



Child Support (Enforcement) Bill

HL Bill 120 of 2022–23

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On 19 May 2023, the second reading of the [Child Support \(Enforcement\) Bill](#) is scheduled to take place in the House of Lords. It is a private member's bill sponsored by Baroness Redfern (Conservative). The bill was introduced in the House of Commons by Siobhan Baillie (Conservative MP for Stroud) and completed its House of Commons stages on 17 March 2023. It received its first reading in the House of Lords on 20 March 2023.

At present, should a parent fail to pay the child maintenance they owe, the Child Maintenance Service (CMS) can attempt to recover the money from the parent's earnings or bank account. If these methods do not work, the CMS can seek a legal order known as a 'liability order' from a magistrate's court that confirms the amount of child maintenance owed.¹ Once a liability order has been issued, the CMS can take various enforcement actions. This can include preventing the parent from getting or keeping a driving licence, seizing assets or property to pay the arrears, or imprisonment. The government's website states that the legal process can take "anything from a few weeks to several months".

The [Child Support Act 1991](#) (as amended by the [Child Maintenance and Other Payments Act 2008](#)) contains uncommenced provisions allowing the secretary of state to make a liability order without first making an application to the courts. The bill would amend the basis on which the secretary of state could make these orders. It would also make provision about the variation of liability orders, and require regulations to make provision about appeals.

¹ HM Government, '[Child maintenance: Liability orders](#)', 1 October 2013.

Supporters of the bill have argued that this would allow enforcement measures to be used more quickly against non-paying parents.²

The government supports the bill. In December 2022, the Department for Work and Pensions (DWP) published [explanatory notes](#) for the bill following its introduction in the House of Commons. In March 2023, the department published a [delegated powers memorandum](#) for the House of Lords Delegated Powers and Regulatory Reform Committee. In April 2023, the DWP published [explanatory notes](#) for the bill following its first reading in the House of Lords.

The bill has received cross-party support. It completed its House of Commons stages without amendment.

I. What is child maintenance?

Child maintenance is a financial arrangement that covers how a child's living costs will be paid when one of the parents does not live with the child (a 'non-resident parent').³ An arrangement must be in place if a child is under 16, or under 19 if in full time education. Child maintenance can be arranged either privately between parents, if both parents agree, or through the CMS.⁴

The role of the CMS is to:

- calculate the amount of child maintenance that should be paid
- arrange child maintenance payments
- locate the other parent if their location is unknown
- take enforcement action if a parent does not pay

² [HC Hansard, 9 December 2022, col 666.](#)

³ HM Government, '[Child Maintenance Service: What child maintenance is](#)', accessed 4 May 2023.

⁴ HM Government, '[How the Child Maintenance Service works out child maintenance](#)', accessed 4 May 2023.

The CMS manages cases through one of two service types:⁵

- **Direct pay.** Under the direct pay service, the CMS calculates how much child maintenance needs to be paid by the non-resident parent to the person living with the child (a ‘person with care’) and arranges a payment schedule. The non-resident parent then pays the maintenance to the person with care.
- **Collect and pay.** Under this service, the CMS calculates how much maintenance should be paid, collects the money and pays it to the person living with the child. However, the use of this service incurs collection charges of 20% on top of the liability for the non-resident parent and 4% of the maintenance received by the person with care.

Under the Child Support Act 1991, the secretary of state has the power to collect child maintenance payments through the collect and pay service only where:

- the paying parent agrees to the arrangement, or
- the CMS is satisfied that without the arrangements, child maintenance is unlikely to be paid.⁶

Therefore, under the 1991 act, direct pay is the default option unless the non-resident parent either agrees to use collect and pay or is deemed unlikely to pay by the CMS.⁷

2. What steps can the CMS take to collect arrears?

If the non-resident parent fails to make one or more payments, leading to arrears, the CMS has several enforcement powers that it can use.

⁵ HM Government, ‘[Child Maintenance Service: Making and receiving payments](#)’, accessed 4 May 2023.

⁶ [Explanatory notes](#), p 2.

⁷ As above.

These include:

- **Deduction from earnings orders (DEOs).** Under a DEO, the CMS collects child maintenance directly from a non-resident parent's earnings or pensions. This is undertaken by an employer, who deducts the payments for arrears directly from the non-resident parent.⁸
- **Deduction from bank or building society accounts ('deduction orders' (DOs)).** Under a DO, the CMS deducts a regular fixed sum or a lump sum of arrears directly from a non-resident parent's bank or building society account.⁹
- **Deduction from benefits.** Where a non-resident parent is in receipt of particular benefits and liable to pay child maintenance, the CMS can take up to £8.40 a week from the benefits to pay child support.¹⁰ A further deduction can be taken to pay for any arrears. These are administered by the collect and pay service.¹¹

In circumstances where these enforcement functions are either “inappropriate or prove ineffective” in collecting arrears, the CMS must apply to the magistrate's court in England and Wales, or the sheriff's court in Scotland, to obtain a liability order enabling the use of “more stringent enforcement powers”.¹² These include:

- taking control of and selling goods
- disqualifying the non-resident parent from driving or from holding or obtaining a passport
- imprisoning the non-resident parent

⁸ HM Government, [‘Make child maintenance deductions from an employee's pay’](#), accessed 4 May 2023.

⁹ [Explanatory notes](#), p 3.

¹⁰ [The Child Support \(Miscellaneous Amendments\) Regulations 2019](#). Benefits include carer's allowance, income support and universal credit.

¹¹ Department for Work and Pensions, [‘Child maintenance: A new compliance and arrears strategy—public consultation’](#), December 2017, p 13.

¹² [Explanatory notes](#), p 3.

For parents using the collect and pay service, enforcement is automatically pursued by the CMS on their behalf. For parents on direct pay, the arrangement must be switched to the collect and pay service before any enforcement action can begin.¹³

2.1 Are enforcement actions commonly used by the CMS?

The DWP publishes quarterly statistics on the CMS. These include data on enforcement, though these are currently experimental and therefore have a larger than normal degree of uncertainty. In its latest publication for the quarter ending December 2022, the DWP reported that out of 168,000 non-resident parents using the collect and pay service:¹⁴

- 46,700 (28%) had a DEO or DEO request in place
- 57,400 (34%) were due to pay arrears through a deduction from their benefits
- 64,000 (38%) were scheduled to pay through other payment methods, which were predominantly default standing orders

The data also detailed the number of DOs and civil enforcement actions in process for the quarter ending December 2022. It revealed that there were increases in the number of actions compared to the previous quarter (July to September 2022):¹⁵

- 6,800 liability orders were in process, up from 5,500 in the previous quarter
- 4,900 regular or lump sum DOs were in process, up from 4,400 in the previous quarter
- 3,500 enforcement agent referrals were in process, up from 3,300 in the previous quarter

¹³ HM Government, '[Child Maintenance Service: Making and receiving payments](#)', accessed 4 May 2023.

¹⁴ Department for Work and Pensions, '[Child Maintenance Service statistics: Data to December 2022 \(experimental\)](#)', 28 March 2023. Figures have been rounded.

¹⁵ As above.

The DWP also noted that in the year ending December 2022 the CMS had collected £3.6mn from paying parents with a sanctions action in process.¹⁶

3. What would the bill do?

The bill would amend the basis, as set out in the uncommenced provisions in the 2008 act, on which the secretary of state could make liability orders. The government's website states that the current legal process can take "anything from a few weeks to several months".¹⁷

The bill consists of six clauses.

Clause 1 defines the Child Support Act 1991 as 'the 1991 act' and the Child Maintenance and Other Payments Act 2008 as 'the 2008 act'.

Clause 2 would amend section 32M of the 1991 act (as inserted by section 25 of the 2008 act) to change the basis on which the secretary of state could make a liability order. It would stipulate that the secretary of state could only exercise this power where a non-resident parent had failed to pay an amount of child maintenance due and a deduction from earnings order was either inappropriate or has been ineffective.

Clause 3 would amend section 32N of the 1991 act (as inserted by section 25 of the 2008 act) to expand the power to make regulations for the variation of a liability order. This could include, for example, where the amount of arrears upon which a liability order is based is found to have been incorrect.

At present, section 25 of the 2008 act provides for appeals against liability orders to the first tier tribunal. **Clause 4** would amend the route of appeal to allow a right to appeal to a court and would make consequential

¹⁶ Department for Work and Pensions, '[Child Maintenance Service statistics: Data to December 2022 \(experimental\)](#)', 28 March 2023.

¹⁷ HM Government, '[Child maintenance: Liability orders](#)', 1 October 2013.

amendments. Section 4(2) would insert new provisions into section 32N of the 1991 act detailing the regulation-making powers of the secretary of state in relation to a parent's right to appeal against a liability order. These provisions include the:

- paying parent's right of appeal to a court
- period within which the right of appeal may be exercised
- powers of the court in respect to such appeals
- administrative liability order not coming into force in specified circumstances

Clause 5 details minor and consequential amendments.

Clause 6 would make provisions for the bill's commencement, extent and short title. It would extend to England and Wales, and Scotland.

4. What happened to the bill in the House of Commons?

The bill was introduced in the House of Commons by Siobhan Baillie (Conservative MP for Stroud) on 15 June 2022. It received cross-party support and no amendments were tabled. The bill completed its third reading on 17 March 2023.

4.1 Second reading

Second reading of the bill in the House of Commons took place on 9 December 2022.¹⁸ It received cross-party support during the second reading debate and was passed without division.

Introducing the bill, Ms Baillie said that the bill would increase the speed at which enforcement measures would be used against parents who failed to

¹⁸ [HC Hansard, 9 December 2022, cols 664–81.](#)

meet their financial obligations to their children.¹⁹ She stated that:

Obtaining a liability order through the courts is time-consuming. At the moment, the government website tells parents that it can take anything from a few weeks to a few months. We know that there are now also an awful lot of delays in the courts—there was a pause during the pandemic, when the courts were closed—so I imagine it has been even more difficult recently to obtain these things. That delay in receiving child maintenance has a consequence for the receiving parent and the children.

[...]

[The bill] will stop applications to the courts by making amendments to uncommenced powers in the Child Maintenance and Other Payments Act 2008. Those powers, once enacted, will allow enforcement measures to be used more quickly against parents who have failed to meet their obligation.

The shadow minister for work and pensions, Matt Rodda, stated that the Labour Party supported the use of enforcement powers against non-resident parents who refused to pay child maintenance.²⁰ However, he questioned why the government had not used the existing powers for the secretary of state to make liability orders contained in the 2008 act. Additionally, he sought clarity from the government as to why the bill gave the secretary of state “a great deal of power” to limit the grounds for appeals and the opportunity to appeal.²¹

The government also expressed its support for the bill.²² During second reading, Mims Davies, parliamentary under secretary of state at the DWP,

¹⁹ [HC Hansard, 9 December 2022, col 665–6.](#)

²⁰ [HC Hansard, 9 December 2022, col 676–7.](#)

²¹ [HC Hansard, 9 December 2022, col 677.](#)

²² [HC Hansard, 9 December 2022, col 677.](#)

said that the bill was of “great importance” to the CMS and would ensure that “we get the money to children more quickly”.²³ Responding to concerns raised by Mr Rodda, she stated that she would write to him on his point regarding changing the powers detailed in the 2008 act. Discussing the bill giving the secretary of state additional powers on the right for a liable parent to appeal against a liability order, Ms Davies said that this would be set out in secondary legislation, which meant that “proper scrutiny” could be undertaken by the government and the relevant committee. She said that this would be subject to the affirmative procedure.

4.2 Committee stage

On 1 March 2023, the bill was considered by a public bill committee.²⁴ No amendments were tabled, and the bill passed the committee stage without division.

During committee stage, Tulip Siddiq (Labour MP for Hampstead and Kilburn) expressed concern that enforcement action by the CMS had been “significantly affected” by national lockdowns during the Covid-19 pandemic.²⁵ Ms Siddiq asked the government what it was doing to address the backlog.

Responding, Ms Davies stated that the CMS had made more referrals to enforcement agents in 2021/22 than in “any other year”, and that the number of liability orders applied for each year was “back to pre-pandemic levels”.²⁶ She also addressed concerns over the appeals provisions in the bill which were raised by Mr Rodda during the bill’s second reading. She said that the provisions would be “reflective of powers already in use for other child maintenance enforcement measures”, such as DOs.²⁷

²³ [HC Hansard, 9 December 2022, col 680.](#)

²⁴ [HC Hansard, 1 March 2023, cols 4–12.](#)

²⁵ [HC Hansard, 1 March 2023, col 7.](#)

²⁶ [HC Hansard, 1 March 2023, col 11.](#)

²⁷ [HC Hansard, 1 March 2023, col 10.](#)

4.3 Third reading

The bill's third reading in the House of Commons took place on 17 March 2023.²⁸ During third reading, Katherine Fletcher (Conservative MP for South Ribble), who stood in for Ms Baillie, thanked members of Parliament and the government for supporting the bill.²⁹ The bill again received cross-party support.

The shadow minister for work and pensions, Karen Buck, called on the government to update the House of Commons on how it intended to address shortfalls in CMS performance since 2018.³⁰ She also asked the government to “reassure the House” that the legislation would “not lead to any relaxation of efforts” to improve the CMS.

Responding, Tom Pursglove, a minister at the DWP, said that the CMS had made and continued to make “substantial improvements” to the service that it provided to “many of our most vulnerable constituents”.³¹ He also stated that the CMS was:

[C]ommitted to delivering service and support to the highest standard and is working hard to transform itself into a more customer-focused, digital organisation, which I am sure is something we all welcome. Although there is still much more we can do, the CMS should no longer carry the stigma with which its predecessors were associated.

5. Read more

- House of Commons Library, ‘[Child maintenance: Fees, enforcement and arrears](#)’, 23 January 2023

²⁸ [HC Hansard, 1 March 2023, cols 1–12.](#)

²⁹ [HC Hansard, 17 March 2023, cols 1103–21.](#)

³⁰ [HC Hansard, 17 March 2023, col 1118.](#)

³¹ [HC Hansard, 17 March 2023, col 1119.](#)

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