



Child Maintenance and Other Payments Act 2008

2008 CHAPTER 6

PART 1

THE CHILD MAINTENANCE AND ENFORCEMENT COMMISSION

1 The Child Maintenance and Enforcement Commission

- (1) There shall be a body corporate to be known as the Child Maintenance and Enforcement Commission (referred to in this Act as “the Commission”).
- (2) Schedule 1 (which makes further provision about the Commission) has effect.

Commencement Information

- II** S. 1 wholly in force; s. 1 not in force at Royal Assent see s. 62; s. 1(1) in force for certain purposes at 10.6.2008 by S.I. 2008/1476, art. 2(1); s. 1 otherwise in force at 24.7.2008 by S.I. 2008/2033, art. 2(1)

2 Objectives of the Commission

- (1) The Commission's main objective is to maximise the number of those children who live apart from one or both of their parents for whom effective maintenance arrangements are in place.
- (2) The Commission's main objective is supported by the following subsidiary objectives—
 - (a) to encourage and support the making and keeping by parents of appropriate voluntary maintenance arrangements for their children;
 - (b) to support the making of applications for child support maintenance under the Child Support Act 1991 (c. 48) and to secure compliance when appropriate with parental obligations under that Act.

Status: Point in time view as at 05/08/2008.

Changes to legislation: There are currently no known outstanding effects for the Child Maintenance and Other Payments Act 2008, Part 1. (See end of Document for details)

- (3) The Commission shall aim to pursue, and to have regard to, its objectives when exercising a function that is relevant to them.

3 Functions of the Commission: general

- (1) The Commission has—
- (a) the functions relating to child support transferred to it from the Secretary of State by virtue of this Act, and
 - (b) such other functions as are conferred by, or by virtue of, this or any other enactment.
- (2) The Secretary of State may by regulations provide for the Commission to have an additional function if it appears to the Secretary of State that it is necessary or expedient for the Commission to have the function in relation to any of its objectives.
- (3) The Commission must exercise its functions effectively and efficiently.

Commencement Information

- I2** S. 3 wholly in force at 1.11.2008; s. 3 not in force at Royal Assent see s. 62; s. 3(1)(b)(2)(3) in force at 24.7.2008 by S.I. 2008/2033, art. 2(1); s. 3(1)(a) in force at 1.11.2008 by S.I. 2008/2675, art. 3(a)

4 Promotion of child maintenance

The Commission must take such steps as it thinks appropriate for the purpose of raising awareness among parents of the importance of—

- (a) taking responsibility for the maintenance of their children, and
- (b) making appropriate arrangements for the maintenance of children of theirs who live apart from them.

5 Provision of information and guidance

- (1) The Commission must provide to parents such information and guidance as it thinks appropriate for the purpose of helping to secure the existence of effective maintenance arrangements for children who live apart from one or both of their parents.
- (2) The Commission may provide information for other purposes in the course of exercising its function under subsection (1).

6 Fees

- (1) The Secretary of State may by regulations make provision about the charging of fees by the Commission in connection with the exercise of its functions.
- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) about when a fee may be charged;
 - (b) about the amount which may be charged;
 - (c) for the supply of information needed for the purpose of determining the amount which may be charged;
 - (d) about who is liable to pay any fee charged;

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- (e) about when any fee charged is payable;
 - (f) about the recovery of fees charged;
 - (g) about waiver, reduction or repayment of fees.
- (3) The power conferred by subsection (1) includes power to make provision for the charging of fees which are not related to costs.
- (4) The Secretary of State may by regulations provide that the provisions of the Child Support Act 1991 (c. 48) with respect to—
- (a) the collection of child support maintenance,
 - (b) the enforcement of any obligation to pay child support maintenance,
- shall apply equally (with any necessary modifications) to fees payable by virtue of regulations under subsection (1).
- (5) The Secretary of State may by regulations make provision for a person affected by a decision of the Commission under regulations under subsection (1) to have a right of appeal against the decision to an appeal tribunal.
- (6) Subsections (3) to (5), (7) and (8) of section 20 of the Child Support Act 1991 (appeals to appeal tribunals) apply to appeals under regulations under subsection (5) as they apply to appeals under that section.
- (7) The Commission shall pay into the Consolidated Fund any amount which it receives in respect of fees charged by it under regulations under this section.

7 Agency arrangements and provision of services

- (1) Arrangements may be made between the Commission and any relevant authority for—
- (a) any functions of one of them to be exercised on their behalf by, or by members of staff of, the other;
 - (b) the provision of administrative, professional or technical services by one of them for the other.
- (2) The reference in subsection (1)(a) to functions does not include functions of making, confirming or approving subordinate legislation.
- (3) The Commission may make arrangements under this section on such terms and conditions as it thinks fit.
- (4) In this section “relevant authority” means—
- (a) any Minister of the Crown or department of the Government of the United Kingdom;
 - (b) a public body specified in regulations made by the Secretary of State for the purposes of this section.

8 Contracting out

- (1) Any function of the Commission may be exercised by, or by employees of, such person (if any) as the Commission may authorise for the purpose.
- (2) An authorisation given by virtue of subsection (1) may authorise the exercise of the function concerned—
- (a) either wholly or to such extent as may be specified in the authorisation,

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- (b) either generally or in such cases or areas as may be so specified, and
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.
- (3) An authorisation given by virtue of subsection (1)—
- (a) may specify its duration,
 - (b) may be revoked at any time by the Commission, and
 - (c) shall not prevent the Commission or any other person from exercising the function to which the authorisation relates.
- (4) Where a person is authorised to exercise any function by virtue of subsection (1), anything done or omitted to be done by or in relation to that person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by or in relation to the Commission.
- (5) Subsection (4) shall not apply—
- (a) for the purposes of so much of any contract made between the authorised person and the Commission as relates to the exercise of the function, or
 - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).
- (6) Where—
- (a) a person is authorised to exercise any function by virtue of subsection (1), and
 - (b) the authorisation is revoked at a time when a relevant contract is subsisting,
- the authorised person shall be entitled to treat the relevant contract as repudiated by the Commission (and not as frustrated by reason of the revocation).
- (7) In subsection (6), the reference to a relevant contract is to so much of any contract made between the authorised person and the Commission as relates to the exercise of the function.

9 Annual report to Secretary of State

- (1) The Commission must prepare a report for each financial year.
- (2) Each report under this section must—
- (a) deal with the activities of the Commission in the financial year for which it is prepared, including the matters mentioned in subsection (3),
 - (b) include the report prepared under paragraph 20(5) of Schedule 1 by the committee established under that paragraph.
- (3) The matters referred to in subsection (2)(a) are—
- (a) the strategic direction of the Commission and the manner in which it has been kept under review;
 - (b) the Commission's objectives and targets, the steps taken to meet them and the extent to which they have been met;
 - (c) the steps taken to monitor the performance of the Commission in ensuring that its functions are exercised effectively and efficiently;
 - (d) the extent to which the Commission has relied on sections 7(1) and 8(1).
- (4) The Commission must—

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- (a) send each report to the Secretary of State as soon as practicable after the end of the financial year for which it is prepared, and
 - (b) publish the report in such manner as the Commission considers appropriate.
- (5) The Secretary of State must lay before Parliament a copy of every report received under this section.
- (6) In this section, “financial year” means—
- (a) the period beginning with the date on which the Commission is established and ending with the next following 31st March, and
 - (b) each successive period of 12 months.

10 Directions and guidance

- (1) The Secretary of State may give the Commission—
- (a) guidance as to the exercise of its functions;
 - (b) general or specific directions as to the exercise of its functions.
- (2) In exercising its functions, the Commission must—
- (a) have regard to any guidance under subsection (1)(a), and
 - (b) comply with any directions under subsection (1)(b).
- (3) Guidance or directions under this section must be in writing.
- (4) Power under this section to give guidance or directions includes power to vary or revoke guidance or directions given in previous exercise of the power.
- (5) The Secretary of State must lay before Parliament a copy of any direction given under subsection (1)(b).
- (6) The Secretary of State may exclude from what is laid before Parliament—
- (a) any information which the Secretary of State considers to be against the commercial interests of any person;
 - (b) any information which relates to an individual who can be identified from that information.

11 Review of the status of the Commission

- (1) The Secretary of State must review the status of the Commission as a Crown body.
- (2) The review under subsection (1) must be conducted as soon as reasonably practicable after the end of the initial period.
- (3) The Secretary of State may review the status of the Commission as a Crown body at any other time after the end of the initial period, if the Secretary of State considers it appropriate to do so.
- (4) The Secretary of State must prepare a report of any review under subsection (1) or (3).
- (5) The Secretary of State must lay before Parliament a copy of the report.
- (6) If, on a review under this section, it appears to the Secretary of State appropriate to do so, the Secretary of State may by order made by statutory instrument provide that the Commission is to cease to be a Crown body.

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- (7) An order under subsection (6) may—
- (a) make any amendment to Schedule 1 that appears to the Secretary of State to be necessary or expedient in consequence of the Commission ceasing to be a Crown body;
 - (b) provide for the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) to apply, subject to such modifications and exceptions as may be prescribed, as if, on the Commission ceasing to be a Crown body, there were a transfer of an undertaking or business which is a relevant transfer.
- (8) In this section—
- “Crown body” means a body whose functions are to be exercised on behalf of the Crown;
 - “initial period” means the period of 3 years beginning with the day on which section 13 comes into force.

12 Supplementary provisions

- (1) In this Part, “child” has the same meaning as in the Child Support Act 1991 (c. 48).
- (2) The Secretary of State may by regulations make provision about when a child is, or is not, to be regarded for the purposes of this Part as living apart from a parent.

Status:

Point in time view as at 05/08/2008.

Changes to legislation:

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