



Child Maintenance and Other Payments Act 2008

2008 CHAPTER 6

PART 3

CHILD SUPPORT ETC.

Debt management powers

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—

Status: This is the original version (as it was originally enacted).

- (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.
- (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.”