

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: The Child Maintenance and Enforcement Commission

Section 8: Contracting out

85. This section enables the Commission to contract out any of its functions to another person or organisation. In doing so, the Commission can authorise the extent to which the function is carried out, and the period of time the contract should last. Contracting out a function does not prevent the Commission from exercising it.
86. Where a contractor is carrying out a function on behalf of the Commission, *subsection (4)* ensures that its acts or omissions will be treated as acts or omissions of the Commission and the Commission will be responsible.
87. *Subsection (5)* sets out two exceptions to this:
- A contractor's act or omission will not be treated as being an act of the Commission for the purposes of relevant provisions of the contract between the Commission and the contractor itself. This ensures that, for example, if a contractor breaches the contract by failing to do something, or doing something they should not, the contractor remains responsible and the Commission will be able to sue for breach of contract.
 - The contractor will remain liable if it commits a criminal act.
88. *Subsection (6)* ensures that a person who is authorised to carry out a function on behalf of the Commission has a right to claim damages or compensation for repudiation of the contract if the Commission withdraw their authorisation thereby making it impossible for the contractor to perform.