidated Fund.]

#### Textual Amendments

- F53** 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.
- F69** 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
- F70** Words in s. 27A(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)
- F71** 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.
- F72** Words in s. 27A(1)(b) 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)
- F73** 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
- F74** Word in s. 27A substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), Sch. 3 para. 20(a); S.I. 2008/2675, art. 3(b) (with art. 4)
- F75** Word in s. 27A substituted (1.11.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), s. 62(3), **Sch. 3 para. 20(b)**; S.I. 2008/2675, **art. 3(b)** (with art. 4)

## 28 Power of <sup>F76</sup>Commission] to initiate or defend actions of declarator: Scotland.

<sup>F77</sup>(1) Subsection (1A) applies in any case where—

- (a) an application for a <sup>F53</sup>maintenance calculation] has been made <sup>F78</sup>... , or a <sup>F53</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>F79</sup>was made <sup>F78</sup>... or the calculation was made]; and
- (b) <sup>F80</sup>the <sup>F76</sup>Commission]] 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 <sup>F76</sup>Commission] 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 [<sup>F76</sup>Commission] 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 [<sup>F53</sup>maintenance calculation][<sup>F81</sup>or in a [<sup>F53</sup>maintenance calculation] which is in force].
- (3) This section applies to Scotland only.

#### Textual Amendments

- F53** 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. 62(3), Sch. 3 para. 21; S.I. 2008/2675, art. 3(b) (with art. 4)
- F76** Word in s. 28 substituted (1.11.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), s. 62(3), Sch. 3 para. 21; S.I. 2008/2675, art. 3(b) (with art. 4)
- F77** 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
- F78** Words in s. 28(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)
- F79** 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.
- F80** 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)
- F81** 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

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