

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Child Support etc.

Collection and enforcement

Section 20: Use of deduction from earnings orders as basic method of payment

119. *Section 20* concerns section 29 of the Child Support Act 1991, which sets out provisions for the collection of child support maintenance. Subsection (3)(b) of section 29 provides the Secretary of State with the power to make regulations as to the method by which payments of child support maintenance should be made.
120. This section inserts new *subsections (4) and (5)* into section 29 of the Child Support Act 1991 to make it clear that such regulations can include deduction from earnings orders as an initial method of collection. The intention is to pilot the use of deduction from earnings orders as a primary method of collection for employed non-resident parents.
121. *New subsection (4)* requires that any regulations which allow deduction from earnings orders to be used as an initial method of collection also include provision that this method should not be used where there is good reason not to do so. The regulations must also include a right of appeal to a magistrates' court (or, in Scotland, to the sheriff) against a decision that there is no good reason not to use a deduction from earnings order to collect maintenance.
122. *New subsection (5)* prevents the magistrates' court (or, in Scotland, the sheriff), on an appeal made under regulations under *subsection (4)*, from questioning the maintenance calculation by reference to which the deduction from earnings order was made.
123. *New subsection (6)* provides that regulations may include provision with respect to the period within which an appeal must be made and the powers of the magistrates' court (or, in Scotland, the sheriff) in relation to such an appeal.
124. *New subsection (7)* enables regulations to set out what matters should be considered (or not considered) in determining whether there is a good reason not to use a deduction from earnings order as an initial method to collect maintenance. For example, the regulations could provide that there would be a good reason not to use a deduction from earnings order if doing so could compromise the employment status of a non-resident parent, or raise privacy issues. It also enables regulations to prescribe circumstances in which a good reason not to use a deduction from earnings order does, or does not, exist.