



Child Support Act 1991

1991 CHAPTER 48

[^{F1}Variations]

[^{F1}28D Determination of applications.

[^{F2}(1) Where an application for a variation has not failed, the [^{F3}Secretary of State] shall, in accordance with the relevant provisions of, or made under, this Act—

- (a) either agree or not to a variation, and make a decision under section 11 or 12(1); or
- (b) refer the application to [^{F4}the First-tier Tribunal] for the tribunal to determine what variation, if any, is to be made.]

(2) For the purposes of subsection (1), [^{F5}an application for a variation] has failed if—

- (a) it has ^{F6}... been withdrawn; or
- (b) the [^{F7}Secretary of State] has rejected it on completing a preliminary consideration under section 28B; [^{F8}or]

[^{F8}(c) the [^{F7}Secretary of State] has refused to consider it under section 28C(5).]

[Subsection (2B) applies if—

^{F9}(2A) (a) the application for a variation is made by the person with care or (in the case of an application for a maintenance calculation under section 7) the person with care or the child concerned, and

- (b) it appears to the [^{F10}Secretary of State] that consideration of further information or evidence may affect [^{F10}the] decision under subsection (1)(a) whether or not to agree to a variation.

(2B) Before making the decision under subsection (1)(a) the [^{F11}Secretary of State] must—

- (a) consider any such further information or evidence that is available to [^{F11}the Secretary of State], and
- (b) where necessary, take such steps as the [^{F11}Secretary of State] considers appropriate to obtain any such further information or evidence.]

Status: Point in time view as at 25/11/2013.

Changes to legislation: Child Support Act 1991, Section 28D is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In dealing with [^{F5}an application for a variation] which has been referred to it under subsection (1)(b), [^{F12}the First-tier Tribunal] shall have the same powers, and be subject to the same duties [^{F13}, apart from the duty under subsection (2B)], as would the [^{F14}Secretary of State in] dealing with the application.]

Textual Amendments

- F1** S. 28D inserted (2.12.1996) by [Child Support Act 1995 \(c. 34\), ss. 4, 30\(4\)](#); S.I. 1996/2630, art. 2, Sch. Pt. 2
- F2** S. 28D(1) 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. 5\(3\)\(a\), 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.
- F3** Words in s. 28D(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. 26\(a\)](#)
- F4** Words in s. 28D(1)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 91\(a\)](#)
- F5** Words in s. 28D(2)(3) 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. 5\(3\)\(b\), 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.
- F6** Words in s. 28D(2)(a) repealed (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 5\(3\)\(c\), 86\(1\)\(a\)\(2\), Sch. 9 Pt. I](#) (with s. 83(6)); S.I. 2000/2994, art. 2, Sch. Pt. 1; S.I. 2003/192, art. 3, Sch.
- F7** Words in s. 28D(2) 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. 26\(b\)](#)
- F8** S. 28D(2)(c) and preceding word inserted (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 5\(3\)\(c\), 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. 28D(2A)(2B) inserted (10.12.2012 for specified purposes, 29.7.2013 for specified purposes, 25.11.2013 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 18\(2\), 62\(3\)](#); S.I. 2012/3042, arts. 2(c), 3 (with art. 5) (as amended (29.7.2013) by S.I. 2013/1860, art. 6 and (24.6.2014) by S.I. 2014/1635, art. 6); S.I. 2013/1860, arts. 2(c), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7); S.I. 2013/2947, art. 2(a) (with arts. 3-5)
- F10** Words in s. 28D(2A)(b) 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. 3\(2\), Sch. para. 78\(2\)](#)
- F11** Words in s. 28D(2B) 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. 3\(2\), Sch. para. 78\(3\)](#)
- F12** Words in s. 28D(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 91\(a\)](#)
- F13** Words in s. 28D(3) inserted (10.12.2012 for specified purposes, 29.7.2013 for specified purposes, 25.11.2013 in so far as not already in force) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), ss. 18\(3\), 62\(3\)](#); S.I. 2012/3042, arts. 2(c), 3 (with art. 5) (as amended (29.7.2013) by S.I. 2013/1860, art. 6 and (24.6.2014) by S.I. 2014/1635, art. 6); S.I. 2013/1860, arts. 2(c), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7); S.I. 2013/2947, art. 2(a) (with arts. 3-5)
- F14** Words in s. 28D(3) 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. 26\(c\)](#)

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Modifications etc. (not altering text)

- C1** S. 28D modified (31.1.2001) by [The Child Support \(Variations\) \(Modification of Statutory Provisions\) Regulations 2000 \(S.I. 2000/3173\)](#), regs. 1(1), 2, **6(1)**

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