



Social Security Administration Act 1992

1992 CHAPTER 5

PART V

INCOME SUPPORT AND THE DUTY TO MAINTAIN

108 Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State

- (1) This section applies where—
- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support [^{F1}or universal credit] either in respect of those children or in respect of both himself and those children; and
 - (b) there is in force a maintenance order made against the other parent (“the liable person”)—
 - (i) in favour of the claimant or one or more of the children, or
 - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;
- and in this section “the primary recipient” means the person in whose favour that maintenance order was made.
- (2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—
- (a) the Secretary of State may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
 - (b) any court before which proceedings are brought by the Secretary of State by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.
- (3) The Secretary of State's powers under this section are exercisable at his discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary

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recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.

(4) The powers conferred on the Secretary of State by subsection (2)(a) above include power—

(a) to apply for the registration of the maintenance order under—

(i) section 17 of the ^{M1}Maintenance Orders Act 1950; [^{F2}or]

(ii) section 2 of the ^{M2}Maintenance Orders Act 1958; ^{F3} ... ^{F4} ...

^{F4}(iii)

^{F5}(iv)

^{F6}(aa) ^{F7} ...

[^{F8}(ab) to apply for recognition and enforcement of the maintenance order under the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007, to the extent permitted by Article 36 of that Convention; and]

(b) to make an application under section 2 of the ^{M3}Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).

(5) Where this section applies, the prescribed person shall in prescribed circumstances give the Secretary of State notice of any application—

(a) to alter, vary, suspend, discharge, revoke, revive or enforce the maintenance order in question; or

(b) to remit arrears under that maintenance order; and the Secretary of State shall be entitled to appear and be heard on the application.

(6) Where, by virtue of this section, the Secretary of State commences any proceedings to enforce a maintenance order, he shall, in relation to those proceedings, be treated for the purposes of any enactment or instrument relating to maintenance orders as if he were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).

(7) Where, in any proceedings under this section in England and Wales, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as a lump sum, the Secretary of State shall inform [^{F9}the [^{F10}Lord Chancellor]] of the amount of that lump sum if he knows—

(a) that the primary recipient either—

(i) received legal aid under the ^{M4}Legal Aid Act 1974 in connection with the proceedings in which the maintenance order was made, or

(ii) was an assisted party, within the meaning of the ^{M5}Legal Aid Act 1988, in those proceedings; [^{F11}or

(iii) received services funded by the Legal Services Commission as part of the Community Legal Service; [^{F12}or]]

[^{F13}(iv) was provided with civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) under arrangements made for the purposes of that Part of that Act; and]

(b) that a sum remains unpaid on account of the contribution required of the primary recipient—

(i) under section 9 of the Legal Aid Act 1974 in respect of those proceedings, or

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- (ii) under section 16 of the Legal Aid Act 1988 in respect of the costs of his being represented under Part IV of that Act in those proceedings, ^{F14}or
- (iii) by virtue of section 10 of the Access to Justice Act 1999 in respect of services funded by the Legal Services Commission as part of the Community Legal Service, ^{F15}or
- (iv) under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in respect of civil legal services (within the meaning of Part 1 of that Act) provided under arrangements made for the purposes of that Part of that Act,]

as the case may be.

^{F16}(8) In this section “maintenance order”—

- (a) in England and Wales, means—
 - (i) any order for the making of periodical payments which is, or has at any time been, a maintenance order within the meaning of the Attachment of Earnings Act 1971;
 - (ii) any order under Part 3 of the Matrimonial and Family Proceedings Act 1984 (overseas divorce) for the making of periodical payments;
 - (iii) any order under Schedule 7 to the Civil Partnership Act 2004 for the making of periodical payments;
- (b) in Scotland, means any order, except an order for the payment of a lump sum, falling within the definition of “maintenance order” in section 106 of the Debtors (Scotland) Act 1987, but disregarding paragraph (h) (alimentary bond or agreement).]

^{F17}(9)

Textual Amendments

- F1** Words in s. 108(1)(a) inserted (29.4.2013) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 2 para. 12**; S.I. 2013/983, art. 3(1)(b)(ii)
- F2** Word in s. 108(4)(a) inserted (31.12.2020) by The Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/479), regs. 1(1), **66(a)** (with regs. 92-95); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in s. 108(4)(a)(ii) omitted (1.3.2002) by virtue of The Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929), art. 1(b), **Sch. 3 para. 24(a)**
- F4** S. 108(4)(a)(iii) and preceding word omitted (31.12.2020) by virtue of The Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/479), regs. 1(1), **66(b)** (with regs. 92-95); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** S. 108(4)(a)(iv) and preceding word repealed (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 1(1), **Sch. 7 para. 14(a)(ii)**
- F6** S. 108(4)(aa) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 21(a)** (with reg. 8); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in s. 108(4) repealed (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations 2012 (S.I. 2012/2814), reg. 1(1), **Sch. 4 para. 6(a)**
- F8** S. 108(4)(ab) inserted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations 2012 (S.I. 2012/2814), reg. 1(1), **Sch. 4 para. 6(b)**
- F9** Words in s. 108(7) substituted (1.4.2000) by Access to Justice Act 1999 (c. 22), s. 24, **Sch. 4 para. 48(2)**; S.I. 2000/774, arts. 2(a)(ii), **5**

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- F10** Words in s. 108(7) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 41\(2\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F11** S. 108(7)(a)(iii) and preceding word substituted (1.4.2000) by [Access to Justice Act 1999 \(c. 22\), s. 108\(1\), Sch. 4 para. 48\(3\)](#); S.I. 2000/774, arts. 2(a)(ii), 5
- F12** Word in s. 108(7)(a)(iii) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 41\(3\)\(a\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F13** S. 108(7)(a)(iv) inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 41\(3\)\(b\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F14** S. 108(7)(b)(iii) and preceding word inserted (1.4.2000) by [Access to Justice Act 1999 \(c. 22\), s. 108\(1\), Sch. 4 para. 48\(4\)](#); S.I. 2000/774, arts. 2(a)(ii), 5
- F15** S. 108(7)(b)(iv) and preceding word inserted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 para. 41\(4\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F16** S. 108(8) substituted (27.10.2008) by [Child Maintenance and Other Payments Act 2008 \(c. 6\), s. 62\(3\), Sch. 7 para. 2\(2\)](#); S.I. 2008/2548, art. 3(c)
- F17** S. 108(9) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\), reg. 1\(1\), Sch. para. 21\(b\)](#) (with reg. 8); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** 1950 c. 37.
M2 1958 c. 39.
M3 1972 c. 18
M4 1974 c. 4.
M5 1988 c. 34.

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Changes and effects yet to be applied to :

- s. 108 repealed by [2009 c. 24 Sch. 7 Pt. 1](#)
- s. 108(1)(a) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Act modified by [S.I. 2019/1302 art. 2](#) (This amendment not applied to legislation.gov.uk S.I. 2019/1302 revoked (17.12.2020) by The Social Security (Iceland, Liechtenstein and Norway) (Citizens' Rights Agreement) (Revocation) Order 2020 (S.I. 2020/1569), arts. 1(2), 2)
- Act modified by [S.I. 2019/1303 art. 2](#) (This amendment not applied to legislation.gov.uk. S.I. 2019/1303 revoked (17.12.2020) by The Social Security (Switzerland) (Citizens' Rights Agreement) (Revocation) Order 2020 (S.I. 2020/1570), arts. 1(2), 2)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2G(1)(d) inserted by [2012 c. 5 s. 59\(5\)](#)
- s. 5(1A)-(1C) inserted by [2009 c. 24 s. 22\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 22 repealed (1.4.2013) by 2012 c. 5, s. 101(2); S.I. 2013/358, art. 4(2))
- s. 78A inserted by [2009 c. 24 s. 16\(2\)](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 121B(1)(aa) inserted by [2007 asp 3 Sch. 5 para. 19\(a\)](#) (S. 121B repealed by Finance Act 2008 (c. 9), Sch. 43 para. 14)
- s. 121B(4) words inserted by [2007 asp 3 Sch. 5 para. 19\(b\)](#) (S. 121B repealed by Finance Act 2008 (c. 9), Sch. 43 para. 14)
- s. 122F(5) inserted by [2012 c. 5 Sch. 4 para. 12\(4\)](#)
- s. 122G inserted by [2009 c. 24 s. 18](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 122H inserted by [2009 c. 24 s. 20\(3\)](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 134(2)-(2B) substituted for s. 134(2) by [2007 c. 5 s. 37](#)
- s. 148AB inserted by [2008 c. 30 Sch. 4 para. 14](#) (This amendment not applied to legislation.gov.uk. Sch. 4 paras. 13-22 repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(c); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- s. 148AB(1)(2) words substituted by [2011 c. 19 Sch. 3 para. 8\(2\)](#)
- s. 148AB(9) inserted by [2011 c. 19 Sch. 3 para. 8\(3\)](#)
- s. 151(10)(b)(i)(ii) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 160C inserted by [2012 c. 5 Sch. 2 para. 24](#)
- s. 165(1)(b)(viii) and word inserted by [2023 c. 20 Sch. para. 19\(2\)\(b\)](#)

- s. 190(1)(ac) inserted by [2009 c. 24 s. 21](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- Sch. 4 Pt. 3 para. 5 word substituted by [S.I. 2010/978 art. 2](#)