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# Child Maintenance and Other Payments Act 2008

## CHAPTER 6

### CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008

#### PART 1

##### THE CHILD MAINTENANCE AND ENFORCEMENT COMMISSION

- 1 The Child Maintenance and Enforcement Commission
- 2 Objectives of the Commission
- 3 Functions of the Commission: general
- 4 Promotion of child maintenance
- 5 Provision of information and guidance
- 6 Fees
- 7 Agency arrangements and provision of services
- 8 Contracting out
- 9 Annual report to Secretary of State
- 10 Directions and guidance
- 11 Review of the status of the Commission
- 12 Supplementary provisions

#### PART 2

##### TRANSFER OF CHILD SUPPORT FUNCTIONS ETC. TO THE COMMISSION

- 13 Transfer of child support functions
- 14 Transfer of property, rights and liabilities

#### PART 3

##### CHILD SUPPORT ETC.

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### *Removal of compulsion for benefit claimants*

- 15 Repeal of sections 6 and 46

### *Maintenance calculations*

- 16 Changes to the calculation of maintenance  
 17 Power to regulate supersession  
 18 Determination of applications for a variation  
 19 Transfer of cases to new rules

### *Collection and enforcement*

- 20 Use of deduction from earnings orders as basic method of payment  
 21 Deduction from earnings orders: the liable person's earnings  
 22 Orders for regular deductions from accounts  
 23 Lump sum deduction orders  
 24 Orders preventing avoidance  
 25 Administrative liability orders  
 26 Enforcement in county courts  
 27 Disqualification for holding or obtaining travel authorisation  
 28 Curfew orders  
 29 Commitment to prison  
 30 Disqualification for driving

### *Debt management powers*

- 31 Power to treat liability as satisfied  
 32 Power to accept part payment of arrears in full and final satisfaction  
 33 Power to write off arrears  
 34 Transfer of arrears

### *Miscellaneous*

- 35 Registered maintenance agreements: Scotland  
 36 Offence of failing to notify change of address  
 37 Additional special case  
 38 Recovery of arrears from deceased's estate  
 39 Disclosure of information relating to family proceedings  
 40 Disclosure of information to credit reference agencies  
 41 Pilot schemes  
 42 Meaning of "child"  
 43 Extinction of liability in respect of interest and fees  
 44 Use of information  
 45 Liable relative provisions: exclusion of parental duty to maintain

## **PART 4**

### LUMP SUM PAYMENTS: MESOTHELIOMA ETC.

#### *Mesothelioma lump sum payments*

- 46 Lump sum payments  
 47 Conditions of entitlement  
 48 Determination of claims  
 49 Reconsideration  
 50 Appeal to First-tier Tribunal

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- 51 Appeal to Social Security Commissioner
- 52 Minors and people who lack capacity
- 53 Regulations: Part 4

*Recovery of mesothelioma and other lump sum payments*

- 54 Amendment of Social Security (Recovery of Benefits) Act 1997

**PART 5**

GENERAL

- 55 Regulations and orders: general
- 56 General interpretation
- 57 Minor and consequential amendments
- 58 Repeals
- 59 Transition
- 60 Financial provisions
- 61 Extent
- 62 Commencement
- 63 Citation

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SCHEDULES

SCHEDULE 1 — The Commission

*Constitution of the Commission*

- 1 The Commission shall consist of the following members—

*Appointment of a person to chair the Commission*

- 2 Appointments for the purposes of paragraph 1(a) are to be...

*Appointment of directors*

- 3 (1) Appointments for the purposes of paragraph 1(c) are to...

*Terms of appointment and tenure of members*

- 4 (1) The terms and conditions of a person's appointment to...
- 5 (1) Subject to sub-paragraphs (2) and (3), a person appointed...

*Remuneration etc. of non-executive members*

- 6 (1) The Commission may pay, or make provision for paying,...
- 7 (1) The Commission may pay, or make provision for paying,...

*Appointment of deputy chair*

- 8 The person appointed to chair the Commission must appoint one...

*Staff*

- 9 (1) The Commission is to have a chief executive.
- 10 (1) The Commission may appoint such other staff as it...

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### *Committees*

- 11 (1) The Commission may establish committees for any purpose.  
12 Appointment as a member of a committee or sub-committee of...

### *Procedure*

- 13 The Commission may determine— (a) its own procedure (including quorum),...

### *Delegation*

- 14 (1) The Commission may authorise— (a) any member of the...  
15 (1) The person appointed to chair the Commission may authorise—...

### *Instruments*

- 16 (1) The fixing of the common seal of the Commission...

### *Finance*

- 17 (1) The Secretary of State may out of money provided...

### *Accounts and audit*

- 18 (1) The Commission must— (a) keep proper accounts and proper...  
19 The Commission must keep under review the question whether its...

### *Non-executive functions committee*

- 20 (1) The Commission must establish a committee to discharge the...

### *Supplementary powers*

- 21 The Commission may do anything (except borrow money) which is...

### *Status of the Commission*

- 22 (1) The functions of the Commission, and of its members,...

### *Validity*

- 23 The validity of any proceedings of the Commission (including proceedings...

### *Public records*

- 24 In Schedule 1 to the Public Records Act 1958 (c....

### *Investigation by Parliamentary Commissioner*

- 25 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c....

### *Civil service pensions*

- 26 (1) The Commission must pay to the Minister for the...

### *House of Commons disqualification*

- 27 In Part 2 of Schedule 1 to the House of...

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*Northern Ireland Assembly disqualification*

28 In Part 2 of Schedule 1 to the Northern Ireland...

*Freedom of information*

29 In Part 6 of Schedule 1 to the Freedom of...

*Interpretation*

30 In this Schedule— (a) references to executive members of the...

31 In this Schedule, references to the staff of the Commission...

32 In this Schedule, references to the committees of the Commission...

SCHEDULE 2 — Transfer of functions under subordinate legislation

SCHEDULE 3 — Transfer of child support functions

Part 1 — CONSEQUENTIAL AMENDMENTS

*Child Support Act 1991 (c. 48)*

- 1 The Child Support Act 1991 (c. 48) is amended as...
- 2 In section 2 (welfare of children: the general principle)—
- 3 (1) Section 4 (child support maintenance) is amended as follows...
- 4 (1) Section 6 (applications by those claiming or receiving benefit)...
- 5 (1) Section 7 (right of child in Scotland to apply)...
- 6 In section 8 (role of the courts with respect to)...
- 7 (1) Section 10 (relationship between maintenance calculations and certain court)...
- 8 (1) Section 11 (maintenance calculations) is amended as follows.
- 9 (1) Section 12 (default and interim maintenance decisions) is amended...
- 10 (1) Section 14 (information required by Secretary of State) is...
- 11 (1) Section 15 (powers of inspectors) is amended as follows...
- 12 In section 16 (revision of decisions)— (a) for “Secretary of...
- 13 In section 17 (decisions superseding earlier decisions)—
- 14 (1) Section 20 (appeals to appeal tribunals) is amended as...
- 15 In section 23A (redetermination of appeals), in subsection (4), before...
- 16 (1) Section 24 (appeal to Child Support Commissioner) is amended...
- 17 In section 25 (appeal from Child Support Commissioner on question)...
- 18 In section 26 (disputes about parentage), for “Secretary of State”...
- 19 In section 27 (applications for declaration of parentage) for “Secretary...
- 20 In section 27A (recovery of fees for scientific tests)—
- 21 In section 28 (power to initiate or defend actions of)...
- 22 In section 28ZA (decisions involving issues that arise on appeal)...
- 23 In section 28ZB (appeals involving issues that arise on appeal)...
- 24 In section 28ZC (restrictions on liability in certain cases of)...
- 25 In section 28A (application for variation of usual rules for)...
- 26 (1) Section 28B (preliminary consideration of applications) is amended as...
- 27 In section 28C (imposition of regular payments condition), in subsections...
- 28 In section 28D (determination of applications)— (a) for “Secretary of...
- 29 In section 28E (matters to be taken into account)—
- 30 In section 28F (agreement to variation)— (a) for “Secretary of...
- 31 In section 28J (voluntary payments), in subsections (1), (2) and...

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- 32 (1) Section 29 (collection of child support maintenance) is amended...
- 33 (1) Section 30 (collection and enforcement of other forms of...
- 34 In section 31 (deduction from earnings orders)—
- 35 In section 32 (regulations about deduction from earnings orders), in...
- 36 In section 33 (liability orders), for “Secretary of State” (in...
- 37 In section 34 (regulations about liability orders), in subsections (1)(a)...
- 38 (1) Section 35 (enforcement of liability orders by distress) is...
- 39 In section 37 (regulations about liability orders), in subsection (2),...
- 40 In section 38 (enforcement of liability orders by diligence), subsection...
- 41 In section 39A (commitment to prison and disqualification from driving)—...
- 42 (1) Section 40B (disqualification from driving) is amended as follows....
- 43 (1) Section 41 (arrears of child support maintenance) is amended...
- 44 (1) Section 41A (penalty payments) is amended as follows.
- 45 (1) Section 41B (repayment of overpaid child support maintenance) is...
- 46 In section 44 (jurisdiction), in subsection (1), for “Secretary of...
- 47 In section 46 (reduced benefit decisions), in subsection (3)(a), for...
- 48 In section 46A (finality of decisions), in subsection (1), after...
- 49 In section 46B (matters arising as respects decisions), in subsection...
- 50 In section 48 (right of audience), in subsection (1), for...
- 51 After section 50 insert— Use of computers Any decision falling to be made under or by virtue...
- 52 (1) Schedule 1 (maintenance calculations) is amended as follows.
- 53 In paragraph 4 of Schedule 4A, for “Secretary of State”...

*Social Security Act 1998 (c. 14)*

- 54 In paragraph 10 of Schedule 1 to the Social Security...  
Part 2 — TRANSITIONAL PROVISION AND SAVINGS
- 55 (1) Anything which— (a) relates to any function transferred to...

SCHEDULE 4 — Changes to the calculation of maintenance

*Introductory*

- 1 Part 1 of Schedule 1 to the Child Support Act...

*Calculation by reference to gross weekly income*

- 2 In Part 1 (under which the weekly amount of child...

*Change to basic rate*

- 3 For paragraph 2 (basic rate) substitute— (1) Subject to sub-paragraph (2), the basic rate is the...

*Increase in flat rate and minimum amounts of liability*

- 4 In the following provisions, for “£5” substitute “ £7 ”...

*Applicable rate where non-resident parent party to other maintenance arrangement*

- 5 (1) In paragraph 1(1) (under which the weekly rate of...

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### *Shared care*

- 6 In paragraph 7(2) (circumstances in which decrease for shared care...
- 7 In paragraph 8(2) (circumstances in which decrease for shared care...
- 8 (1) In paragraph 9 (regulations about shared care), the existing...

### *Weekly income*

- 9 In paragraph 10 (which confers power to make regulations about...
- 10 In paragraph 10(3) (under which weekly income over £2,000 is...

## SCHEDULE 5 — Maintenance calculations: transfer of cases to new rules

### *Power to require a decision about whether to stay in the statutory scheme*

- 1 (1) The Commission may require the interested parties in relation...
- 2 (1) The Secretary of State may by regulations make provision...
- 3 (1) The Secretary of State shall by regulations make such...
- 4 If, in a particular case, any of the interested parties...

### *Effect on accrual of liability of exercise of power under paragraph 1*

- 5 (1) Where the power under paragraph 1(1) is exercised in...

### *Additional powers*

- 6 (1) The Secretary of State may by regulations make such...

### *Interpretation*

- 7 In this Schedule— “interested parties” has such meaning as may...

## SCHEDULE 6 — Use of information

### *Powers in relation to use of information*

- 1 Information which is held for the purposes of any functions...
- 2 (1) This paragraph applies to information which is held for...
- 3 (1) This paragraph applies to information which is held for...
- 4 (1) This paragraph applies to information which is held for...
- 5 (1) This paragraph applies to information which is held for...

### *Interpretation*

- 6 In this Schedule, “Northern Ireland Department” means the Department for...

## SCHEDULE 7 — Minor and consequential amendments

### *Child Support Act 1991 (c. 48)*

- 1 (1) The Child Support Act 1991 is amended as follows....

### *Social Security Administration Act 1992 (c. 5)*

- 2 (1) The Social Security Administration Act 1992 is amended as...

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*Social Security Act 1998 (c. 14)*

- 3 (1) The Social Security Act 1998 is amended as follows....

*Tax Credits Act 2002 (c. 21)*

- 4 (1) Schedule 5 to the Tax Credits Act 2002 (use...

*Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)*

- 5 In section 10(5) of the Debt Arrangement and Attachment (Scotland)...

*Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)*

- 6 In section 221 of the Bankruptcy and Diligence etc. (Scotland)...

SCHEDULE 8 — Repeals



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