



# 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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,”.