



Child Support Act 1991

1991 CHAPTER 48

Collection and enforcement

[^{F1}40A Commitment to prison: Scotland.

- (1) If, but only if, the sheriff is satisfied that there has been wilful refusal or culpable neglect on the part of the liable person he may—
 - (a) issue a warrant for his committal to prison; or
 - (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as he thinks just.
- (2) A warrant under this section—
 - (a) shall be made in respect of an amount equal to the aggregate of—
 - (i) the appropriate amount under section 38; and
 - (ii) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the expenses of commitment; and
 - (b) shall state that amount.
- (3) No warrant may be issued under this section against a person who is under the age of 18.
- (4) 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.
- (5) The maximum period of imprisonment which may be imposed by virtue of subsection (4) is six weeks.
- (6) 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.
- (7) A warrant issued under this section may be directed to such person as the sheriff thinks fit.

Status: Point in time view as at 03/11/2008.

Changes to legislation: Child Support Act 1991, Section 40A is up to date with all changes known to be in force on or before 12 August 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 power of the Court of Session by Act of Sederunt to regulate the procedure and practice in civil proceedings in the sheriff court shall include power to 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 sufficient 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, the sheriff may issue a citation to him to appear before the sheriff and (if he does not obey) may issue a warrant for his arrest;
 - (e) that for the purpose of enabling such an inquiry, the sheriff may issue a warrant for the liable person's arrest without issuing a citation;
 - (f) as to the execution of a warrant of arrest.]

Textual Amendments

- F1** S. 40A inserted (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(2)**, 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** Ss. 29-41B modified by [The Child Support \(Transitional Provisions\) Regulations 2000 \(S.I. 2000/3186\)](#), **reg. 16(2A)** (as inserted (21.2.2003) by [S.I. 2003/328](#), regs. 1(3)(a), 9(7)(b))
- C2** S. 40A modified (10.6.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#), **ss. 59(5)**, 62(3); [S.I. 2008/1476](#), art. 2(6)

Status:

Point in time view as at 03/11/2008.

Changes to legislation:

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