

A Guide to the Child Support Act 1991

This is the guide to the Child Support Act 1991.

Some of this guide is taken directly from the Act, the rest has been written for easy reading.

The author of this guide wonders if this Act was deliberately written to cause confusion as it is a large piece of legislation with a lot of information, yet at the same time it basically says very little. There is a lot of superfluous information, which appears to have been added to add to the confusion.

Take special note of section 41B

To read the entire Act please visit [Child Support Act 1991 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1991/18)

1. The duty to maintain.

This section sets out that it is the duty of both parents to maintain the child. Non-residential parent means the parent who is not living in the same house as the child. Resident parent is the parent the child lives with for most of the time. To comply with the duty to maintain, the non-residential parent will be assessed, and a maintenance calculation made to establish when and how much they should pay towards the child's upkeep.

2. Welfare of children: the general principle.

The secretary of State is ultimately in charge of this legislation.

3. Meaning of certain terms used in this Act.

Residential and non-residential parent terminology has already been discussed in point. 1.

4. Child support maintenance.

This again sets out what child support maintenance is, who can apply, who is assessed etc.

5. Child support maintenance: supplemental provisions.

This section covers what happens if the non-residential parent does not have parental responsibility. If you do not have parental responsibility for the child you can not be forced to pay child maintenance and only one application for child maintenance can be proceeded with at any one time.

6. Applications by those receiving benefit.

This section covers what happens if the resident parent is also on one of the prescribed list of benefits, this list includes but is not restricted to the following: income support, income-based jobseekers. The resident parent must supply information in regards to the non-residential parent so they can be traced.

7. Right of child in Scotland to apply for assessment.

In Scotland if the child is over the age of 12 can apply for maintenance if the other criteria are met. For a full list of criteria please see the legislation.

8. Role of the courts with respect to maintenance for children.

9. Agreements about maintenance.

This section sets out that the parents can make their own arrangements for child maintenance in the form of an agreement.

10. Relationship between maintenance assessments and certain court orders and related matters.

This section seems to discuss the setting up of time periods between payments and assessments / calculations.

Maintenance assessments

11. Maintenance assessments

This section sets out the application for making a maintenance assessment. What sections you can apply under and what happens if this is disallowed or withdrawn.

It also states that the amount of child support maintenance shall be fixed by the calculation unless an application for variation is made and agreed.

12. Interim maintenance assessments.

An interim maintenance assessment can be made if there is not enough evidence to complete a full assessment.

Child support officers

13. Child support officers.

Information

14. Information required by Secretary of State.

15. Powers of inspectors.

This section covers the powers of an inspector.

Reviews and appeals

16. Periodical reviews.

This is to allow periodical reviews of the amount ordered under a child maintenance order.

17. Reviews on change of circumstances.

The right to a review.

18. reviews of decisions of child support officers.

If an application has been refused or an application for a review is refused, you can request a review.

19. Reviews at instigation of child support officers.

This section covers when a child support officer can request a review. Reasons for this can include: the decision being made in ignorance of material facts, mistakes being made in regards to facts, where they believe a fresh application needs to be made and other factors.

Please see the legislation for a full list.

20. Appeals.

This sets out the time frame for an appeal etc.

20A. Lapse of appeals.

21. Child support appeal tribunals.

22. Child support Commissioners.

23. Child support Commissioners for Northern Ireland.

This section is about appointing a new chief child support commissioner.

24. Appeal to Child Support Commissioner.

25. Appeal from Child Support Commissioner on question of law.

26. Disputes about parentage.

This section is aimed at fathers who may or may not be the biological father of the child.

This section covers case studies to help explain this section. The author of this guide believes that the solution for this section can be sought via a DNA test in most cases.

Section

27. Reference to court for declaration of parentage.

This section discusses DNA tests.

27A. Recovery of fees for scientific tests.

This is about who pays for the DNA test, which, it would seem depends on the results of the test.

28. Power of Secretary of State to initiate or defend actions of declarator:

Scotland.

The author believes that this is basically the same as section 27 and 27A but for residents of Scotland. There are several subsections within this section that discuss tribunals and high court as well as liability. For further information please see the Act.

28A. Application for a departure direction.

This is regarding the grounds that can be used to depart from direction. This needs to be done in writing and should include the effect of the current assessment and any material changes in the case.

28B. Preliminary consideration of applications.

The consideration will cover if there are grounds to depart, if the award would change, if the assessment needs to be revised or superseded.

28C. Imposition of a regular payments condition.

This section covers the consideration being granted as well as failing. If payments would be reduced, increased or stay the same as well as arrears.

As there are variations on the above sections of 28 it is advisable to read the exact wording and variations before commencing litigation under this section.

28D. Determination of applications.

Explains how determinations are made.

28E. Matters to be taken into account.

This section covers what happens if you have multiple children, entitlement to benefits and other important factors.

28F. Departure directions.

Covers financial circumstances of both parties, welfare of the child or children involved and other issues.

28G. Effect and duration of departure directions.

Basically, this is the result of the aforementioned sections of section 28.

28H. Appeals in relation to applications for departure directions.

Appeals process.

28I. Transitional provisions.

Collection and enforcement

29. Collection of child support maintenance.

This explains that deductions can be made from wages and or benefits if payments are not made in accordance with the court order.

30. Collection and enforcement of other forms of maintenance.

Pretty much the same as section 29 but worded differently.

31. Deduction from earnings orders.

Just as the section title states.

32. Regulations about deduction from earnings orders.

Sets out the percentage of wages that can be deducted for child maintenance. As this is a large section with subsections it is recommended that you read this section of the Act if it pertains to your circumstance.

33. Liability orders.

This section covers what happens if the parent who should be making payments does not make them and the courts can not deduct monies from their wages or that any deduction orders or other orders can not be applied.

34. Regulations about liability orders.

Every type of order has regulations in regards to the order and this section covers those regulations.

35. Enforcement of liability orders by distress.

This section covers passing the debt, liability to a debt collector where goods are removed to cover the outstanding debt.

36. Enforcement in county courts.

Title speaks for itself.

37. Regulations about liability orders: Scotland.

Scotland's regulations regarding this section. Please read the Act.

38. Enforcement of liability orders by diligence: Scotland.

See above

39. Liability orders: enforcement throughout United Kingdom.

40. Commitment to prison.

This seems to be a last resort. However, this is a large section and if you feel this section is pertinent to your situation you should read it in entirety.

41. Arrears of child support maintenance.

Arrears and penalty payments.

41A. Arrears: alternative to interest payments.

See above

41B. Repayment of overpaid child support maintenance.

If the author of this guide has read this section correctly there is no point paying more than you need to thinking that it will lower future payments because this is not the case and you could therefore end up in arrears with payments even though you've overpaid previously. Also, you cannot claim any overpayments back.

Special cases

42. Special cases.

Worth a read for anyone with multiple children or where the child spends time in more than 2 different households.

43. Contribution to maintenance by deduction from benefit.

If you fall under this category, please read the wording of the Act as the situation differs depending on circumstances.

Jurisdiction

44. Jurisdiction.

This covers situations where either the child or non-residential parent do not live in the UK full-time. It also covers members of the armed forces.

45. Jurisdiction of courts in certain proceedings under this Act.

For clarity, please read the legislation.

Miscellaneous and supplemental

46. Failure to comply with the obligations imposed by section 6.

47. Fees.

This covers when fees will or will not be payable.

48. Right of audience.

Right to conduct litigation.

49. Right of audience: Scotland.

Right to litigation in Scotland.

50. Unauthorised disclosure of information.

51. Supplementary powers to make regulations.

52. Regulations and orders.

53. Financial provisions.

54. Interpretation.

55. Meaning of "child".

56. Corresponding provision for and co-ordination with Northern Ireland.

57. Application to Crown.

