



# Child Maintenance and Other Payments Act 2008

## 2008 CHAPTER 6

### PART 3

#### CHILD SUPPORT ETC.

VALID FROM 26/11/2009

#### *Debt management powers*

#### **31 Power to treat liability as satisfied**

After section 41B of the Child Support Act 1991 (c. 48) insert—

#### **“41C Power to treat liability as satisfied**

- (1) The Secretary of State may by regulations—
  - (a) make provision enabling the Commission in prescribed circumstances to set off liabilities to pay child support maintenance to which this section applies;
  - (b) make provision enabling the Commission in prescribed circumstances to set off against a person's liability to pay child support maintenance to which this section applies a payment made by the person which is of a prescribed description.
- (2) Liability to pay child support maintenance shall be treated as satisfied to the extent that it is the subject of setting off under regulations under subsection (1).

*Status: Point in time view as at 26/09/2009. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Child Maintenance and Other Payments Act 2008, Cross Heading: Debt management powers. (See end of Document for details)*

- (3) In subsection (1), the references to child support maintenance to which this section applies are to child support maintenance for the collection of which the Commission is authorised to make arrangements.”

#### Commencement Information

- II** S. 31 wholly in force; s. 31 not in force at Royal Assent see s. 62; s. 31 in force for certain purposes at 26.11.2009 and in force at 25.1.2010 for all other purposes by S.I. 2009/3072, art. 2(1)

### 32 Power to accept part payment of arrears in full and final satisfaction

After section 41C of the Child Support Act 1991 (inserted by section 31 of this Act) insert—

#### “41D Power to accept part payment of arrears in full and final satisfaction

- (1) The Commission may, in relation to any arrears of child support maintenance, accept payment of part in satisfaction of liability for the whole.
- (2) The Secretary of State must by regulations make provision with respect to the exercise of the power under subsection (1).
- (3) The regulations must provide that unless one of the conditions in subsection (4) is satisfied the Commission may not exercise the power under subsection (1) without the appropriate consent.
- (4) The conditions are—
  - (a) that the Commission would be entitled to retain the whole of the arrears under section 41(2) if it recovered them;
  - (b) that the Commission would be entitled to retain part of the arrears under section 41(2) if it recovered them, and the part of the arrears that the Commission would not be entitled to retain is equal to or less than the payment accepted under subsection (1).
- (5) Unless the maintenance calculation was made under section 7, the appropriate consent is the written consent of the person with care with respect to whom the maintenance calculation was made.
- (6) If the maintenance calculation was made under section 7, the appropriate consent is—
  - (a) the written consent of the child who made the application under section 7(1), and
  - (b) if subsection (7) applies, the written consent of the person with care of that child.
- (7) This subsection applies if—
  - (a) the maintenance calculation was made under section 7(2), or
  - (b) the Secretary of State has made arrangements under section 7(3) on the application of the person with care.”

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### **33 Power to write off arrears**

After section 41D of the Child Support Act 1991 (c. 48) (inserted by section 32 of this Act) insert—

#### **“41E Power to write off arrears**

- (1) The Commission may extinguish liability in respect of arrears of child support maintenance if it appears to it—
  - (a) that the circumstances of the case are of a description specified in regulations made by the Secretary of State, and
  - (b) that it would be unfair or otherwise inappropriate to enforce liability in respect of the arrears.
- (2) The Secretary of State may by regulations make provision with respect to the exercise of the power under subsection (1).”

### **34 Transfer of arrears**

After section 49 of the Child Support Act 1991 insert—

#### **“49A Transfer of arrears**

- (1) The Secretary of State may by regulations make provision enabling the Commission in prescribed circumstances to enter into arrangements (“transfer arrangements”) under which liability in respect of arrears of child support maintenance becomes debt due to the person with whom the arrangements are entered into (“the transferee”).
- (2) Liability which is the subject of transfer arrangements—
  - (a) ceases to be liability in relation to which the Commission's functions with respect to collection and enforcement are exercisable, and
  - (b) becomes debt in which only the transferee has an interest.
- (3) Regulations under subsection (1) must provide that unless one of the conditions in subsection (4) is satisfied the Commission may not enter into transfer arrangements in relation to arrears of child support maintenance without the appropriate consent.
- (4) The conditions are—
  - (a) that the Commission would be entitled to retain the whole of the arrears under section 41(2) if it recovered them;
  - (b) that the Commission would be entitled to retain part of the arrears under section 41(2) if it recovered them, and the part of the arrears that the Commission would not be entitled to retain is equal to or less than the transfer payment.
- (5) In subsection (4)(b), “transfer payment” means—
  - (a) the payment that the Commission would receive from the transferee on the arrangements taking effect, and
  - (b) such other payments under the transfer arrangements as may be prescribed.

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- (6) Unless the maintenance calculation was made under section 7, the appropriate consent is the written consent of the person with care with respect to whom the maintenance calculation was made.
- (7) If the maintenance calculation was made under section 7, the appropriate consent is—
  - (a) the written consent of the child who made the application under section 7(1), and
  - (b) if subsection (8) applies, the written consent of the person with care of that child.
- (8) This subsection applies if—
  - (a) the maintenance calculation was made under section 7(2), or
  - (b) the Secretary of State has made arrangements under section 7(3) on the application of the person with care.
- (9) Regulations under subsection (1) may, in particular—
  - (a) specify when arrears of child support maintenance may be the subject of transfer arrangements;
  - (b) specify the descriptions of person with whom transfer arrangements may be entered into;
  - (c) specify terms and conditions which transfer arrangements must include;
  - (d) provide that a payment made to the Commission under transfer arrangements may be treated for prescribed purposes as if it were a payment of child support maintenance.
- (10) Regulations under subsection (1) may include—
  - (a) provision with respect to the recovery of debt to which a person is entitled by virtue of transfer arrangements;
  - (b) provision enabling the Commission in prescribed circumstances to prevent a person entitled to debt by virtue of transfer arrangements from taking steps to recover it;
  - (c) provision enabling the Commission to supply information of a prescribed description to a person entitled to debt by virtue of transfer arrangements for the purpose of enabling the debt to be recovered.”

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Child Maintenance and Other Payments Act 2008, Cross Heading: Debt management powers.