

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000

EXPLANATORY NOTES

Part 1: Child Support

Commentary on Sections

Maintenance calculations and interim and default maintenance decisions

Section 2: Applications under section 4 of the Child Support Act 1991

41. The White Paper *Children Come First*, published in 1990, stated that the current child support system would be available to all parents. However, it was recognised that a staged programme of implementation would be needed. Priority would be given to those who needed child support most. The take-on of applications from parents who had existing maintenance arrangements was deferred and the jurisdiction of the Child Support Agency (CSA) in cases where either parent or the child was living abroad was specifically denied. (Section 44 of the 1991 Act currently excludes cases where the parents are not habitually resident in the United Kingdom from the CSA's jurisdiction.)
42. The phased take-on of applications from parents with existing maintenance agreements was set out in regulations (SI 1993/966). By 1995 it was clear that the CSA was not in a position to take on such a high volume of cases and an amendment was introduced. Section 4(10), inserted by the 1995 Act, deferred applications for child support for an indefinite period where, for example, there was a written maintenance agreement in force made before 5th April 1993, or there was any maintenance order. These cases would continue to be subject to the jurisdiction of the courts.
43. The term "maintenance order" is defined in section 8(11) of the 1991 Act as an order requiring periodical payments to, or for the benefit of, a child under specified legislation. Written maintenance agreements, which are registered in Scotland in the Book of Sessions, are also treated as maintenance orders.
44. This section provides for the Secretary of State to accept applications from parents who have a maintenance order made after the reforms are introduced provided that the order has been in force for at least a year. Parents with maintenance orders in force at the time that the reforms are introduced – and those with written maintenance agreements made before April 1993 – will, as now, use the courts for enforcement and variation of child maintenance liability.
45. The section amends section 4(10) of the 1991 Act, which prevents the CSA from accepting applications from parents with maintenance orders.
46. *Subsection (2)* amends this exclusion to refer only to maintenance orders made before a prescribed date. The Government intends to prescribe the date that the reforms come into effect for this purpose. *Subsection (3)* adds a new exclusion to cover maintenance orders made after the prescribed date if they have not been in force for at least a year.

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

47. The Government intends to use its powers to prescribe the effective dates of maintenance calculations in paragraph 11 of Schedule 1 to the 1991 Act to set the effective date of any liability resulting from an application covered by the new section 4(10)(aa) to two months after the date of application. This will allow both parents time to consider whether they wish to renegotiate the maintenance order before child support liability begins. The effective date of any liability is the date when the court order ceases to have effect and child support is payable.