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# Child Support, Pensions and Social Security Act 2000

## 2000 CHAPTER 19

### PART I

#### CHILD SUPPORT

##### *Maintenance calculations and interim and default maintenance decisions*

#### **1 Maintenance calculations and terminology.**

- (1) In the <sup>M1</sup>Child Support Act 1991 (“the 1991 Act”), for section 11 (maintenance assessments) there shall be substituted—

##### **“11 Maintenance calculations.**

- (1) An application for a maintenance calculation made to the Secretary of State shall be dealt with by him in accordance with the provision made by or under this Act.
- (2) The Secretary of State shall (unless he decides not to make a maintenance calculation in response to the application, or makes a decision under section 12) determine the application by making a decision under this section about whether any child support maintenance is payable and, if so, how much.
- (3) Where—
- a parent is treated under section 6(3) as having applied for a maintenance calculation; but
  - the Secretary of State becomes aware before determining the application that the parent has ceased to fall within section 6(1),
- he shall, subject to subsection (4), cease to treat that parent as having applied for a maintenance calculation.

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- (4) If it appears to the Secretary of State that subsection (10) of section 4 would not have prevented the parent with care concerned from making an application for a maintenance calculation under that section he shall—
- (a) notify her of the effect of this subsection; and
  - (b) if, before the end of the period of one month beginning with the day on which notice was sent to her, she asks him to do so, treat her as having applied not under section 6 but under section 4.
- (5) Where subsection (3) applies but subsection (4) does not, the Secretary of State shall notify—
- (a) the parent with care concerned; and
  - (b) the non-resident parent (or alleged non-resident parent), where it appears to him that that person is aware that the parent with care has been treated as having applied for a maintenance calculation.
- (6) The amount of child support maintenance to be fixed by a maintenance calculation shall be determined in accordance with Part I of Schedule 1 unless an application for a variation has been made and agreed.
- (7) If the Secretary of State has agreed to a variation, the amount of child support maintenance to be fixed shall be determined on the basis he determines under section 28F(4).
- (8) Part II of Schedule 1 makes further provision with respect to maintenance calculations.”
- (2) In the 1991 Act—
- (a) for “maintenance assessment”, wherever it occurs, there shall be substituted “maintenance calculation”; and
  - (b) for “assessment” (or any variant of that term), wherever it occurs, there shall be substituted “calculation” (or the corresponding variant) preceded, where appropriate, by “a” instead of “an”.
- (3) For Part I of Schedule 1 to the 1991 Act, there shall be substituted the Part I set out in Schedule 1 to this Act.

#### Commencement Information

**II** S. 1 partly in force; s. 1 not in force at Royal Assent see s. 86(2); s. 1(3) in force for certain purposes at 10.11.2000 by S.I. 2000/2994, art. 2; s. 1(1)(2) in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

#### Marginal Citations

**M1** 1991 c. 48.

VALID FROM 04/02/2003

## 2 Applications under section 4 of the Child Support Act 1991.

- (1) In section 4 of the 1991 Act (child support maintenance), subsection (10) shall be amended as follows.

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- (2) In paragraph (a), after “maintenance order” there shall be inserted “made before a prescribed date”.
- (3) After paragraph (a), there shall be inserted—
  - “(aa) a maintenance order made on or after the date prescribed for the purposes of paragraph (a) is in force in respect of them, but has been so for less than the period of one year beginning with the date on which it was made; or”.

#### Commencement Information

- I2** S. 2 partly in force; s. 2 not in force at Royal Assent see s. 86(2); s. 2(1)(2) in force at 4.2.2003 and s. 2 in force for certain purposes at 3.3.2003 by S.I. 2003/192, arts. 2, 3, Sch.

### 3 Applications by persons claiming or receiving benefit.

For section 6 of the 1991 Act (applications by those receiving benefit) there shall be substituted—

#### “6 Applications by those claiming or receiving benefit.

- (1) This section applies where income support, an income-based jobseeker’s allowance or any other benefit of a prescribed kind is claimed by or in respect of, or paid to or in respect of, the parent of a qualifying child who is also a person with care of the child.
- (2) In this section, that person is referred to as “the parent”.
- (3) The Secretary of State may—
  - (a) treat the parent as having applied for a maintenance calculation with respect to the qualifying child and all other children of the non-resident parent in relation to whom the parent is also a person with care; and
  - (b) take action under this Act to recover from the non-resident parent, on the parent’s behalf, the child support maintenance so determined.
- (4) Before doing what is mentioned in subsection (3), the Secretary of State must notify the parent in writing of the effect of subsections (3) and (5) and section 46.
- (5) The Secretary of State may not act under subsection (3) if the parent asks him not to (a request which need not be in writing).
- (6) Subsection (1) has effect regardless of whether any of the benefits mentioned there is payable with respect to any qualifying child.
- (7) Unless she has made a request under subsection (5), the parent shall, so far as she reasonably can, comply with such regulations as may be made by the Secretary of State with a view to the Secretary of State’s being provided with the information which is required to enable—
  - (a) the non-resident parent to be identified or traced;
  - (b) the amount of child support maintenance payable by him to be calculated; and

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- (c) that amount to be recovered from him.
- (8) The obligation to provide information which is imposed by subsection (7)—
  - (a) does not apply in such circumstances as may be prescribed; and
  - (b) may, in such circumstances as may be prescribed, be waived by the Secretary of State.
- (9) If the parent ceases to fall within subsection (1), she may ask the Secretary of State to cease acting under this section, but until then he may continue to do so.
- (10) The Secretary of State must comply with any request under subsection (9) (but subject to any regulations made under subsection (11)).
- (11) The Secretary of State may by regulations make such incidental or transitional provision as he thinks appropriate with respect to cases in which he is asked under subsection (9) to cease to act under this section.
- (12) The fact that a maintenance calculation is in force with respect to a person with care does not prevent the making of a new maintenance calculation with respect to her as a result of the Secretary of State's acting under subsection (3)."

#### Commencement Information

- I3** [S. 3](#) partly in force; [s. 3](#) not in force at Royal Assent see [s. 86\(2\)](#); [s. 3](#) in force for certain purposes at 10.11.2000 by [S.I. 2000/2994, art. 2](#); [s. 3](#) in force for certain further purposes at 3.3.2003 by [S.I. 2003/192, art. 4](#)

#### 4 Default and interim maintenance decisions.

For section 12 of the 1991 Act (interim maintenance assessments) there shall be substituted—

##### “12 Default and interim maintenance decisions.

- (1) Where the Secretary of State—
  - (a) is required to make a maintenance calculation; or
  - (b) is proposing to make a decision under section 16 or 17,
 and it appears to him that he does not have sufficient information to enable him to do so, he may make a default maintenance decision.
- (2) Where an application for a variation has been made under section 28A(1) in connection with an application for a maintenance calculation (or in connection with such an application which is treated as having been made), the Secretary of State may make an interim maintenance decision.
- (3) The amount of child support maintenance fixed by an interim maintenance decision shall be determined in accordance with Part I of Schedule 1.
- (4) The Secretary of State may by regulations make provision as to default and interim maintenance decisions.
- (5) The regulations may, in particular, make provision as to—

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- (a) the procedure to be followed in making a default or an interim maintenance decision; and
- (b) a default rate of child support maintenance to apply where a default maintenance decision is made.”

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**Commencement Information**

**I4** S. 4 partly in force; s. 4 not in force at Royal Assent see s. 86(2); s. 4 in force for certain purposes at 10.11.2000 by S.I. 2000/2994, art. 2: s. 4 in force for certain further purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

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