

Self-certified Impact Assessment	
Title of measure	The Child Maintenance and Other Payments Act 2008 (CMOP) (bringing into force secondary legislation as outlined in this Act to enable Deduction Orders from joint and unlimited partnership business accounts)
DWP Ref	Department for Work and Pensions
Planned coming into force /implementation date	November 2018
Origin (Domestic/EU/Regulator)	Domestic
Policy lead	Sheena Taylor / Paul Ryder
Lead analyst	Valerie Christian
Departmental Assessment	Self-certification

Summary Intervention and impacts
<p>Background</p> <p>Child maintenance refers to financial and non-financial support that the parent without the main care of a child (the non-resident parent or NRP) provides to the other parent (the parent with care or PWC).</p> <p>Prior to 1991, maintenance was a matter for the courts. This was expensive, slow, produced a wide variation in decisions, and poor enforcement. The Child Support Act 1991 sought to improve this by replacing the courts with a statutory scheme which uses a formula to assess maintenance due. Since 1993 there have been three statutory schemes in place to determine, and where appropriate, collect maintenance liabilities.</p> <p>Where a maintenance liability is not paid, arrears accrue which the Child Maintenance Service (CMS) can collect through a range of available enforcement actions.</p> <p>Rationale for Intervention</p> <p>The current rate of compliance of NRPs using the CMS is 57%¹ and has been roughly static for the past two years. The current standard administrative enforcement tool used by CMS to collect maintenance and arrears is a Deduction</p>

¹ The number of Paying Parents due to pay child maintenance in the last three months who have. *Child Maintenance Service: Aug 2013 to Dec 2017 (experimental)* table 6. Available at : [\[https://www.gov.uk/government/statistics/child-maintenance-service-aug-2013-to-dec-2017-experimental\]](https://www.gov.uk/government/statistics/child-maintenance-service-aug-2013-to-dec-2017-experimental)

from Earnings Order (DEO). Although this is an effective measure there are a number of NRPs for whom a DEO will not work. These include NRPs who are self-employed, who work cash in hand, or who have an income but no employment. There are also parents who are known to switch jobs whenever traced by the CMS, and those who, as owners of their own company, pay themselves a low wage whilst taking the bulk of their income in other 'in-kind' forms of reimbursement.

For these individuals the preferred option is a different type of deduction order (DO). These are administrative orders which enable the Secretary of State to compel banks and building societies to remove on-going child maintenance or arrears from an NRP's account and pass it to the CMS which then passes it onto the PWC. Deductions from accounts can be made on a regular basis via a regular deduction order (RDO) or via a one-off lump sum deduction order (LSDO).

The Child Maintenance and Other Payments Act 2008 (CMOP) amended the Child Support Act 1991 to include the primary powers to make DOs against bank accounts. It also made provision for the Secretary of State to make secondary legislation prescribing DOs on bank and building society accounts held solely by a NRP. This power was brought into force in 2009 for solely held accounts, and since then deduction orders have been successful in recovering significant amounts of child maintenance arrears and ongoing maintenance.

CMOP also made a provision enabling deduction orders to be made against jointly held bank accounts, including unlimited partnership business accounts. However this provision was not brought into force at the time, as it was important to first test the use of DOs against solely held accounts.

Following two public consultations², CMS now seek to bring these additional powers into force to enable arrears to be removed from joint accounts including unlimited partnership business accounts.

Intended effects

The aim is to eliminate cases where the non-paying NRP is able to prevent the CMS from recovering child maintenance owed by placing their funds into alternative accounts that are not currently covered by a DO.

Viable policy options (including alternatives to regulation)

The following options have been considered:

Option1: Do minimum / retain existing powers – i.e. retain current scope of DOs and other enforcement powers.

² Public consultations in 2016 and 2017/18. *Consultation to recover CM arrears from joint accounts of NRPs – 30 June '16 - 25 August '16; Child Maintenance: a new compliance and arrears strategy – 14 Dec '17 to 8 Feb '18*

Option 2: In addition to existing powers, bring further powers into force to enable child maintenance arrears to be collected from jointly held bank accounts including unlimited partnership business accounts.

Option 2 is the preferred option because it allows collection of outstanding arrears, and where necessary, ongoing maintenance, and increases the rate of NRP compliance from the current rate of 57%³

Initial assessment of impact on business/ Description and scale of key monetised costs and benefits by ‘main affected groups’

New powers to issue DOs from personal joint and unlimited partnership business accounts will only be initiated if the following apply:

- The NRP has either failed to pay their child maintenance liability or failed to get in touch with CMS to set up a payment method to pay it; and
- The CMS is unable to collect child maintenance directly from the NRPs salary via a DEO; and
- No solely held accounts with sufficient funds are identified.

Where issued they will impose new costs on business/financial institutions such as banks and building societies related to administrative costs of operating the DO.

In the case of LSDOs the costs are on a one-off basis and estimated to be around £40 per order. In the case of RDOs, one-off set up and shut down costs as well as ongoing deduction and amendment costs are incurred if money is successfully recovered. On the basis of a successful RDO being in place for around four months, the estimated costs are also around £40.

Approximately 60% of all DOs have been successful in either paying arrears or on-going maintenance since the inception of the CMS when they have been applied to single accounts. A similar success rate is assumed for RDOs and LSDOs issued to joint accounts.

In ‘equivalent annual net direct cost to business’ terms [EANDCB in 2016 prices], the average annual cost is estimated to be £11,000, evaluated over a 10 year period. These costs are low relative to the total child maintenance arrears and annual maintenance that is currently expected to be recouped. This is estimated to be around £350,000 annually; £3.5m over a 10 year period.

Departmental Policy signoff (SCS): Julia Gault Date: 15/06/18

Economist signoff (senior analyst): Laura Webster Date: 14/06/18

Better Regulation Unit signoff: Prabhavati Mistry

³ The number of Paying Parents due to pay child maintenance in the last three months who have. *Child Maintenance Service: Aug 2013 to Dec 2017 (experimental)* table 6.

The policy issue and rationale for Government intervention

The problem this policy is designed to address is the avoidance of payment of child maintenance by non-resident parents (NRPs), which subsequently affects children's outcomes by reducing the financial support available to the parent with care (PWC). The proposed extension of enforcement powers for DOs to include joint and unlimited partnership business accounts will provide additional sources of income from which deductions can be made and therefore increase the number of children who are financially supported by their NRP.

Policy options considered, including alternatives to regulation

1. Option 1: Do minimum / continue to apply existing powers – i.e. retain current scope of deduction orders and other enforcement powers.

Option 2: Bring additional powers into force to enable child maintenance arrears to be collected from jointly held bank accounts including unlimited business partnership accounts where the NRP is named as a joint account holder.

2. Option 2 which brings new powers into force is the preferred option. Without these powers NRP's will be able to continue to take advantage of loopholes that exist in the system by moving their funds into jointly held bank accounts and unlimited business partnerships. Option 2 is intended to close these loopholes and increase the proportion of child maintenance due being paid and consequently increase the number of children benefitting. The British Banking Association response to the 2016 consultation⁴ indicates such an extension to include joint accounts presents no difficulties

Policy objectives and intended effects

Public Consultations:

3. The Government consulted⁵ on regulations to support a new child maintenance compliance and arrears strategy including the extension of DOs to unlimited partnership business accounts. Government's response will be published in June 2018. Personal joint accounts were consulted on separately in 2016, with Government's response published in October 2017⁶.

⁴ Consultation to recover CM arrears from joint accounts of NRPs – from 30 June '16 - 25 August '16

⁵ Child Maintenance: a new compliance and arrears strategy – 14 Dec '17 to 8 Feb '18

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/654279/government-response-to-consultation-on-deduction-orders-against-joint-accounts.pdf

4. In line with public responses to these consultations, DOs on both private and business joint accounts are now being brought into force. This regulatory impact assessment quantifies the impacts of:
 - extending existing powers to allow deductions from jointly held personal accounts; and
 - extending existing powers to allow deductions from a type of joint business bank account called unlimited partnership business accounts.

Details of implementation that apply to jointly held personal accounts and unlimited partnership accounts:

5. The DO will apply where there is no solely held account in the name of the NRP, or insufficient funds are held within such an account. Accessing joint accounts would not be possible in Scotland and so this power would only be applied in England and Wales.
6. Safeguards will be put in place to ensure only the funds belonging to the NRP are targeted. For example, detailed checks to establish ownership of the funds to prevent funds that belong to the other account holders being deducted. Where it is not possible to establish the exact sums held in the joint account by the NRP there will be a default position where a proportionate amount of the funds equal to the number of joint account holders will be secured.
7. If deductions are pursued from a personal or unlimited partnership business joint account, then all parties to the account will have the opportunity to make representations in relation to the DO. As such, CMG will offer a 14-day representation for RDOs and a 28-day representation for LSDOs

Detail of implementation – additional considerations For Unlimited Partnership Business Accounts:

8. The objective is to identify wealth transferred by the NRP into an unlimited partnership business account not necessarily to benefit the business, but to hold the wealth in a “safe” place. If a flow of money from the NRP to the account is identified which could be used to pay their arrears, without preventing the business from meeting its costs, then that money should be recovered. The value of any arrears that could be collected is therefore not seen as a direct or indirect cost to the individual business, given the safeguards that will be in place.

Expected level of business impact-appraisal period and likely EANDCB

Overall appraisal period and expected level of impact:

9. The appraisal period for this policy is 10 years over which the likely financial impacts on business (banks and building societies) are quantified.
10. In the case of personal joint accounts the equivalent annual net direct cost to business (EANDCB in 2016 prices) is estimated to be around £7,300 per year. In the case of unlimited partnership business accounts the equivalent EANDCB is estimated to be around £3,500 per year.
11. The total 10-year costs to business of £92,900 (£0.1m) were estimated from the volume of DOs expected to be issued against personal and business joint accounts and applying estimated success rates and cost to business assumptions to these volumes. The assumptions are explained in paras 27-36.

For Joint (personal) Accounts - detail of expected costs:

12. Banks and building societies will incur additional costs when a DO is issued to obtain monies owed by the NRP from their personal joint accounts.
13. Based on the sampling exercise described below in paras 27&28, it is assumed that personal joint accounts can be identified for around 14% of all requests where no sole personal account is available, resulting in 350 requested deduction orders in England and Wales per year.
14. Based on DOs for sole accounts in 2009-2017 it is estimated that 34% will be LSDOs and the remaining 66% RDOs⁷. With a four month median life-span of a successful RDO which raised some money for sole accounts under existing regulations, this four month duration was assumed to apply for the proposed RDOs. LSDOs are one-off transactions so a duration period does not apply.
15. All costs for LSDOs will be one-off and comprise costs of disclosing information about the joint accounts in question, deducting funds, and discharging the LSDO. Estimates for the unit costs of disclosure, deduction, and discharge were provided by the British Banking Authority (BBA)⁸.
16. For RDO's the disclosure and discharge costs are one off at set up/close down of the RDO. In addition there are ongoing costs associated with each deduction of funds and potential changes the order during its lifespan. Estimates for the unit costs of disclosure, deduction, changes and discharge were provided by the British Banking Authority (BBA)⁸.

⁷ Child Support Agency Quarterly Summary of Statistics for Great Britain March 2017 table 22 and *Child Maintenance Service: Aug 2013 to Dec 2017 (experimental)* table 11.

⁸ British Banking Association response to the draft proposals for child maintenance deduction orders for joint and partnership accounts

17. With a duration of four months assumed for RDOs, a steady state is expected to be reached by year 2. The estimated annual costs to business for applying any deduction order to Joint (personal) Accounts are:

Year 1	Years 2 thru 10
£7,100	£7,400

18. The overall estimated cost to business using a 3.5% discount rate over 10 years is £63,000. A more detailed breakdown is given in table 2.

For Unlimited Partnership Business Accounts – additional detail of expected costs:

19. Based on the sampling exercise described in paras 39-42, it is assumed that Unlimited Partnership Business accounts can be identified for around 7% of DO's requested which would result in 170 deduction orders in England and Wales.
20. Estimates of the volumes, durations of LSDOs and RDOs and their associated administration costs were derived in the same manner as for joint personal accounts (paragraphs 14 & 15).
21. With four months duration for RDOs, a steady state is expected to be reached by year 2. The estimated annual costs to business for applying any deduction order to unlimited partnership business accounts are:

Year 1	Years 2 thru 10
£3,400	£3,500

22. The overall estimated costs to business using a 3.5% discount rate over the 10 years are £29,900. A more detailed breakdown is given in table 3.

Table 1:

23. Summary of Annual Costs to banks and building societies in England & Wales over 10 years – annual steady state assumed from Year 2

	Year 1	Years 2 through 10	Overall totals – over 10 yrs (3.5% discount rate)
Personal Accounts*	£7,100	£7,400	£63,000
Unlimited Partnership Business Accounts*	£3,400	£3,500	£29,900
Totals*,** (£s)	£10,500	£10,900	£92,900
Totals** (£m)	£0.01	£0.01	£0.1
* Rounded to the nearest £100			
** All summed & rounded totals derived from unrounded monthly estimates			

24. Detail of costs over 10 years – annual steady state assumed from Year 2:

Table 2: For Joint (personal) Accounts

	Year 1	Years 2-10
Number of LSDOs set up (34% of all DO's)	120	120
Number of LSDOs successful in deducting funds (60% success rate)	70	70
Number of LSDOs unsuccessful in deducting funds (40% failure rate)	50	50
Number of RDOs set up (66% of all DO's)	230	230
Number of RDOs successful in getting funds (60% success rate)	140	140
Number of RDOs unsuccessful in getting funds (40%)	100	100
Cost of LSDOs £(volume x £41 unit cost)	3300	3300
Cost of unsuccessful RDO's £(volume x (disclosure +discharge costs))	1000	1000
Cost of successful RDO set up £(volume x set up cost)	800	800
Cost of RDO deductions £(volume x frequency of deduction x deduction cost)	600	600
Cost of RDO change of circs £(volume x frequency of change x change cost)	1000	1100
Cost of RDO discharge £(volume x cost of discharge)	400	500
Total (joint accounts)	7100	7400
*#s rounded to nearest 10; costs rounded to nearest £100		
**All summed and rounded totals derived from unrounded monthly estimates		

Table 3: For Unlimited Partnership Business Accounts

	Year 1	Years 2-10
Number of LSDOs set up (34% of all DO's)	60	60
Number of LSDOs successful in deducting funds (60% success rate)	30	30
Number of LSDOs unsuccessful in deducting funds (40% failure rate)	20	20
Number of RDOs set up (66% of all DO's)	110	110
Number of RDOs successful in getting funds (60% success rate)	60	60
Number of RDO's unsuccessful in getting funds (40%)	50	50
Cost of LSDOs £(volume x £41 unit cost)	1600	1600
Cost of unsuccessful RDO's £(volume x (disclosure +discharge costs))	500	500
Cost of successful RDO set up £(volume x set up cost)	400	400
Cost of RDO deductions £(volume x frequency of deduction x deduction cost)	300	300
Cost of RDO change of circs £(volume x frequency of change x change cost)	500	500
Cost of RDO discharge £(volume x cost of discharge)	200	300
Total (joint accounts)	3400	3500
*#s rounded to nearest 10; costs rounded to nearest £100		
**All summed and rounded totals derived from unrounded monthly estimates		

Key assumptions/sensitivities/risks

For both joint accounts - Personal and Unlimited Partnership Business

25. A sampling exercise was undertaken in 2014 with five banks (Barclays, Santander, RBS, HSBC and Lloyds TSB) to identify how many additional DOs could be made if CMS were able to target personal or business joint accounts.
26. Of the 993 previously unsuccessful information requests sent to the participating banks (approximately 200 per bank), 137 personal joint and 70 partnership accounts were identified.
27. In seven years (March 2009 to March 2016) on average 2,742 failed information requests were made⁹ each year (i.e. requests that did not identify any individually owned accounts), 93% are expected to be located in England and Wales. The proportion of these failed requests that are likely to have a joint account, as from the sample exercise, were applied to estimate likely numbers of transactions involving joint accounts which could impact on the costs of banks and building societies.
28. The result is that up to 350 personal joint accounts and 170 business accounts estimated to have DOs applied in England and Wales.
29. Assumptions about the success rate of DOs, the proportion that would be LSDO /RDO and the volume of changes in RDOs while active are taken from published statistics on existing sole account DOs. Further assumptions about the frequency of deductions and length of RDOs are derived from operational MI on the existing RDO's for sole accounts. These are set out in table 4 with sources listed.
30. Financial Institutions must undertake several administrative steps when applying or attempting to apply a DO, meaning there are cost to businesses associated with both successful and unsuccessful DO's. These have been estimated by the British Banking Authority and are also outlined in table 4.
31. A key uncertainty is the length of time RDOs remain in place, as there is known to be great variability from weeks to several years for RDO's on sole accounts. Here we have used the median of four months, with the estimate of two amendments during this time due to changes in circumstance on the case which could affect the deduction amount¹⁰.
32. While RDOs can have indirect positive outcomes, such as prompting NRPs to re-establishing compliance, there may also be the risk that these regulations will reduce the likelihood of clients depositing funds into joint accounts, thereby limiting the effectiveness of DOs against such accounts.
33. A summary table of all assumptions and their source, is shown below:

⁹ Child Support Agency Quarterly Summary of Statistics for Great Britain March 2017

¹⁰ 2012 CMS statistics, December 2017 – Table 4 (number of CM arrangements); Table 14 (change of circumstances over quarter)

Table 4: assumptions

	Issue	Assumed estimate	Source
1	Deduction Orders [DOs] which failed to be implemented each year	Annual average of 2,742	CSA Quarterly Summary Statistics; March 2017, Table 22, 09/10 to 15/16
2	E&W as a ratio of GB	93%	CMS regional statistics, Sept. '17
3	Proportion of RDOs which successfully yield arrears &/or ongoing charges. LSDOs have a similar success rate (60%)	58%	unpublished CMS data for RDOs – as RDOs are the majority (61%) of all DOs the success rate for RDOs applied to all joint accounts
4	% of DOs that are Lump Sum Deduction Orders [LSDOs]	34%	CSA Quarterly Summary Statistics; March 2017, Table 22, 09/10 to 15/16
5	Disclosure (unit) cost	£6	British Banking Authority [BBA], now 'UK Finance' since July '17 BBA provided range for Disclosure Costs (£8-£14). We assume joint accounts most expensive and sole least expensive - so £6 equals additional costs incurred by a joint account after non-availability of an appropriate single account had been assessed.
6	Freezing money for LSDO	£0	None provided by BBA; '0' assumed
7	Unfreezing money for LSDO	£0	None provided by BBA; '0' assumed
8	Deduction cost from LSDO	£ 31	BBA - £4-£31
9	Deduction cost from RDO	£1.20	BBA – per deduction
10	Proportion of RDOs that are monthly	18%	DWP internal MI (DO Team)
11	Proportion of RDOs that are weekly	82%	DWP internal MI (DO Team)

	Issue	Assumed estimate	Source
12	Duration of time RDO in place	4 months	Unpublished CMS data - varies from weeks to several years – median 4 months
13	Change of circumstance cost for RDO	£4	BBA response
14	Change of circs per RDO	2	2012 CMS statistics; from number of CM arrangements and number of changes in circumstance
15	Discharge costs	£4	BBA response
16	Training costs	£0	No new procedures for banks to follow, deposit takers should already be carrying out identical process
17	IT costs	£0	As above
18	Familiarisation costs	£0	As above
19	Reclaim amount	£0	No mention from BBA, assume nil.
20	Overall unit costs per successful LSDO	£41	This assumes one-off setup and discharge costs
21	Overall unit costs per successful RDO	£38	This assumes RDO in place for 4 months with 2 changes of circumstance

Wider Impacts

Benefits to Children:

34. The policy intention of these new orders is to impose financial responsibilities for children on their NRP and to increase the flow of money to the parents with care of these qualifying children. The relatively small impacts on business are considered to be proportionate.

Personal Joint Accounts:

35. Bringing into power personal joint account DO regulations should increase successful DOs and collection of unpaid maintenance. It is estimated that annually 70 successful LSDO's would each collect £2000 each and 140 successful RDO's would each collect £800 of additional child maintenance collections. This totals around £237,400 annually in additional maintenance collected. With, on average, 1.5 children befitting per casegroup around 300 additional children would benefit per year.

Unlimited Partnership Business Joint Accounts:

36. Similarly it is estimated that annually 30 successful LSDO's and 60 successful RDO's from Unlimited Partnership Business Joint Accounts would result in additional child maintenance collections of around £112,600 annually, with around 150 additional children benefitting from some financial support from their NRP each year due to these powers.

Impact on Protected Groups:

37. This section considers if protected characteristics of separated families are likely to be impacted disproportionately by the extension of DOs to jointly held bank accounts, including unlimited partnership business accounts.

38. Protected groups according to the Equality Act 2010 are:

- Age
- Disability
- Gender
- Race
- Gender Reassignment
- Pregnancy and Maternity
- Sexual Orientation
- Religion or Belief
- Marriage and Civil Partnership

39. The main data source is Management Information from the CMS and its predecessors. These are held specifically to enable these statutory systems to function and are not routinely available for disability, gender reassignment, sexual orientation, religion / belief, or marriage / civil partnership status.

40. As far as possible, impacts are considered and determined by whether the individual is a Parent with Care (PWC) or a Non Resident Parent (NRP). Impacts will be kept under review as the new powers are implemented, but at this stage and with available information, we consider overall benefits of increasing parental responsibility and financial support to qualifying children to outweigh any costs.

41. There are also safeguards in place as outlined earlier in paras 6 & 7 which offer protection against unfair application of these powers.

Age

42. While the NRP with an ongoing liability is on average older than the PWC most separated parents with dependent children are of working-age. The modal age range for NRP is 36-40 years and for PWC 31-35 years.
43. The new extension to personal and business joint accounts is therefore more likely to affect working-age individuals than pensioners. However this impact is not expected to be disproportionately changed by the new policy.

Gender

44. The overwhelming majority (95%) of NRPs on the current statutory system (CMS) are men while 96% of PWCs are women. This means arrears owed are almost exclusively due to women, with the burden of unpaid child maintenance on men.
45. The impacts of extending DOs to personal and business joint accounts will largely be benefits to the PWC (usually the mother) and costs to the NRP (usually the father), but we do not have evidence to suggest there will be any greater gender bias than already exists in the wider CMS population.

Race

46. The ethnic classifications of CMS clients are largely representative of the wider population of Great Britain, with almost 90% of both NRPs and PWCs White.
47. It should be noted that latest data show a slightly higher percentage of Black CMS clients and a lower percentage of Asian CMS clients compared to their representations in the population. However these minority groups make up very small proportions of the entire caseload and firm conclusions cannot be drawn from one snapshot of data.
48. There is no evidence to suggest the CMS population of joint account holders differs by ethnicity and therefore the extension of DOs to such accounts are not expected to disproportionately impact ethnicity to any greater extent than already exists.

Pregnancy / Maternity

49. One key aim of the CMS is to support parenthood / motherhood by increasing both financial support for qualifying children and collaboration between separated parents.
50. While it is not possible to quantify currently, this new policy may impact negatively on the ability of the NRP to support any children in their current household – whether these children be the NRPs own or those of a subsequent partner. However maintenance due to any qualifying child are

calculated at a reduced rate to take into account such additional responsibilities.

Life Chances and Impacts on Children:

51. Issues potentially impacting most widely on the life chances of children are covered above in paras 37-50. However, these need to be considered in the context of expected and accepted parental responsibility, with appropriate planning of one's current and future family commitments. This new policy will continue to be monitored through implementation.

Family Test:

52. The extension of DOs to personal and business joint accounts is estimated to achieve a higher NRP compliance rate with more child maintenance paid to support the qualifying child(ren). While this additional responsibility may impact negatively on the NRP's ability to form a new family, we consider this to be justified.