

Restrictions on international travel if child support in arrears

In some countries (for example, in certain states in America) your ability to travel and obtain a passport can be restricted or temporarily removed if you fail to make payment of child maintenance over a set amount. In late 2018, changes were made to child support legislation in England (the insertion of s39B to 39G of the *Child Support Act 1991*) which means that your ability to travel may be impacted in a similar fashion if you fail to pay child maintenance.

The Secretary of State is now able to obtain an order against a person which prevents them from holding or obtaining a travel authorisation if:

(a) the Secretary of State has sought to recover an outstanding amount by obtaining a liability order against the liable person and sought to enforce the liability order by the sale of the person's goods or by obtaining a debt order against a third party or an order charging property (which secures the debt owed over property owned by the liable person);

[Note: a liability order is an order made following an application by the Secretary of State, where the person liable to pay child support 'fails to make one or more' payments and the Secretary of State does not think it is appropriate to 'make a deduction from earnings order' or if there is an order to deduct the child support from the liable person's earning, it has not been effective]

(b) the whole or any part of the amount remains unpaid; **and**

(c) the Secretary of State is of the opinion that there has been wilful refusal or culpable neglect on the part of the person.

A 'travel authorisation' is defined as a UK passport or an ID card that records the person is a British Citizen. The order restricting the holding or obtaining of travel authorisation cannot last for longer than 2 years. As well as considering whether there has been a wilful refusal or culpable neglect, the court will consider the person's means and whether they need their travel authorisation to earn a living.

A person may not be committed to prison for failure to make payment of child maintenance **and** have an order made against them restricting their ability to hold a travel authorisation; they must be made in the alternative. However, the additional power which may be exercised by the Secretary of State provides an additional incentive to make sure child maintenance payments are made on time and enforcement orders are complied with, if it gets to that stage.

If you think this may impact you or would like to discuss it further, please contact David Hodson (David.Hodson@iflg.uk.com ^[2]) or Sarah Basso (Sarah.Basso@iflg.uk.com ^[3]) of the International Family Law Group LLP.

Note: if you live in Scotland, there is additional powers for the Secretary of State to enforce liability orders that have not been considered in this post.

Posted by Sarah Basso ^[9]

Source URL (modified on 06/02/2019 - 10:06am): <https://www.iflg.uk.com/blog/restrictions-international-travel-if-child-support-arrears>