

*Status: Point in time view as at 01/11/2008.*

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

## SCHEDULES

### SCHEDULE 1

Section 1

#### THE COMMISSION

##### *Constitution of the Commission*

- 1 The Commission shall consist of the following members—
- (a) a person to chair the Commission,
  - (b) the chief executive of the Commission (who is to be known as the Commissioner for Child Maintenance),
  - (c) one or more directors appointed from the staff of the Commission (“executive directors”), and
  - (d) two or more directors appointed otherwise than from the staff of the Commission (“non-executive directors”).

#### **Commencement Information**

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

##### *Appointment of a person to chair the Commission*

- 2 Appointments for the purposes of paragraph 1(a) are to be made by the Secretary of State otherwise than from the staff of the Commission.

##### *Appointment of directors*

- 3
- (1) Appointments for the purposes of paragraph 1(c) are to be made by the Commission, with the approval of the Secretary of State.
  - (2) Appointments for the purposes of paragraph 1(d) are to be made by the person appointed to chair the Commission, with the approval of the Secretary of State.
  - (3) The power under sub-paragraph (1) may not be exercised if the result of exercising it would be to make the number of executive members of the Commission equal to or greater than the number of non-executive members of the Commission.
  - (4) The power under sub-paragraph (2) must be exercised so as to secure, so far as practicable, that the Commission always has more non-executive members than executive members.

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*Terms of appointment and tenure of members*

- 4 (1) The terms and conditions of a person's appointment to chair the Commission are to be such as the Secretary of State may determine.
- (2) The terms and conditions of a person's appointment as a non-executive director are to be such as the person appointed to chair the Commission may determine with the approval of the Secretary of State.
- (3) The matters with which the terms and conditions of a member's appointment may deal include, in particular—
- (a) the period for which the member is to hold office;
  - (b) the member's eligibility for re-appointment;
  - (c) circumstances in which membership may be suspended or terminated.
- 5 (1) Subject to sub-paragraphs (2) and (3), a person appointed to be a member of the Commission—
- (a) is to hold and vacate office in accordance with the terms and conditions of his or her appointment, and
  - (b) may resign or be removed from office in accordance with those terms and conditions.
- (2) A person appointed as an executive director ceases to be a member of the Commission if he or she ceases to be a member of its staff.
- (3) A person appointed to chair the Commission or as a non-executive director ceases to be a member of the Commission if he or she becomes a member of its staff.

*Remuneration etc. of non-executive members*

- 6 (1) The Commission may pay, or make provision for paying, the person appointed to chair the Commission such remuneration as the Secretary of State may determine.
- (2) The Commission may—
- (a) pay to or in respect of any person who is or has been appointed to chair the Commission such pension, allowances or gratuities as the Secretary of State may determine, or
  - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- (3) Where—
- (a) the person appointed to chair the Commission ceases to be a member of the Commission otherwise than on the expiry of his term of office, and
  - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Commission may make a payment to that person of such amount as the Secretary of State may determine.

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- 7
- (1) The Commission may pay, or make provision for paying, non-executive directors of the Commission such remuneration as the person appointed to chair the Commission may determine with the approval of the Secretary of State.
  - (2) The Commission may—
    - (a) pay to or in respect of any person who is or has been a non-executive director such pension, allowances or gratuities as the person appointed to chair the Commission may determine with the approval of the Secretary of State, or
    - (b) make such payments as the person appointed to chair the Commission may determine with the approval of the Secretary of State towards provision for the payment of a pension, allowance or gratuity to or in respect of any person who is or has been a non-executive director.
  - (3) Where—
    - (a) a non-executive director ceases to be a member of the Commission otherwise than on the expiry of his term of office, and
    - (b) it appears to the person appointed to chair the Commission that there are circumstances which make it right for that person to receive compensation,the Commission may make a payment to that person of such amount as the person appointed to chair the Commission may determine with the approval of the Secretary of State.

#### *Appointment of deputy chair*

- 8
- The person appointed to chair the Commission must appoint one of the non-executive directors as his or her deputy for such period (not exceeding the remainder of the non-executive director's period of office as director) as he or she may specify on making the appointment.

#### *Staff*

- 9
- (1) The Commission is to have a chief executive.
  - (2) The chief executive is employed in the civil service of the State.
  - (3) The first appointment of a chief executive—
    - (a) is to be made by the Secretary of State, and
    - (b) is to be on such terms and conditions as to remuneration and other matters as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.
  - (4) Subsequent appointments of a chief executive—
    - (a) are to be made by the Commission with the approval of the Secretary of State, and
    - (b) are to be on such terms and conditions as to remuneration and other matters as the Commission may determine with the approval of the Secretary of State and the Minister for the Civil Service.

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- 10 (1) The Commission may appoint such other staff as it considers appropriate.
- (2) Any such appointments are to be on such terms and conditions as to remuneration and other matters as the Commission may, with the approval of the Minister for the Civil Service, determine.

#### *Committees*

- 11 (1) The Commission may establish committees for any purpose.
- (2) Any committee established under sub-paragraph (1) may establish sub-committees.
- (3) Any committee or sub-committee established under this paragraph may consist of or include persons who are not members of the Commission.
- (4) Any sub-committee established under sub-paragraph (2) may consist of or include persons who are not members of the committee by which it is established.
- (5) Sub-paragraphs (2) to (4) do not apply to the committee established under paragraph 20(1) or to any of its sub-committees.
- 12 Appointment as a member of a committee or sub-committee of the Commission of a person who is not a member of the Commission or its staff is to be on such terms and conditions as to remuneration and other matters as the Commission may determine.

#### *Procedure*

- 13 The Commission may determine—
- (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of any of its committees.

#### *Delegation*

- 14 (1) The Commission may authorise—
- (a) any member of the Commission,
  - (b) any member of its staff, or
  - (c) any of its committees,
- to exercise on its behalf such of its functions, in such circumstances, as it may determine.
- (2) This paragraph does not apply to the functions listed in paragraph 20(1).
- 15 (1) The person appointed to chair the Commission may authorise—
- (a) any executive member of the Commission,
  - (b) any member of its staff, or

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- (c) subject to sub-paragraph (2), any of its committees,  
to exercise on his or her behalf the functions under paragraph 4(2) or 7.
- (2) Authority may not be given under sub-paragraph (1)(c) to a committee that includes a non-executive director; and authority given under that provision ceases to have effect if a non-executive director becomes a member of the committee concerned.

#### *Instruments*

- 16 (1) The fixing of the common seal of the Commission must be authenticated by the signature of a person authorised for that purpose by the Commission (whether generally or specifically).
- (2) A document purporting—
  - (a) to be duly executed under the seal of the Commission, or
  - (b) to be signed on its behalf,is to be received in evidence and taken, without further proof, to be so executed or signed unless the contrary is proved.
- (3) This paragraph does not apply in relation to Scotland.

#### *Finance*

- 17 (1) The Secretary of State may out of money provided by Parliament make such payments to the Commission as the Secretary of State considers appropriate for the purpose of enabling the Commission to meet its expenses.
- (2) Payments under this paragraph may be made at such times and subject to such conditions (if any) as the Secretary of State considers appropriate.

#### *Accounts and audit*

- 18 (1) The Commission must—
  - (a) keep proper accounts and proper records in relation to its accounts, and
  - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
  - (a) the information to be contained in it and the manner in which it is to be presented;
  - (b) the methods and principles according to which the statement is to be prepared;
  - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The Commission must send a copy of each statement of accounts—
  - (a) to the Secretary of State, and
  - (b) to the Comptroller and Auditor General,

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before the end of the month of August next following the financial year to which the statement relates.

- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts received under sub-paragraph (3), and
  - (b) send a copy of each report and certified statement to the Secretary of State.
- (5) The Secretary of State must lay before Parliament a copy of each report and statement sent under sub-paragraph (4)(b).
- (6) In this paragraph, “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.
- 19 The Commission must keep under review the question whether its internal financial controls secure the proper conduct of its financial affairs.

*Non-executive functions committee*

- 20 (1) The Commission must establish a committee to discharge the following functions on its behalf—
- (a) the function under paragraph 9(4)(b);
  - (b) the function under paragraph 10(2), so far as relating to executive directors;
  - (c) the function under paragraph 12;
  - (d) the function under paragraph 19.
- (2) The committee under sub-paragraph (1) is to consist of at least three members.
- (3) Only non-executive members of the Commission may be members of the committee under sub-paragraph (1).
- (4) The committee under sub-paragraph (1) is to be chaired by a person other than the person appointed to chair the Commission.
- (5) The committee under sub-paragraph (1) must prepare a report on the discharge of the functions mentioned in that sub-paragraph for inclusion in the annual report of the Commission to the Secretary of State under section 9.
- (6) The report under sub-paragraph (5) must relate to the same period as the Commission's report.
- (7) The committee under sub-paragraph (1) may establish sub-committees.
- (8) A sub-committee of the committee under sub-paragraph (1) may consist of or include persons who are not members of that committee or the Commission.
- (9) The members of any sub-committee of the committee under sub-paragraph (1) must not include persons who are executive members or other staff of the Commission.
- (10) The committee under sub-paragraph (1) may authorise any of its members or any of its sub-committees to discharge on its behalf—

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- (a) the function mentioned in sub-paragraph (1)(d);
- (b) the duty to prepare a report under sub-paragraph (5).

#### *Supplementary powers*

- 21 The Commission may do anything (except borrow money) which is calculated to facilitate, or is conducive or incidental to, the carrying out of its functions.

#### *Status of the Commission*

- 22 (1) The functions of the Commission, and of its members, are to be exercised on behalf of the Crown.
- (2) For the purposes of any civil proceedings arising out of those functions—
- (a) the Crown Proceedings Act 1947 (c. 44) applies to the Commission as if it were a government department, and
  - (b) the Crown Suits (Scotland) Act 1857 (c. 44) applies to it as if it were a public department.

#### *Validity*

- 23 The validity of any proceedings of the Commission (including proceedings of any of its committees) is not to be affected by—
- (a) any vacancy among the members of the Commission or any of its committees,
  - (b) any defect in the appointment of any member of the Commission or any of its committees,
  - (c) any defect in the appointment of the Commissioner for Child Maintenance, or
  - (d) the composition for the time being of the membership of the Commission.

#### *Public records*

- 24 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), in Part 2 of the Table at the end of paragraph 3, at the appropriate place insert— “ Child Maintenance and Enforcement Commission. ”

#### *Investigation by Parliamentary Commissioner*

- 25 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation), at the appropriate place insert— “ Child Maintenance and Enforcement Commission. ”

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### *Civil service pensions*

- 26 (1) The Commission must pay to the Minister for the Civil Service, at such times as he or she may direct, such sums as he or she may determine in respect of the increase in the sums payable out of money provided by Parliament that is attributable to the provision of relevant pensions.
- (2) In sub-paragraph (1), “relevant pensions” means pensions, allowances or gratuities under section 1 of the Superannuation Act 1972 (c. 11) payable to or in respect of persons who are or have been in the service of the Commission.

### *House of Commons disqualification*

- 27 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), at the appropriate place insert— “The Child Maintenance and Enforcement Commission.”

### *Northern Ireland Assembly disqualification*

- 28 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), at the appropriate place insert— “The Child Maintenance and Enforcement Commission.”

### *Freedom of information*

- 29 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), at the appropriate place insert— “The Child Maintenance and Enforcement Commission.”

### *Interpretation*

- 30 In this Schedule—
- (a) references to executive members of the Commission are to the Commissioner for Child Maintenance and the executive directors;
  - (b) references to non-executive members of the Commission are to those members of the Commission who are not executive members of it.
- 31 In this Schedule, references to the staff of the Commission are to the Commissioner for Child Maintenance and the other staff appointed under paragraph 10.
- 32 In this Schedule, references to the committees of the Commission are to—
- (a) the committee established under paragraph 20 and any of its sub-committees, and



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- (b) any committees or sub-committees established under paragraph 11.

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