



# Child Support Act 1991

## 1991 CHAPTER 48

### *The basic principles*

#### **8 Role of the courts with respect to maintenance for children**

- (1) This subsection applies in any case where a child support officer would have jurisdiction to make a maintenance assessment with respect to a qualifying child and an absent parent of his on an application duly made by a person entitled to apply for such an assessment with respect to that child.
- (2) Subsection (1) applies even though the circumstances of the case are such that a child support officer would not make an assessment if it were applied for.
- (3) In any case where subsection (1) applies, no court shall exercise any power which it would otherwise have to make, vary or revive any maintenance order in relation to the child and absent parent concerned.
- (4) Subsection (3) does not prevent a court from revoking a maintenance order.
- (5) The Lord Chancellor or in relation to Scotland the Lord Advocate may by order provide that, in such circumstances as may be specified by the order, this section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
  - (a) a written agreement (whether or not enforceable) provides for the making, or securing, by an absent parent of the child of periodical payments to or for the benefit of the child; and
  - (b) the maintenance order which the court makes is, in all material respects, in the same terms as that agreement.
- (6) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
  - (a) a maintenance assessment is in force with respect to the child;
  - (b) the amount of the child support maintenance payable in accordance with the assessment was determined by reference to the alternative formula mentioned in paragraph 4(3) of Schedule 1; and

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*Status: This is the original version (as it was originally enacted).*

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- (c) the court is satisfied that the circumstances of the case make it appropriate for the absent parent to make or secure the making of periodical payments under a maintenance order in addition to the child support maintenance payable by him in accordance with the maintenance assessment.
- (7) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) the child is, will be or (if the order were to be made) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation (whether or not while in gainful employment); and
  - (b) the order is made solely for the purposes of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of the expenses incurred in connection with the provision of the instruction or training.
- (8) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- (a) a disability living allowance is paid to or in respect of him; or
  - (b) no such allowance is paid but he is disabled,
- and the order is made solely for the purpose of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of any expenses attributable to the child's disability.
- (9) For the purposes of subsection (8), a child is disabled if he is blind, deaf or dumb or is substantially and permanently handicapped by illness, injury, mental disorder or congenital deformity or such other disability as may be prescribed.
- (10) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if the order is made against a person with care of the child.
- (11) In this Act “maintenance order”, in relation to any child, means an order which requires the making or securing of periodical payments to or for the benefit of the child and which is made under—
- (a) Part II of the Matrimonial Causes Act 1973;
  - (b) the Domestic Proceedings and Magistrates' Courts Act 1978;
  - (c) Part III of the Matrimonial and Family Proceedings Act 1984;
  - (d) the Family Law (Scotland) Act 1985;
  - (e) Schedule 1 to the Children Act 1989; or
  - (f) any other prescribed enactment,
- and includes any order varying or reviving such an order.