

# **CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000**

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## **EXPLANATORY NOTES**

### ***Part 1: Child Support***

#### ***Commentary on Sections***

#### ***Applications for a variation***

#### ***Section 10: Appeals to appeal tribunals***

123. This section substitutes section 20 of the 1991 Act with a new provision governing the right to appeal child support decisions. Its purpose is to set out clearly the decisions which can be appealed and the circumstances in which an appeal can be brought against such decisions. As now, the intention is that decisions that affect child support liability will be appealable. There will also continue to be a right of appeal against a decision to impose a reduced benefit decision. Decisions on fees and fixed penalties will also be appealable.

#### **New section 20: Appeals to appeal tribunals**

124. *New section 20(1)* sets out who may appeal and the decisions that they may appeal against. An appeal may be brought by any qualifying person. Subsection (2) provides a definition of this term. Decisions which can be appealed are:
- (a) a decision to make a maintenance calculation (section 11), a default or interim decision (section 12) and a superseding decision (section 17);
  - (b) a decision not to make a maintenance calculation or supersede a decision. The Secretary of State has no jurisdiction to make a maintenance calculation in certain circumstances (such as where the child is living abroad) and decisions which cannot be superseded include certain changes of circumstances (such as housing costs, as these will not be taken into account in the maintenance calculation);
  - (c) a reduced benefit decision;
  - (d) the imposition of a penalty for late payment of maintenance and the amount of the penalty; and
  - (e) the requirement to pay fees.
125. *New section 20(2)* provides the definition of “qualifying person” for the purpose of subsection (1) of this section. A qualifying person is:
- (a) either the person with care and the non-resident parent;
  - (b) a child in Scotland who made the application for a maintenance calculation which led to the decision;

*These notes refer to the Child Support, Pensions and Social Security Act 2000 (c.19) which received Royal Assent on 28th July 2000*

- (c) the parent with care affected by the decision to reduce benefit;
  - (d) the parent required to make penalty payments; or
  - (e) the person required to pay fees.
126. *New section 20(3)* provides that anyone with a right of appeal against a decision or imposition of a requirement must be told of this right.
127. *New sections 20(4) and (5)* provide for regulations to specify how, and within what time, an appeal must be brought. As now, it is intended that there will be a one-month time limit for bringing an appeal, which can be extended at the tribunal's discretion if there was good cause for failing to appeal sooner.
128. *New section 20(6)* provides that the time to appeal against a decision to reduce benefit runs from the date that the reduction in benefit is notified.
129. *New section 20(7)* provides that the tribunal cannot consider changes in circumstances which happened after the date of the decision and need not look at any issue not raised when the decision was made. This is the same as for social security benefit appeals.
130. *New section 20(8)* provides for the way that a tribunal can decide the appeal if it is allowed. The tribunal can either:
- (a) decide the appeal itself, or
  - (b) send the decision back to the CSA with directions as to how a new decision must be made. This provision is needed because the tribunal will often not have all the information or computer support necessary to make a new maintenance calculation.