



Child Support Act 1991

1991 CHAPTER 48

Collection and enforcement

40 Commitment to prison.

^{F1}(1)

^{F1}(2)

(3) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the liable person it may—

- (a) issue a warrant of commitment against him; or
- (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as it thinks just.

(4) Any such warrant—

- (a) shall be made in respect of an amount equal to the aggregate of—
 - (i) the amount mentioned in section 35(1) or so much of it as remains outstanding; and
 - (ii) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the costs of commitment; and
- (b) shall state that amount.

(5) No warrant may be issued under this section against a person who is under the age of 18.

(6) A warrant issued under this section shall order the liable person—

- (a) to be imprisoned for a specified period; but
- (b) to be released (unless he is in custody for some other reason) on payment of the amount stated in the warrant.

(7) The maximum period of imprisonment which may be imposed by virtue of subsection (6) shall be calculated in accordance with Schedule 4 to the ^{M1}Magistrates' Courts Act 1980 (maximum periods of imprisonment in default of payment) but shall not exceed six weeks.

Status: Point in time view as at 02/04/2001. This version of this provision has been superseded.

Changes to legislation: Child Support Act 1991, Section 40 is up to date with all changes known to be in force on or before 30 July 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)

- (8) The Secretary of State may by regulations make provision for the period of imprisonment specified in any warrant issued under this section to be reduced where there is part payment of the amount in respect of which the warrant was issued.
- (9) A warrant issued under this section may be directed to such person or persons as the court issuing it thinks fit.
- (10) Section 80 of the Magistrates' Courts Act 1980 (application of money found on defaulter) shall apply in relation to a warrant issued under this section against a liable person as it applies in relation to the enforcement of a sum mentioned in subsection (1) of that section.
- (11) The Secretary of State may by regulations make provision—
- (a) as to the form of any warrant issued under this section;
 - (b) allowing an application under this section to be renewed where no warrant is issued or term of imprisonment is fixed;
 - (c) that a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts stated;
 - (d) that, for the purposes of enabling an inquiry to be made as to the liable person's conduct and means, a justice of the peace may issue a summons to him to appear before a magistrates' court and (if he does not obey) may issue a warrant for his arrest;
 - (e) that for the purpose of enabling such an inquiry, a justice of the peace may issue a warrant for the liable person's arrest without issuing a summons;
 - (f) as to the execution of a warrant for arrest.

[^{F2}(12) This section does not apply to Scotland.]

Textual Amendments

- F1** S. 40(1)(2) repealed (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 16(2), 86(1)(a)(2), [Sch. 9 Pt. 1](#) (with s. 83(6)); [S.I. 2000/2994](#), art. 2, Sch. Pt. 1; [S.I. 2000/3354](#), art. 2
- F2** S. 40(12) substituted for s. 40(12)-(14) (10.11.2000 for specified purposes, 2.4.2001 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 17(1), 86(1)(a)(2) (with ss. 28, 83(6)); [S.I. 2000/2994](#), art. 2, Sch. Pt. 1; [S.I. 2000/3354](#), art. 2

Modifications etc. (not altering text)

- C1** S. 40 applied (with modifications) (E.W.) (5.4.1993) by [S.I. 1992/2643](#), [reg.3](#)

Commencement Information

- I1** S. 40 wholly in force; s. 40 not in force at Royal Assent see s. 58(2); s. 40(4)(a)(ii)(8)(11) in force at 17.6.1992 by [S.I. 1992/1431](#), art. 2, [Sch.](#); s. 40 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644](#), art. 2

Marginal Citations

- M1** 1980 c. 43.

Status:

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