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SCHEDULES

SCHEDULE 7 **E+W+S**

Section 57

MINOR AND CONSEQUENTIAL AMENDMENTS

Child Support Act 1991 (c. 48)

- 1 (1) The Child Support Act 1991 is amended as follows.
- (2) In section 8 (role of the courts with respect to maintenance for children), in subsection (6)(b) (which refers to the non-resident parent's net weekly income), for “net” substitute “gross”.
- (3) In section 20 (appeals to appeal tribunals), in subsection (1), after paragraph (b) insert—
 - “(ba) a decision of the Commission to make a liability order under section 32M;”.
- (4) In subsection (2) of that section, after paragraph (a) insert—
 - “(aa) in relation to paragraph (ba), the person against whom the order is made;”.
- (5) After subsection (5) of that section insert—
 - “(5A) An appeal lies by virtue of subsection (1)(ba) only on the following grounds—
 - (a) that the person has not failed to pay an amount of child support maintenance;
 - (b) that the amount in respect of which the liability order is made exceeds the amount of child support maintenance which the person has failed to pay.”
- (6) After subsection (7) of that section insert—
 - “(7A) In deciding an appeal against a decision of the Commission to make a liability order, an appeal tribunal shall not question the maintenance calculation by reference to which the liability order was made.”
- (7) In section 30 (collection and enforcement of other forms of maintenance), in subsections (4) and (5) for “which he is authorised to collect under this section” substitute “for the collection of which he is authorised under this section to make arrangements”.
- (8) In section 32(2)(i) (regulations about deduction from earnings orders), for “the liable person is in the employment” substitute “any earnings are paid to the liable person by or on behalf”.
- (9) In section 32(7) (regulations about appeals), after “include” insert “—

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- (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
 - (b) ”.
- (10) In section 36(1) (enforcement in county courts), for “garnishee proceedings” substitute “ a third party debt order ”.
- (11) For section 39 substitute—

“39 Enforcement in Great Britain of Northern Ireland liability orders

The Secretary of State may by regulations make provision for the enforcement in England and Wales and Scotland of any order made in Northern Ireland under provision corresponding to section 32M or the repealed section 33.”

- (12) In section 40 (commitment to prison), in subsection (4)(a)(i) of that section, for “mentioned in section 35(1)” substitute “ sought to be recovered as mentioned in subsection (2A)(a) ”.
- (13) In section 40A (commitment to prison: Scotland)—
- (a) in subsection (1), for “satisfied” substitute “ of the opinion ”;
 - (b) for subsection (2)(a)(i) substitute—
 - “(i) the amount sought to be recovered as mentioned in subsection (A1)(a), or so much of it as remains outstanding;”.
- (14) In that section, in subsection (6), the words from “for” to the end become paragraph (a), and after that paragraph insert—
- “(b) that a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of the liable person's employer, shall be sufficient evidence of the facts stated.”
- (15) In section 40B (disqualification for driving), in subsection (3)—
- (a) in paragraph (a), for “mentioned in section 35(1)” substitute “ sought to be recovered as mentioned in subsection (A1)(a) ”;
 - (b) in paragraph (b), for “section 39A” substitute “ this section ”.
- (16) In subsection (7) of that section, for “section 39A” substitute “ this section ”.
- (17) In subsection (12) of that section (modifications for Scotland), for the subsection (11) substituted by paragraph (d) substitute—
- “(11) In relation to disqualification orders—
 - (a) the Secretary of State may by regulations make provision that a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of the liable person's employer, shall be sufficient evidence of the facts stated; and
 - (b) the power of the Court of Session by Act of Sederunt to regulate the procedure and practice in civil proceedings in the sheriff court shall include power to make provision corresponding to that which may be made by virtue of section 40A(8).”

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(18) At the end of that section, insert—

“(13) In this section—

“court” (except for the purposes of subsection (8)(c)) means—

- (a) in England and Wales, a magistrates' court;
- (b) in Scotland, the sheriff;

“driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988.”

(19) In section 50 (unauthorised disclosure of information), in subsection (1) (offence of unauthorised disclosure), for “this section” substitute “this subsection”.

(20) In that section, after subsection (1) insert—

“(1A) Subsection (1) applies to employment as—

- (a) any clerk to, or other officer of, an appeal tribunal;
- (b) any member of the staff of an appeal tribunal;
- (c) a civil servant in connection with the carrying out of any functions under this Act;
- (d) any member of, or of the staff of, the Commission;
- (e) any person who provides, or is employed in the provision of, services to the Commission,

and to employment of any other kind which is prescribed for the purposes of this subsection.

(1B) Any person who is, or has been, employed in employment to which this subsection applies is guilty of an offence if, without lawful authority, he discloses any information which—

- (a) was acquired by him in the course of that employment;
- (b) is information which is, or is derived from, information acquired or held for the purposes of this Act; and
- (c) relates to a particular person.

(1C) Subsection (1B) applies to any employment which—

- (a) is not employment to which subsection (1) applies, and
- (b) is of a kind prescribed for the purposes of this subsection.”

(21) In that section, in subsection (7) (definition of “responsible person”)—

(a) at the end of paragraph (b) insert—

“(ba) the person appointed to chair the Commission;”;

(b) for paragraph (c) substitute—

“(c) any person authorised for the purposes of this subsection by the Lord Chancellor, the Secretary of State or the person appointed to chair the Commission;”.

(22) In section 52 (regulations and orders), in subsection (2)(a) (regulations subject to affirmative resolution procedure)—

- (a) after “30(5A),” insert “ “32A to 32C, 32E to 32J, ”;
- (b) after “41B(6),” insert “ “41E(1)(a), ”.

(23) In that section, for subsection (2A) substitute—

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“(2A) No statutory instrument containing (whether alone or with other provisions)

- (a) the first regulations under section 17(2) to make provision of the kind mentioned in section 17(3)(a) or (b),
- (b) the first regulations under section 39F, 39M(4), 39P, 39Q, 41D(2), 41E(2) or 49A,
- (c) the first regulations under paragraph 5A(6)(b) of Schedule 1,
- (d) the first regulations under paragraph 9(1)(ba) of Schedule 1 to make provision of the kind mentioned in sub-paragraph (2) of that paragraph, or
- (e) the first regulations under paragraph 10(1) of Schedule 1 to make provision of the kind mentioned in sub-paragraph (2)(a) or (b) of that paragraph,

shall be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.”

(24) After that subsection insert—

“(2B) No statutory instrument containing (whether alone or with other provisions) regulations which by virtue of section 51A are to have effect for a limited period shall be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.”

(25) In section 54 (interpretation), the existing provision becomes subsection (1), and in that subsection—

(a) at the appropriate places insert—

““charging order” has the same meaning as in section 1 of the Charging Orders Act 1979;”;

““Commission” means the Child Maintenance and Enforcement Commission;”;

““curfew order” has the meaning given in section 39H(1);”;

““deposit-taker” means a person who, in the course of a business, may lawfully accept deposits in the United Kingdom;”;

(b) in the definition of “liability order”, for “section 33(2)” substitute “section 32M(2)”.

(26) In that section, after subsection (1) insert—

“(2) The definition of “deposit-taker” in subsection (1) is to be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”

(27) In section 57(4) (application to Crown), for “a liable person is in the employment” substitute “any sums which are defined as earnings for the purposes of sections 31 and 32 are paid to a liable person by or on behalf”.

(28) In Schedule 1 (maintenance calculations), in paragraph 5(b) (weekly rate of child support maintenance to be nil if the non-resident parent has a weekly income below £5), for “£5” substitute “£7”.

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(29) In that Schedule, in paragraph 7 (reduction of basic and reduced rates for shared care), for sub-paragraph (1) substitute—

“(1) This paragraph applies where the rate of child support maintenance payable is the basic rate or a reduced rate or is determined under paragraph 5A.”

(30) In that Schedule, in paragraph 10A(1)(b) (regulations about amounts set out in Schedule 1)—

- (a) after “paragraph” insert “ “2(2), ”;
- (b) after “5,” insert “ “5A(2), ”.

(31) In that Schedule, in paragraph 10C(1) (references to “qualifying children” to be read as references to those qualifying children with respect to whom the maintenance calculation falls to be made), at end insert “ “or with respect to whom a maintenance calculation in respect of the non-resident parent has effect ”.

(32) In that Schedule, for paragraph 14 substitute—

“14 The Secretary of State may by regulations provide—

- (a) for two or more applications for maintenance calculations to be treated, in prescribed circumstances, as a single application; and
- (b) for the replacement, in prescribed circumstances, of a maintenance calculation made on the application of one person by a later maintenance calculation made on the application of that or any other person.”

(33) Schedule 2 (provision of information to Secretary of State) ceases to have effect.

(34) In the Act as it has effect apart from the Child Support, Pensions and Social Security Act 2000 (c. 19), the following (which relate to section 6 or 46) are repealed—

- (a) sections 11(1A) to (1C), 41(4)(c) and (d) and 41A(5)(c) and (d);
- (b) paragraph 16(3) and (4A)(b) of Schedule 1;
- (c) in Schedule 4C—
 - (i) in paragraphs 1(a) and 2(1)(a), the words “, a reduced benefit direction”;
 - (ii) in paragraph 3, in sub-paragraph (1)(b), sub-paragraph (i) and the word “or” at the end of it, and sub-paragraph (3);
 - (iii) in paragraphs 4(1)(a)(i) and 6(1)(b)(ii) and (iii), the words “, a reduced benefit direction”.

Commencement Information

- II** Sch. 7 para. 1 partly in force; Sch. 7 para. 1 not in force at Royal Assent see s. 62; Sch. 7 para. 1(34) in force for certain purposes at 14.7.2008 by S.I. 2008/1476, art. 2(3)(b); Sch. 7 para. 1(19)-(21)(33) in force at 1.11.2008 by S.I. 2008/2675, art. 3(f); Sch. 7 para. 1(22)(a)(25)(a) in force for certain purposes and Sch. 7 para. 1(9)(10)(26)(32)(34) in force for all purposes at 1.6.2009 and Sch. 7 para. 1(22)(a) otherwise in force at 3.8.2009 by S.I. 2009/1314, art. 2(1)(d) {art. 2(2)(b)(i)}; Sch. 7 para. 1(22)(b)(23) in force at 27.6.2012 by S.I. 2012/1649, art. 2; Sch. 7 para. 1(24)(30)(31) in force at 8.10.2012 by S.I. 2012/2523, art. 2(1)(d); Sch. 7 para. 1(2)(29) in force for certain purposes at 10/12/2012 by S.I. 2012/3042, art. 2(e)

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Social Security Administration Act 1992 (c. 5)

- 2 (1) The Social Security Administration Act 1992 is amended as follows.
- (2) In section 108 (certain maintenance orders to be enforceable by the Secretary of State), for subsection (8) substitute—
- “(8) In this section “maintenance order”—
- (a) in England and Wales, means—
- (i) any order for the making of periodical payments which is, or has at any time been, a maintenance order within the meaning of the Attachment of Earnings Act 1971;
- (ii) any order under Part 3 of the Matrimonial and Family Proceedings Act 1984 (overseas divorce) for the making of periodical payments;
- (iii) any order under Schedule 7 to the Civil Partnership Act 2004 for the making of periodical payments;
- (b) in Scotland, means any order, except an order for the payment of a lump sum, falling within the definition of “maintenance order” in section 106 of the Debtors (Scotland) Act 1987, but disregarding paragraph (h) (alimentary bond or agreement).”
- (3) In section 121E (supply of information held by Revenue and Customs to the Secretary of State or the Northern Ireland Department for use for the purposes of functions relating, inter alia, to child support), for subsection (2) substitute—
- “(2) Information to which this section applies may, and subject to subsection (2A), must if an authorised officer so requires, be supplied—
- (a) to the Secretary of State, or
- (b) to a person providing services to the Secretary of State,
- for use for the purposes of functions relating to social security, war pensions or employment or training.
- (2ZA) Information to which this section applies may, and subject to subsection (2A), must if an authorised officer so requires, be supplied—
- (a) to the Northern Ireland Department, or
- (b) to a person providing services to that Department,
- for use for the purposes of functions relating to social security, child support, war pensions or employment or training.”
- (4) In that section, in subsection (2A) (exclusion of power to require supply in case of information for use for the purposes of functions relating to employment or training), after “subsection (2)” insert ““or (2ZA)”.
- (5) In section 121F (supply to Revenue and Customs of information held by Secretary of State or Northern Ireland Department, including information held for the purposes of functions relating to child support), for subsection (1) substitute—
- “(1) This section applies to information which is held for the purposes of functions relating to social security, war pensions or employment or training—
- (a) by the Secretary of State, or

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- (b) by a person providing services to the Secretary of State, in connection with the provision of those services.
- (1A) This section also applies to information which is held for the purposes of functions relating to social security, child support, war pensions or employment or training—
- (a) by the Northern Ireland Department, or
 - (b) by a person providing services to that Department, in connection with the provision of those services.”
- (6) In section 122 (supply of information held by tax authorities for fraud prevention and verification), in subsection (3) (prohibition of onward supply by recipient, except in specified circumstances), at the end of paragraph (c) insert “or
- (d) it is supplied under paragraph 2 of Schedule 6 to the Child Maintenance and Other Payments Act 2008;”.

Commencement Information

- I2** Sch. 7 para. 2 wholly in force at 1.6.2009; Sch. 7 para. 2 not in force at Royal Assent see s. 62; Sch. 7 para. 2(1)(2) in force at 27.10.2008 by S.I. 2008/2548, art. 3(c); Sch. 7 para. 2(3)-(6) in force at 1.6.2009 by S.I. 2009/1314, art. 2(b)(i)

Social Security Act 1998 (c. 14)

- 3 (1) The Social Security Act 1998 is amended as follows.
- (2) In section 3 (use of information held by the Secretary of State or the Northern Ireland Department which relates to certain matters), in subsection (1A) (which lists the matters concerned)—
- (a) in paragraph (a), the words “, child support” are omitted;
 - (b) after that paragraph insert—
“(aa) child support in Northern Ireland;”.
- (3) In section 81 (duty of Secretary of State to report on the standards achieved in the making of decisions from which an appeal lies to an appeal tribunal), after subsection (1) insert—
- “(1A) In its application to decisions against which an appeal lies under the Child Support Act 1991 or regulations made under section 6(5) of the Child Maintenance and Other Payments Act 2008, subsection (1) shall have effect as if the references to the Secretary of State were references to the Child Maintenance and Enforcement Commission.”

Tax Credits Act 2002 (c. 21)

- 4 (1) Schedule 5 to the Tax Credits Act 2002 (use and disclosure of information) is amended as follows.
- (2) In paragraph 4 (supply of information held by Revenue and Customs to the Secretary of State or the Northern Ireland Department for use for the purposes of functions relating, inter alia, to child support), for sub-paragraphs (2) and (3) substitute—

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- “(2) Information to which this paragraph applies may be supplied—
- (a) to the Secretary of State, or
 - (b) to a person providing services to the Secretary of State,
- for use for the purposes of functions relating to social security or war pensions or for such purposes relating to evaluation or statistical studies as may be prescribed.
- (3) An authorised officer may require information to which this paragraph applies to be supplied—
- (a) to the Secretary of State, or
 - (b) to a person providing services to the Secretary of State,
- for use for the purposes of functions relating to social security.
- (3A) Information to which this paragraph applies may be supplied—
- (a) to the Northern Ireland Department, or
 - (b) to a person providing services to the Northern Ireland Department,
- for use for the purposes of functions relating to social security, child support or war pensions or for such purposes relating to evaluation or statistical studies as may be prescribed.
- (3B) An authorised officer may require information to which this paragraph applies to be supplied—
- (a) to the Northern Ireland Department, or
 - (b) to a person providing services to the Northern Ireland Department,
- for use for the purposes of functions relating to social security or child support.”
- (3) In that paragraph, in sub-paragraph (4) (definition of “authorised officer”), for “sub-paragraph (3)” substitute “ sub-paragraphs (3) and (3B) ”.
- (4) In paragraph 6 (supply to Revenue and Customs of information held by Secretary of State or Northern Ireland Department for the purposes of functions including child support), for sub-paragraph (1) substitute—
- “(1) This paragraph applies to information which is held for the purposes of functions relating to social security, war pensions or employment or training—
- (a) by the Secretary of State, or
 - (b) by a person providing services to the Secretary of State, in connection with the provision of those services.
- (1A) This paragraph also applies to information which is held for the purposes of functions relating to social security, child support, war pensions or employment or training—
- (a) by the Northern Ireland Department or the Department for Employment and Learning in Northern Ireland, or
 - (b) by a person providing services to either of those Departments, in connection with the provision of those services.”

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PROSPECTIVE

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

- 5 In section 10(5) of the Debt Arrangement and Attachment (Scotland) Act 2002 (which defines certain terms used in section 10), in the definition of “decree”, in paragraph (i), for “section 33(2)” substitute “ section 32M(2) ”.

PROSPECTIVE

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

- 6 In section 221 of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (interpretation), in the definition of “decree”, in paragraph (i), for “section 33(2)” substitute “ section 32M(2) ”.

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