



Child Support, Pensions and Social Security Act 2000

2000 CHAPTER 19

PART I

CHILD SUPPORT

Disqualification from driving

16 Disqualification from driving

(1) After section 39 of the 1991 Act there shall be inserted—

“39A Commitment to prison and disqualification from driving

- (1) Where the Secretary of State has sought—
 - (a) in England and Wales to levy an amount by distress under this Act; or
 - (b) to recover an amount by virtue of section 36 or 38,and that amount, or any portion of it, remains unpaid he may apply to the court under this section.
- (2) An application under this section is for whichever the court considers appropriate in all the circumstances of—
 - (a) the issue of a warrant committing the liable person to prison; or
 - (b) an order for him to be disqualified from holding or obtaining a driving licence.
- (3) On any such application the court shall (in the presence of the liable person) inquire as to—
 - (a) whether he needs a driving licence to earn his living;
 - (b) his means; and
 - (c) whether there has been wilful refusal or culpable neglect on his part.

- (4) The Secretary of State may make representations to the court as to whether he thinks it more appropriate to commit the liable person to prison or to disqualify him from holding or obtaining a driving licence; and the liable person may reply to those representations.
- (5) In this section and section 40B, “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988.
- (6) In this section “the court” means—
 - (a) in England and Wales, a magistrates' court;
 - (b) in Scotland, the sheriff.”
- (2) In section 40 of the 1991 Act (commitment to prison), subsections (1) and (2) shall be omitted.
- (3) Before section 41 of the 1991 Act there shall be inserted—

“40B Disqualification from driving: further provision

- (1) 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) order him to be disqualified, for such period specified in the order but not exceeding two years as it thinks fit, from holding or obtaining a driving licence (a “disqualification order”); or
 - (b) make a disqualification order but suspend its operation until such time and on such conditions (if any) as it thinks just.
- (2) The court may not take action under both section 40 and this section.
- (3) A disqualification order must state the amount in respect of which it is made, which is to be the aggregate of—
 - (a) the amount mentioned in section 35(1), or so much of it as remains outstanding; and
 - (b) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the costs of the application under section 39A.
- (4) A court which makes a disqualification order shall require the person to whom it relates to produce any driving licence held by him, and its counterpart (within the meaning of section 108(1) of the Road Traffic Act 1988).
- (5) On an application by the Secretary of State or the liable person, the court—
 - (a) may make an order substituting a shorter period of disqualification, or make an order revoking the disqualification order, if part of the amount referred to in subsection (3) (the “amount due”) is paid to any person authorised to receive it; and
 - (b) must make an order revoking the disqualification order if all of the amount due is so paid.
- (6) The Secretary of State may make representations to the court as to the amount which should be paid before it would be appropriate to make an order revoking the disqualification order under subsection (5)(a), and the person liable may reply to those representations.

- (7) The Secretary of State may make a further application under section 39A if the amount due has not been paid in full when the period of disqualification specified in the disqualification order expires.
- (8) Where a court—
- (a) makes a disqualification order;
 - (b) makes an order under subsection (5); or
 - (c) allows an appeal against a disqualification order,
- it shall send notice of that fact to the Secretary of State; and the notice shall contain such particulars and be sent in such manner and to such address as the Secretary of State may determine.
- (9) Where a court makes a disqualification order, it shall also send the driving licence and its counterpart, on their being produced to the court, to the Secretary of State at such address as he may determine.
- (10) Section 80 of the Magistrates' Courts Act 1980 (application of money found on defaulter) shall apply in relation to a disqualification order under this section in relation to 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 in relation to disqualification orders corresponding to the provision he may make under section 40(11).
- (12) In the application to Scotland of this section—
- (a) in subsection (2) for “section 40” substitute “section 40A”;
 - (b) in subsection (3) for paragraph (a) substitute—
 - “(a) the appropriate amount under section 38;”;
 - (c) subsection (10) is omitted; and
 - (d) for subsection (11) substitute—
 - “(11) 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, in relation to disqualification orders, provision corresponding to that which may be made by virtue of section 40A(8).”
- (4) In section 164(5) of the Road Traffic Act 1988 (power of constables to require production of driving licence etc.), after “Road Traffic Offenders Act 1988” there shall be inserted “, section 40B of the Child Support Act 1991”.
- (5) In section 27(3) of the Road Traffic Offenders Act 1988 (offence of failing to produce a licence), for the word “then,” there shall be substituted “, or if the holder of the licence does not produce it and its counterpart as required by section 40B of the Child Support Act 1991, then,”.

17 Civil imprisonment: Scotland

- (1) In section 40 of the 1991 Act (commitment to prison), for subsections (12) to (14) there shall be substituted—
- “(12) This section does not apply to Scotland.”

(2) After section 40 there shall be inserted—

“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.
- (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."