

[Arrears: Methods of Collection: Overview](#)

[Contents](#)

- [Arrears: Overview](#)
- [Negotiating Arrears Agreements: Overview](#)
- [Deduction from Earnings Orders: Overview](#)
- [Deductions from Earnings Requests: Overview](#)
- [Deduction Orders: Overview](#)
- [Recovery from Deceased Estates: Overview](#)

[Arrears: Overview](#)

What are child maintenance arrears?

[1991/48](#) *Section 41 and Section 29 of The Child Support Act 1991*

[1991/2628](#) *Article 5 and Article 29 of The Child Support (Northern Ireland) Order 1991*

Child maintenance arrears are created when a payment is not made on the date it is due.

NOTE: This will often be because the non-resident parent has failed to make an expected payment but may also be due to:

- a back dated change of circumstances;
- a delay in putting a promise to pay in place.

Arrears Notices

[2009/3151](#) *Regulation 3A of the Child Support (Management of Payment and Arrears) Regulations 2009*

[2009/422](#) *Regulation 3A of the Child Support (Management of Payment and Arrears) Regulations (Northern Ireland) 2009*

Before taking action to enforce the payment of arrears the non-resident parent must have been notified in the last 12 months of the consequences of failure to pay child support maintenance due.

How is the non resident parent notified?

At every application and at each annual review the decision notice informs the non resident parent of the consequences of failure to pay child support maintenance. As long as CMG have issued such a decision notice in the last 12 months no further notification is legally required before enforcement action is considered.

What action can be taken to recover child maintenance arrears?

A number of methods can be used to try to recover child maintenance arrears. The most appropriate method will depend on the circumstances of the case, including: the amount of arrears owed, how many payments have been missed, the non-resident parent's financial circumstances etc.

In some cases, court action may be necessary. We refer to the range of courts actions as Enforcement and separate guidance is available on this subject. Refer to the guidance on [Legal Enforcement \(England and Wales\)](#) / [Legal Enforcement \(Scotland\)](#) for further advice. However, before considering any type of court action, we should always try to recover the arrears through administrative action.

Administrative actions include:

- Negotiating an acceptable agreement or arrangement, using the Debt Steer principles;
- Making a deduction directly from the non-resident parent's earnings through a Deduction from Earnings Order or Request;
- Making regular deductions or a lump sum collection directly from the non-resident parent's bank account through a Deduction Order;
- Offsetting maintenance due to the debtor against their arrears – see Offsetting for more information;
- If a non-resident parent has died, we can also try to collect any outstanding arrears from their estate.

[Return to Contents](#)

[Negotiating Arrears Agreements: Overview](#)

Arrears Agreements: Basic Principles

- We must issue a payment schedule to non-resident parents, detailing the terms of any arrears agreement made. [1992/1989](#) Regulation 7(1) of the Child Support (Collection and Enforcement) Regulations 1992
- We can renegotiate an agreement with the non-resident parent at any time

- It will be implied in the terms of any agreement that it shall include on-going maintenance payments, as well as arrears

These principles provide the CMG with broad discretionary powers in relation to arrears agreements. However, they do not provide any guidance on the factors that should / should not be considered when arrears agreements are being negotiated.

The Debt Steer has therefore been developed to provide caseworkers with a policy-based framework for arrears negotiation. Its purpose is to ensure that arrears are collected as promptly as possible, taking into account all relevant circumstances, such as the non-resident parent's ability to pay. The Debt Steer provides a series of 'trigger points' that should be followed when caseworkers are discussing arrears agreements, to ensure the best possible agreement is reached.

In some cases it will be appropriate to take other arrears recovery action(s) or enforcement action in parallel to a negotiated agreement.

Refer to the [Debt Steer: Decision Making Guidance](#) for further information about using the Debt Steer to negotiate arrears agreements.

[Return to Contents](#)

[Deduction from Earnings Orders: Overview](#)

[1991/48](#) Sections 31 and 32 of the Child Support Act 1991

[1992/1989](#) Part III of the Child Support (Collection and Enforcement) Regulations 1992

[1991/2628](#) Articles 31 and 32 of the Child Support (Northern Ireland) Order 1991

Part III of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992

What is a Deduction from Earnings Order?(DEO)

A DEO is an administrative method of collection, this means it can be imposed without court authorisation. A DEO places a legal duty on a non-resident parent's employer to make deductions from their wages and pay them to the CMG.

When is a DEO appropriate?

A DEO will be appropriate in two circumstances:

- where it is requested by the non-resident parent; or
- where it is imposed by the CMG

CMG imposes a DEO

A DEO may be imposed without the non-resident parent's agreement if:

- arrears have accrued
- the non-resident parent will not agree to one of the CMG's preferred methods of payment. In these circumstances you would impose a DEO unless there is a good reason not to, or
- the non-resident parent has actively refused to make payment by ANY method. In these circumstances you could impose a DEO and 'Good Reason' considerations would not apply. This is known as "wilful non-compliance"
- They have failed to contact us within 14 days to set up a payment method after we have given them written warning that failure to contact us will result in a DEO being set up. This is an extension of the principle of "wilful non-compliance". Refer to the Decision Making Guidance for further advice, including exceptions where we cannot assume wilful non-compliance

When you are issuing a DEO it is important to ensure it is completed correctly. Non-resident parents may appeal against a DEO to a magistrates court and if the DEO is found to be defective it may be overturned.

Refer to the separate chapter on [Deduction from Earnings Orders and Requests](#) for further guidance.

[Return to Contents](#)

[Deductions from Earnings Requests: Overview](#)

What is a Deduction from Earnings Request? (DER)

A DER is a method used by the CMG to collect child maintenance payments from non-resident parents who are serving in the Armed Forces. A DER works in a similar way to a DEO in that if it is agreed to, regular deductions will be made from the non-resident parent's wages and passed on to the CMG. However, unlike a DEO there is no legal obligation for deductions to be made under a DER.

The CMG has a memorandum of understanding with the Ministry of Defence (MoD) that supports the operation of DERs. But the final decision as to whether deductions are to be made in a specific case rests with the MoD and the CMG has no right of appeal against a refusal to do so.

NOTE: Due to internal procedures an initial DER may take up to 12 weeks to implement.

Refer to the separate chapter on [Deduction from Earnings Orders and Requests](#) for further guidance.

[Return to Contents](#)

[Deduction Orders: Overview](#)

[1991/48](#) Sections 32A to 32L of the Child Support Act 1991

[1992/1989](#) Part 3A of the Child Support (Collection and Enforcement) Regulations 1992

[1991/2628](#) Articles 32A to 32L of the Child Support (Northern Ireland) Order 1991

Part 3A of the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992

What are Deduction Orders?

Deduction orders allow the CMG to instruct a bank / building society to deduct payments from a non-resident parent's bank account. They are an administrative method of collecting child maintenance arrears, which means they can be imposed without court authorisation. There is no requirement for a liability order to be in place before a deduction order is imposed.

There are two types of deduction order:

- **regular deduction orders**

A regular deduction order instructs the non-resident parent's bank / building society to make periodic deductions from their account and pay them to the CMG. Deductions can be made weekly, fortnightly, four weekly or monthly.

Regular deductions orders are not intended to be an on-going method of collection. They should be used as a negotiation tool to help arrange a preferred method of collection with the non-resident parent. The bank can make an administrative charge against the non-resident parent of up to £10 for every deduction made under a regular deduction order.

The amount requested under a regular deduction order should not exceed 40% of the non-resident parent's gross weekly income. Regulation 25C of the Child Support (Collection and Enforcement) Regulations 1992.

- **lump sum deduction orders**

Lump sum deduction orders instruct the non-resident parent's bank / building society to freeze and then deduct a lump sum from the non-resident parent's account. If the full amount cannot be deducted in one amount, the order can be left in place to

collect the remainder if / when further monies are credited to the account. The bank cannot allow a non-resident parent to become overdrawn as a result of a lump sum deduction order. The bank can make an administrative charge against the non-resident parent of up to £55 for a lump sum deduction order. Regulation 25Z (b) of the Child Support (Collection and Enforcement) Regulations 1992.

If we identify more than one account that is potentially suitable for lump sum deduction order action, then we can issue more than one order at the same time.

What accounts can Deduction Orders be made against?

Deduction orders can be applied to most bank / building society accounts. The only exclusions are:

Excluded accounts

- Joint accounts;
- Accounts that are used wholly or in part for business purposes (unless the non-resident parent is a sole trader and has no other bank account). [1992/1989 Regulation 25X \(1\)\(b\) of the Child Support \(Collection and Enforcement\) Regulations 1992](#);
- Offshore accounts that are held with UK banks; and
- Accounts where the non-resident parent does not have a beneficial interest in the funds (e.g. they are holding the money in the account on trust for someone else). [1992/1989 Regulation 25Y of the Child Support \(Collection and Enforcement\) Regulations 1992](#).

NOTE: Lump sum deduction orders can be imposed against both savings and current accounts. However, if you are considering imposing a lump sum deduction order against a current account, there are a range of important considerations to take into account. Refer to the Deduction Orders: Decision Making Guidance for further advice.

NOTE: we cannot take deduction order action on offshore accounts held with UK banks, but we can take deduction order action on UK accounts held with foreign banks.

For example:

- The non-resident parent holds an account in Jersey with Halifax. We cannot take deduction order action on this account
- The non-resident parent holds an account in the UK with the Central Bank of India. We can take deduction order action on this account

Refer to the chapter on [Deduction Orders](#) for further guidance.

[Return to Contents](#)

[Recovery from Deceased Estates: Overview](#)

[2009/3151](#) *Regulation 11 of the Child Support (Management of Payments and Arrears) Regulations 2009*

[2009/422](#) *Regulation 11 of the Child Support (Management of Payment and Arrears) Regulations (Northern Ireland) 2009*

If a non-resident parent dies and there are arrears of child maintenance outstanding, the CMG can make a claim for those arrears against the non-resident parent's estate.

The law allowing this type of claim came into effect on 25 January 2010 and is not retrospective. This means we can only consider making a claim against the estate of a non-resident parent, if they died on or after 25 January 2010.

Whether to make a claim against the non-resident parent's estate is a discretionary decision. Each case must therefore be considered on an individual basis, taking all the circumstances into account. Refer to the chapter on [Recovery from Deceased Estates](#) for further guidance.

[Return to Contents](#)