

Child Support Act 1991

CHAPTER 48

Note: The material reproduced below is limited to what is relevant to this volume, comprising ss. 43 and 46, and para. 5(4) of Sch. 1.

An Act to make provision for the assessment, collection and enforcement of periodical maintenance payable by certain parents with respect to children of theirs who are not in their care; for the collection and enforcement of certain other kinds of maintenance; and for connected purposes. [25th July 1991]

43.—(1) This section applies where—

- (a) by virtue of paragraph 5(4) of Schedule 1, an absent parent is taken for the purposes of that Schedule to have no assessable income; and
- (b) such conditions as may be prescribed for the purposes of this section are satisfied.

Contribution to maintenance by deduction from benefit.

(2) The power of the Secretary of State to make regulations under [¹ section 5 of the Social Security Administration Act 1992 by virtue of subsection (1)(p),] (deductions from benefits) may be exercised in relation to case to which this section applies with a view to securing that—

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- (a) payments of prescribed amounts are made with respect to qualifying children in place of payments of child support maintenance; and
- (b) arrears of child support maintenance are recovered.

[²(3) Schedule 4C shall have effect for applying sections 16, 17, 20 and 28ZA to 28ZC to any decision with respect to a person's liability under this section, that is to say, his liability to make payments under regulations made by virtue of this section.]

[³**43.—(1)** This section applies where—

- (a) a non-resident parent is liable to pay a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1; and
- (b) such conditions as may be prescribed for the purposes of this section are satisfied.

Recovery of child support maintenance by deduction from benefit.

(2) The power of the Secretary of State to make regulations under section 5 of the Social Security Administration Act 1992 by virtue of subsection (1)(p) (deductions from benefits) may be exercised in relation to cases to which this section applies with a view to securing that payments in respect of child support maintenance are made or that arrears of child support maintenance are recovered.

(3) For the purposes of this section, the benefits to which section 5 of the 1992 Act applies are to be taken as including war disablement pensions and war widows' pensions (within the meaning of section 150 of the Social Security Contributions and Benefits Act 1992 (interpretation)).]

¹ Words in s. 43(2) substituted (1.7.92) by Social Security (Consequential Provisions) Act 1992 (c. 6), Sch. 2, para. 113.

² Sub-para. (3) inserted (4.3.99) by Social Security Act 1998 (c. 14), Sch. 7, para. 40.

³ S. 43 substituted (10.1.00) for the purposes of making regulations & Acts of Sederunt only by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 21.

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Failure to comply with obligations imposed by section 6.

46.—(1) This section applies where any person (“the parent”)—

- (a) fails to comply with a requirement imposed on her by the Secretary of State under section 6(1); or
- (b) fails to comply with any regulation made under section 6(9).

(2) [¹ The Secretary of State] may serve written notice on the parent requiring her, before the end of the specified period, either to comply or to give him her reasons for failing to do so.

(3) When the specified period has expired, [¹ the Secretary of State] shall consider whether, having regard to any reasons given by the parent, there are reasonable grounds for believing that, if she were to be required to comply, there would be a risk of her or of any children living with her suffering harm or undue distress as a result of complying.

(4) If [¹ the Secretary of State] considers that there are such reasonable grounds, he shall—

- (a) take no further action under this section in relation to the failure in question; and
- (b) notify the parent, in writing, accordingly.

(5) If [¹ the Secretary of State] considers that there are no such reasonable grounds, he may [², except in prescribed circumstances,] give a reduced benefit direction with respect to the parent.

(6) Where [¹ the Secretary of State] officer gives a reduced benefit direction he shall send a copy of it to the parent.

¹ Words substituted in s. 46(2) - (6) (1.6.99) by S.S.Act 1998, Sch. 7, para. 43.

² Words inserted (1.10.95) in s. 46(5) by Child Support Act 1995 (c. 34), Sch. 31, para. 12.

[¹ (7) Schedule 4C shall have effect for applying section 16, 17, 20 and 28ZA to 28ZC to decisions with respect to reduced benefit directions.]

(8) [...¹]

(9) A reduced benefit direction shall take effect on such date as may be specified in the direction.

(10) Reasons given in response to a notice under subsection (2) may be given either in writing or orally.

(11) In this section—

“comply” means to comply with the requirements or with the regulation in question; and “complied” and “complying” shall be construed accordingly;

“reduced benefit direction” means a direction, [...²], that the amount payable by way of any relevant benefit to, or in respect of, the parent concerned be reduced by such amount, and for such period, as may be prescribed;

“relevant benefit” means income support, [...³] or any other benefit of a kind prescribed for the purposes of section 6; and

“specified”, in relation to any notice served under this section, means specified in the notice; and the period to be specified shall be determined in accordance with regulations made by the Secretary of State.

Defn. of “relevant benefit” in s. 46(11) above, and benefits referred to in para. 5(4) of Sch. 1 below, extended (prosp.) to income-based jobseeker’s allowance by para. 20(4) and (7) respectively of Sch. 2 to Jobseekers Act 1995 (c. 18).

[⁴ 46.—(1) This section applies where any person (“the parent”)—

- (a) has made a request under section 6(5);
- (b) fails to comply with any regulation made under section 6(7); or
- (c) having been treated as having applied for a maintenance calculation under section 6, refuses to take a scientific test (within the meaning of section 27A).

Reduced benefit decisions.

(2) The Secretary of State may serve written notice on the parent requiring her, before the end of a specified period—

- (a) in a subsection (1)(a) case, to give him her reasons for making the request;
- (b) in a subsection (1)(b) case, to give him her reasons for failing to do so; or
- (c) in a subsection (1)(c) case, to give him her reasons for her refusal.

(3) When the specified period has expired, the Secretary of State shall consider whether, having regard to any reasons given by the parent, there are reasonable grounds for believing that—

- (a) in a subsection (1)(a) case, if the Secretary of State were to do what is mentioned in section 6(3);
- (b) in a subsection (1)(b) case, if she were to be required to comply; or
- (c) in a subsection (1)(c) case, if she took the scientific test, there would be a risk of her, or of any children living with her, suffering harm or undue distress as a result of his taking such action, or her complying or taking the test.

¹ Sub-sections (7) & (8) substituted for (7) (4.3.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 43(3).

² Words repealed (1.6.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 43(4).

³ Words “family credit” repealed (5.10.99) by the Tax Credits Act 1999 (c. 10), Sch. 6.

⁴ S. 46 substituted (10.11.00) for the purposes of making regulations & Acts of Sederunt only by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 19.

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(4) If the Secretary of State considers that there are such reasonable grounds, he shall—

- (a) take no further action under this section in relation to the request, the failure or the refusal in question; and
- (b) notify the parent, in writing, accordingly.

(5) If the Secretary of State considers that there are no such reasonable grounds, he may, except in prescribed circumstances, make a reduced benefit decision with respect to the parent.

(6) In a subsection (1)(a) case, the Secretary of State may from time to time serve written notice on the parent requiring her, before the end of a specified period—

- (a) to state whether her request under section 6(5) still stands; and
- (b) if so, to give him her reasons for maintaining her request,

and subsections (3) to (5) have effect in relation to such a notice and any response to it as they have effect in relation to a notice under subsection (2)(a) and any response to it.

(7) Where the Secretary of State makes a reduced benefit decision he must send a copy of it to the parent.

(8) A reduced benefit decision is to take effect on such date as may be specified in the decision.

(9) Reasons given in response to a notice under subsection (2) or (6) need not be given in writing unless the Secretary of State directs in any case that they must.

(10) In this section—

- (a) “comply” means to comply with the requirement or with the regulation in question; and “complied” and “complying” are to be construed accordingly;
- (b) “reduced benefit decision” means a decision that the amount payable by way of any relevant benefit to, or in respect of, the parent concerned be reduced by such amount, and for such period, as may be prescribed;
- (c) “relevant benefit” means income support [¹, an income-based jobseeker’s allowance, an income-related employment and support allowance] or any other benefit of a kind prescribed for the purposes of section 6; and
- (d) “specified”, in relation to a notice served under this section, means specified in the notice; and the period to be specified is to be determined in accordance with regulations made by the Secretary of State.]

¹ Words substituted (27.10.08) by the Welfare Reform Act 2007 (c. 5), Sch. 3, para. 7(4).

SCHEDULE

SECTION 11

MAINTENANCE ASSESSMENTS

PART I

CALCULATION OF CHILD SUPPORT MAINTENANCE

Assessable income

5.—(4) Where income support [¹, an income-based jobseeker's allowance] or any other benefit of a prescribed kind is paid to or in respect of a parent who is an absent parent or a person with care that parent shall, for the purposes of this Schedule, be taken to have no assessable income.

¹ Words inserted (7.10.96) in para. 5(4) of Sch. 1 by para. 20(7) of Sch. 2 to Jobseeker's Act 1995 (c. 18).

