

# Consultation draft – 10 October 2011

*Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

### **PUBLIC BODIES**

#### **CHILD SUPPORT**

### The Child Maintenance and Enforcement Commission (Abolition and Transfer of Functions) Order 2012

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - \*\*\*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 1(1), 6(1) and (4), 24(1)(a) and 28(2) of the Public Bodies Act 2011(a).

The Secretary of State makes the Order following completion of the consultation required by section 10 of that Act.

In accordance with section 8 of that Act, the Secretary of State considers that this Order—

- serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1); and
- does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

In accordance with section 11 of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

#### **Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Child Maintenance and Enforcement Commission (Abolition and Transfer of Functions) Order 2012 and shall come into force on \* of \* 2012.

(2) In this Order—

“the 2008 Act” means the Child Maintenance and Other Payments Act 2008(b);

“the 1991 Act” means the Child Support Act 1991(c);

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(a) The Public Bodies Bill is currently before Parliament.  
(b) 2008 c.6.  
(c) 1991 c.48

“the Commission” means the Child Maintenance and Enforcement Commission established by section 1 of the 2008 Act;

“the commencement date” is the date this Order comes into force.

### **Abolition of the Commission**

2. The Commission is abolished.

### **Transfer of Functions of the Commission to the Secretary of State**

3.—(1) The functions of the Commission that were transferred to it by section 13 of the 2008 Act are transferred back to the Secretary of State.

(2) The Schedule, making consequential, incidental and supplementary amendments, has effect.

(3) There are transferred to and vested in the Secretary of State by virtue of this paragraph all property, rights and liabilities to which the Commission was entitled or subject immediately before the commencement date.

### **Provision for the continuity of the exercise of functions**

4.—(1) Anything which—

- (a) relates to any function transferred to the Secretary of State by virtue of article 3, and
- (b) immediately before the commencement date, is in the process of being done by or in relation to the Commission,

may be continued by or in relation to the Secretary of State.

(2) Anything done (or having effect as if done) by or in relation to the Commission before the commencement date for the purpose of, or in connection with, any function transferred by virtue of article 3 shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Secretary of State.

(3) Any enactment, instrument or other document has effect, so far as necessary for the purposes of or in consequence of the transfer effected by article 3, as if any reference to the Commission were a reference to the Secretary of State.

(4) Nothing in article 3 shall affect the validity of anything done by or in relation to the Commission before the commencement date.

(5) Where, on or after the commencement date, any document or notice relating to a function transferred to the Secretary of State by virtue of article 3 is given or sent to any person by the Secretary of State which contains a reference to the Commission, that document or notice is not to be invalidated by virtue of that reference.

Signatory text

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department

# SCHEDULE

## Amendments

### PART 1 – AMENDMENTS TO ACTS

#### **The Child Support Act 1991**

1. The 1991 Act is amended as follows.
2. In section 2 (welfare of children: the general principle)—
  - (a) for “Commission” substitute “Secretary of State”;
  - (b) for “it” substitute “the Secretary of State”; and
  - (c) for “its” substitute “the”.
3. In section 4 (child support maintenance)—
  - (a) in subsection (1), for “Commission” substitute “Secretary of State”;
  - (b) in subsection (2), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (c) in subsection (3), for “Commission” (in both places) substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (d) in subsection (4), for “Commission” (in both places) substitute “Secretary of State”;
  - (e) in subsection (5), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
  - (f) in subsections (6) and (7)(b), for “Commission” substitute “Secretary of State”.
4. In section 7 (right of child in Scotland to apply for calculation)—
  - (a) in subsections (1) and (2), for “Commission” substitute “Secretary of State”;
  - (b) in subsection (3), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (c) in subsection (4), for “Commission” (in both places) substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (d) in subsection (5), for “Commission” (in both places) substitute “Secretary of State”; and
  - (e) in subsections (6), (7) and (8)(b), for “Commission” substitute “Secretary of State”.
5. In section 8 (role of the courts with respect to maintenance for children), in subsections (1) and (2), for “Commission” substitute “Secretary of State”.
6. In section 10 (relationship between maintenance calculations and certain court orders etc)—
  - (a) in subsection (4)(a), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
  - (b) in subsections (4)(b) and (5), for “Commission” substitute “Secretary of State”.
7. In section 11 (as substituted by the Child Support, Pensions and Social Security Act 2000) (maintenance calculations)—
  - (a) in subsections (1) and (2), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
  - (b) in subsection (7), for “Commission” substitute “Secretary of State” and for “it determines” substitute “determined”.

**8.**—(1) Section 12 (as substituted by the Child Support, Pensions and Social Security Act 2000) (default and interim maintenance decisions) is amended as follows.

(2) In subsection (1)—

- (a) for “Commission” (in both places) substitute “Secretary of State”;
- (b) for the second “it” substitute “the Secretary of State”;
- (c) for “it to do so” substitute “such a decision to be made”; and
- (d) for the final “it” substitute “the Secretary of State”.

(3) In subsection (2), for “Commission” substitute “Secretary of State”.

**9.** In section 14 (information required by Commission), in the title and in subsections (3) and (4) for “Commission” (in each place) substitute “Secretary of State”.

**10.** In section 15 (powers of inspectors)—

- (a) in subsection (1), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
- (b) in subsection (2), for “Commission” substitute “the Secretary of State”.

**11.**—(1) Section 16 (revision of decisions) is amended as follows.

(2) In subsection (1), for “Commission” (in both places) substitute “Secretary of State” and for “its” substitute “the Secretary of State’s”.

(3) In subsection (1A), for “Commission” substitute “Secretary of State”.

(4) In subsection (1B)—

- (a) for “Commission” substitute “Secretary of State”;
- (b) in paragraph (a), for the first “it” substitute “the Secretary of State” and omit “it were”; and
- (c) in paragraph (b), for the first “it” substitute “the Secretary of State” and for “its” substitute “the”.

(5) In subsection (2)—

- (a) for “Commission” substitute “Secretary of State”;
- (b) for “it” substitute “the Secretary of State”; and
- (c) for “its” substitute “the Secretary of State’s”.

(6) In subsection (6), for “Commission” substitute “Secretary of State”.

**12.**—(1) Section 17 (decisions superseding earlier decisions) is amended as follows.

(2) In subsection (1), for “Commission” substitute “Secretary of State” (in both places) and for “its” substitute “the Secretary of State’s”.

(3) In subsection (2) (as it has effect before the coming into force of section 17 of the 2008 Act)—

- (a) for “Commission” substitute “Secretary of State”;
- (b) for “it” substitute “the Secretary of State” ; and
- (c) for “its” substitute “the Secretary of State’s”.

(4) In subsection (4A), for “Commission” substitute “Secretary of State” and for “its” substitute “the Secretary of State’s”.

**13.** In section 20 (appeals to appeal tribunals), in subsections (1)(a) and (b), (2)(a)(i), (7)(b) and (8)(b), for “Commission” substitute “the Secretary of State”.

**14.** In section 23A (redetermination of appeals), omit subsection (4)(za).

**15.** In section 24 (appeals to upper tribunal)—

- (a) omit subsection (1)(a); and

- (b) in subsection (2), omit “the Commission or” (in both places).
- 16.** In section 26 (disputes about parentage), in subsection (1) and in Cases A1, B1 and E in subsection (2), for “Commission” substitute “Secretary of State”.
- 17.** In section 27 (applications for declarations of parentage under Family Law Act 1986), in subsections (1)(b) and (c) and (2)(b), for “Commission” substitute “Secretary of State”.
- 18.** In section 27A (recovery of fees for scientific tests)—
- (a) in subsection (2)(c), for “Commission” substitute “Secretary of State”; and
  - (b) in subsections (3) and (5), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.
- 19.** In section 28 (power to initiate or defend actions of declarator), in the title and in subsections (1)(b), (1A) and (2), for “Commission” substitute “Secretary of State”.
- 20.** In section 28ZA (decisions involving issues that arise on appeal in other cases)—
- (a) in subsection (1)(a) for “Commission” substitute “Secretary of State”;
  - (b) in subsection (2), for “Commission” substitute “Secretary of State” and, in paragraphs (a) and (b), for “it” substitute “the Secretary of State”; and
  - (c) in subsection (3), for “Commission” substitute “Secretary of State”, for “it” substitute “the Secretary of State” and for “its” substitute “the”.
- 21.** In section 28ZB (appeals involving issues that arise of appeal in other cases)—
- (a) in subsection (2), for “Commission” (in each place) substitute “Secretary of State”;
  - (b) in subsection (3), for “Commission” (in both places) substitute “Secretary of State” and for “its” substitute “the”; and
  - (c) in subsection (5) for “Commission” substitute “Secretary of State”.
- 22.** In section 28ZC (restrictions on liability in certain cases of error), in subsections (1)(b), (2) and (6), for “Commission” substitute “Secretary of State”.
- 23.** In section 28A (as substituted by the Child Support, Pensions and Social Security Act 2000) (application for variation of usual rules for calculating maintenance), in subsections (1), (3) and (4)(a), for “Commission” substitute “Secretary of State”.
- 24.**—(1) Section 28B (as substituted by the Child Support, Pensions and Social Security Act 2000) (preliminary consideration of applications) is amended as follows.
- (2) In subsection (1), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (3) In subsection (2)—
    - (a) for the words from “Where” to “completing the” on” substitute “The Secretary of State may on completing such a”;
    - (b) for “its” substitute “a”;
    - (c) for the second “Commission” substitute “Secretary of State”;
    - (d) in paragraph (a), for “it could agree to a variation” substitute “a variation could be agreed to”; and
    - (e) in paragraph (b), for “it” substitute “the Secretary of State” and for “its” substitute “the Secretary of State’s”.
- 25.** In section 28C (as substituted by the Child Support, Pensions and Social Security Act 2000) (imposition of regular payments condition)—
- (a) in subsection (1), for “Commission” (in both places) substitute “Secretary of State”, for “it” substitute “the Secretary of State” and for “its” substitute “a”;

- (b) in subsections (3), for “Commission” substitute “Secretary of State” and for the first “it” substitute “the Secretary of State”;
- (c) in subsection (4) for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
- (d) in subsection (5) for “Commission” substitute “Secretary of State” and for “its” substitute “a”;
- (e) in subsection (6) for “Commission” substitute “Secretary of State”; and
- (f) in subsection (7) for “Commission” substitute “Secretary of State”, for “it” substitute “the Secretary of State” and for “its” substitute “the”.

**26.** In section 28D (determination of applications)—

- (a) in subsection (1) (as substituted by the Child Support, Pensions and Social Security Act 2000), for “Commission” substitute “Secretary of State” ;
- (b) in subsection (2), for “Commission” (in both places) substitute “Secretary of State”; and
- (c) in subsection (3), for “Commission if it were” substitute “Secretary of State in”.

**27.** In section 28E (matters to be taken into account)—

- (a) in subsection (1), for “Commission” substitute “Secretary of State”;
- (b) in subsection (3), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
- (c) in subsection (4)(a), for “Commission” substitute “Secretary of State”.

**28.**—(1) Section 28F (as substituted by the Child Support, Pensions and Social Security Act 2000) (agreement to a variation) is amended as follows.

(2) In subsection (1)—

- (a) for “Commission” substitute “Secretary of State”;
- (b) in paragraph (a), for “it” substitute “the Secretary of State”; and
- (c) in paragraph (b), for “its” substitute “the Secretary of State’s”.

(3) In subsection (2) —

- (a) for “Commission” substitute “Secretary of State”; and
- (b) in paragraph (a), for “it” substitute “the Secretary of State”.

(4) In subsection (3)—

- (a) for “Commission” substitute “Secretary of State”;
- (b) for the first “its” substitute “a”;
- (c) omit “it is”; and
- (d) in paragraph (a), for “it” substitute “the Secretary of State” and for “its” substitute “the”.

(5) In subsection (4), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.

(6) In subsection (5), for “Commission” substitute “Secretary of State” and for “its” substitute “the Secretary of State’s”.

(7) In subsection (6) for “Commission” substitute “Secretary of State”.

**29.** In section 28J (voluntary payments)—

- (a) in subsection (1)(b), for “Commission” substitute “Secretary of State”;
- (b) in subsection (2), for “Commission” (in both places) substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and

- (c) in subsection (4), for “Commission” substitute “Secretary of State” and for “it” in the first two places substitute “the Secretary of State”.
- 30.** In section 29 (collection of child support maintenance)—
- (a) in subsection (1), for “Commission” (in both places) substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
  - (b) in subsection (3), for “Commission” (in each place) substitute “Secretary of State”.
- 31.** In section 30 (collection and enforcement of other forms of maintenance)—
- (a) in subsections (1) and (2), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (b) in subsection (3) for “Commission” (in each place) substitute “Secretary of State” and for “it” substitute “the Secretary of State”;
  - (c) in subsection (4), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
  - (d) in subsection (5) for “Commission” (in both places) substitute “Secretary of State” and for “it” substitute “the Secretary of State”.
- 32.** In section 31 (deduction from earnings orders)—
- (a) in subsections (2) and (5)(b), for “Commission” substitute “Secretary of State”; and
  - (b) in subsection (6), for “Commission” (in both places) substitute “Secretary of State” and for “which it makes” substitute “made”.
- 33.** In section 32 (regulations about deductions from earnings orders), in subsections (2) and (3), for “Commission” (in each place) substitute “Secretary of State”.
- 34.** In section 32A (orders for regular deductions from accounts)—
- (a) in subsection (1), for “Commission” substitute “Secretary of State” and for the second “it” substitute “the Secretary of State”; and
  - (b) in subsections (3), (6)(b) and (7) for “Commission” substitute “Secretary of State”.
- 35.** In section 32B (orders under section 32A: joint accounts), in subsections (1), (2) and (3), for “Commission” substitute “Secretary of State”.
- 36.** In section 32C (regulations about orders under section 32A)—
- (a) in subsection (2) for “Commission” (in each place) substitute “Secretary of State” and, in paragraph (k), for “it” substitute “the Secretary of State; and
  - (b) in subsection (4), for “Commission” substitute “Secretary of State”.
- 37.** In section 32E (lump sum deductions: interim orders), in subsections (1), (4)(c), (5) and (6), for “Commission” (in each place) substitute “Secretary of State”.
- 38.** In section 32F (lump sum deductions: final orders) —
- (a) in subsection (1), for “Commission” (in each place) substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and
  - (b) in subsections (4), (5) and (6), for “Commission” substitute “Secretary of State”.
- 39.** In section 32H (orders under section 32F: deductions and payments), in subsections (1) to (4), for “Commission” (in each place) substitute “Secretary of State”.
- 40.** In section 32I (power to disapply sections 32G(1) and (2) and 32H(2)(b) and (4)(b)), in subsections (2) to (4), for “Commission’s” substitute “Secretary of State’s”.
- 41.** In section 32J (regulations about orders under section 32E or 32F), in subsection (2), for “Commission” (in each place) substitute “Secretary of State”.

**42.** In section 32L (orders preventing avoidance), in subsections (1) and (2), for “Commission” substitute “Secretary of State”.

**43.** In section 33 (liability orders), in subsections (1)(b), (2), (3) and (5), for “Commission” substitute “Secretary of State”.

**44.** In section 34 (regulations about liability orders), in subsections (1)(a) and (c) and (2), for “Commission” substitute “Secretary of State”.

**45.** In section 35 (enforcement of liability orders by taking control of goods)—

- (a) in subsection (1), for “Commission” substitute “Secretary of State”; and
- (b) in subsection (3), for “Commission” substitute “Secretary of State” and for “its” substitute “the”.

**46.** In section 37(2) (regulations about liability orders: Scotland), for “Commission” substitute “Secretary of State”.

**47.** In section 38 (enforcement of liability orders by diligence), in subsection (1)—

- (a) in paragraph (a), for “Commission” substitute “Secretary of State”; and
- (b) in paragraph (aa) (inserted by schedule 5 to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)), for “Commission” substitute “Secretary of State”.

**48.** In section 39A (commitment to prison and disqualification from driving)—

- (a) in subsection (1), for “Commission” substitute “Secretary of State” and for the second “it” substitute “the Secretary of State”;
- (b) in subsection (4), for “Commission” substitute “Secretary of State” and for the first “it” substitute “the Secretary of State”.

**49.** In section 40B (disqualification from driving: further provision)—

- (a) in subsections (5), (6), (7) and (8), for “Commission” substitute “Secretary of State”; and
- (b) in subsection (9), for “Commission” substitute “Secretary of State” and for the second “it” substitute “the Secretary of State”.

**50.** In section 41 (arrears of child support maintenance)—

- (a) in subsection (1), for “Commission” substitute “Secretary of State”;
- (b) in subsection (2), for “Commission” substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”; and
- (c) in subsection (6), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.

**51.** In section 41A (penalty payments)—

- (a) in subsections (1), (2) and (4)(b), for “Commission” substitute “Secretary of State”; and
- (b) in subsection (6), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.

**52.** In section 41B (repayment of overpaid child support maintenance)—

- (a) in subsection (1), for “Commission” substitute “Secretary of State”;
- (b) in subsection (1A), for “Commission” substitute “Secretary of State” and for the second “it” substitute “the Secretary of State”;
- (c) in subsection (2), for “Commission” (in both places) substitute “Secretary of State”;
- (d) in subsection (3) for “Commission” substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”;



- (e) in subsections (4), (5) and (6)(a), for “Commission” (in each place) substitute “Secretary of State”; and
- (f) in subsection (9) for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.

**53.** In section 41C (power to treat liability as satisfied), in subsections (1)(a) and (b) and (3), for “Commission” substitute “Secretary of State”.

**54.** In section 43A(2)(a) (recovery of arrears from deceased’s estate), for “Commission” substitute “Secretary of State”.

**55.** In section 44 (jurisdiction), in subsections (1) and (4), for “Commission” substitute “Secretary of State”.

**56.** In section 46A(1) (finality of decisions), omit “the Commission,”.

**57.** In section 46B(1)(a) (matters arising as respects decisions), for “Commission” substitute “Secretary of State”.

**58.** Before section 48 (right of audience) insert—

**“47A Fees**

(1) The Secretary of State may by regulations make provision about the charging of fees in connection with the exercise of the Secretary of State’s functions relating to child support.

(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;
- (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 this Act 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 Secretary of State under regulations made under subsection (1) to have a right of appeal against the decision to the First-tier Tribunal.

(6) Subsections (3) to (5), (7) and (8) of section 20 of this Act (appeals to First-tier Tribunal) apply to appeals under regulations under subsection (5) as they apply to appeals under that section.

(7) The Secretary of State shall pay into the Consolidated Fund any amount received in respect of fees charged under regulations under this section.

#### **47B Contracting out**

(1) Any function of the Secretary of State relating to child support may be exercised by, or by employees of, such person (if any) as the Secretary of State 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,
- (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 Secretary of State, and
- (c) shall not prevent the Secretary of State 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 Secretary of State.

(5) Subsection (4) shall not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State 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 Secretary of State (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 Secretary of State as relates to the exercise of that function. ”

**59.** In section 48(1) (right of audience), for “officer of the Commission who is authorised by the Commission” substitute “person authorised by the Secretary of State”.

**60.** In section 50 (unauthorised disclosure of information)—

- (a) omit subsection (1A)(d);
- (b) in subsection (1A)(e), for “Commission” substitute “Secretary of State”;
- (c) omit subsection (7)(ba); and
- (d) in subsection (7)(c), for “the Secretary of State or the person appointed to chair the Commission” substitute “or the Secretary of State”.

**61.** In section 50A (use of computers)—

- (a) for “Commission” substitute “Secretary of State”; and
- (b) for “Commission’s” substitute “the Secretary of State’s”.

**62.** In section 52 (regulations and orders), in subsection (2)(a), after “or 47” insert “or 47A(1) or (4)”.

**63.** In section 54 (interpretation), in subsection (1), omit the definition of “Commission”.

**64.**—(1) Schedule 1 (calculations) is amended as follows.

(2) In Part 1 (as substituted by Schedule 1 to the Child Support, Pensions and Social Security Act 2000) (calculation of weekly amount of child support maintenance)—

- (a) in paragraph 7(3), for “Commission” substitute “Secretary of State”;
- (b) in paragraph 10 (as it has effect before the coming into force of paragraph 9 of Schedule 4 to the 2008 Act), in sub-paragraph (2)—
  - (i) for “Commission” substitute “Secretary of State”,
  - (ii) for “its” substitute “the Secretary of State’s”; and
- (c) in paragraph 10B(a), for “Commission” (in both places) substitute “Secretary of State”.

(3) In Part 2 (maintenance calculations)—

- (a) in paragraphs 12 and 13, for “Commission” substitute “Secretary of State”;
- (b) in paragraph 15—
  - (i) for “Commission” substitute “Secretary of State”;
  - (ii) for “it” substitute “the Secretary of State”; and
- (c) in paragraph 16(10), for “Commission” (in both places) substitute “Secretary of State”.

**65.** In Schedule 4A (as substituted by Schedule 2 to the Child Support, Pensions and Social Security Act 2000) (applications for a variation), in paragraph 4, for “Commission” (in both places) substitute “Secretary of State”.

### **Social Security Act 1998**

**66.** In the Social Security Act 1998(a)—

- (a) in section 3(1A)(aa) (use of information), omit “in Northern Ireland”;
- (b) in section 15A(2) (functions of senior president of tribunals), omit “and the Child Maintenance and Enforcement Commission” (in both places); and
- (c) in section 81 (reports by Secretary of State), omit subsection (1A).

### **Regulation of Investigatory Powers Act 2000**

**67.** In the Regulation of Investigatory Powers Act 2000(b), omit paragraph 28A (and the preceding heading) of Part II of Schedule 1 (relevant authorities for the purposes only of section 28).

### **Child Maintenance and Other Payments Act 2008**

**68.** The 2008 Act is amended as follows.

**69.** Omit sections 1 to 12 and Schedule 1 (the Commission).

**70.** Omit sections 13 and 14 and Schedule 2 (transfer of child support functions to the Commission).

**71.** In section 17 (power to regulate supersession), in subsection (3)(b) to be substituted in section 17 of the 1991 Act, for “Commission” substitute “Secretary of State” and for “its” substitute “the Secretary of State’s”.

**72.**—(1) Section 18(2) (determination of applications for a variation) is amended as follows.

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(a) 1998 c.14.  
(b) 2000 c.23.

(2) In subsection (2A)(b) to be inserted into section 28D of the 1991 Act, for “Commission” substitute “Secretary of State” and for “its” substitute “the”.

(3) In subsection (2B) to be so inserted, for “Commission” (in both places) substitute “Secretary of State” and for “it” substitute “the Secretary of State”.

**73.**—(1) In section 25 (administrative liability orders), section 32M to be inserted into the 1991 Act is amended as follows.

(2) In subsection (1), for “Commission” substitute “Secretary of State” and for the second “it” substitute “the Secretary of State”.

(3) In subsection (2), for “Commission” substitute “Secretary of State”.

**74.**—(1) Section 27 (disqualification for holding or obtaining travel authorisation) is amended as follows.

(2) In section 39B to be inserted into the 1991 Act—

(a) in subsection (1), for “Commission” (in both places), substitute “Secretary of State” and for “it” substitute “the Secretary of State”; and

(b) in subsections (2), (7)(a) and (11), for “Commission” (in each place) substitute “Secretary of State”.

(3) In section 39C to be so inserted, in subsection (5), for “Commission” substitute “Secretary of State”.

(4) In section 39E to be so inserted, in subsections (1), (2), (3) and (5), for “Commission” (in each place) substitute “Secretary of State”.

**75.**—(1) Section 28 (curfew orders) is amended as follows.

(2) In section 39H to be inserted into the 1991 Act—

(a) in subsection (1), for “Commission” substitute “Secretary of State” (in both places) and for “it” substitute “the Secretary of State”;

(b) in subsections (2) to (4), for “Commission” substitute “Secretary of State”; and

(c) in subsection (5), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.

(3) In section 39K to be so inserted, in subsections (2), (4), (5) and (6), for “Commission” substitute “Secretary of State”.

(4) In section 39M to be so inserted, in subsection (2)(a), for “Commission” substitute “Secretary of State”.

(5) In section 39N to be so inserted, in subsections (1), (7) and (8), for “Commission” substitute “Secretary of State”.

(6) In section 39P to be so inserted, in subsection (2)(g), for “Commission” substitute “Secretary of State”.

(7) In section 39Q to be so inserted, in subsection (2)(c), for “Commission” substitute “Secretary of State”.

**76.**—(1) Section 29 (commitment to prison) is amended as follows.

(2) In subsection (1), in the provisions to be inserted into section 40 of the 1991 Act—

(a) in subsection (2A), for “Commission” (in both places) substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”; and

(b) in subsections (2B) and (2D)(a), for “Commission” substitute “Secretary of State”.

(3) In subsection (3), in the provisions to be inserted into section 40A of the 1991 Act—

(a) in subsection (A1), for “Commission” (in both places) substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”; and

(b) in subsections (A2) and (A4)(a), for “Commission” substitute “Secretary of State”.

**77.**—(1) In section 30(1) (disqualification for driving), the provisions to be substituted in section 40B of the 1991 Act are amended as follows.

(2) In subsection (A1), for “Commission” (in both places) substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”.

(3) In subsections (A3) and (A5)(a), for “Commission” substitute “Secretary of State”.

**78.**—(1) In section 32 (power to accept part payment of arrears in full and final satisfaction), section 41D to be inserted into the 1991 Act is amended as follows.

(2) In subsections (1) and (3), for “Commission” substitute “Secretary of State”.

(3) In subsection (4), for “Commission” (in each place) substitute “Secretary of State” and for “it” (in both places) substitute “Secretary of State”.

**79.** In section 33 (power to write off arrears), in section 41E to be inserted into the 1991 Act, in subsection (1), for “Commission” substitute “Secretary of State” and for the second “it” substitute “the Secretary of State”.

**80.**—(1) In section 34 (transfer of arrears), section 49A to be inserted into the 1991 Act is amended as follows.

(2) In subsection (1), for “Commission” substitute “Secretary of State”.

(3) In subsections (2)(a), for “Commission’s” substitute “Secretary of State’s”.

(4) In subsection (3), for “Commission” substitute “Secretary of State”.

(5) In subsection (4) for “Commission” (in each place) substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”.

(6) In subsections (5)(a), (9)(d) and (10)(b) and (c), for “Commission” substitute “Secretary of State”.

**81.**—(1) In section 39 (disclosure of information relating to family proceedings), section 49B to be inserted into the 1991 Act is amended as follows.

(2) In subsection (1)—

(a) for “Commission” (in the first place), substitute “Secretary of State for the purposes of the Secretary of State’s functions relating to child support”; and

(b) for “Commission” (in the second place), substitute “Secretary of State for those purposes”.

(3) In subsections (2)(c) and (3)(b), for “Commission’s” substitute “Secretary of State’s”.

**82.** In section 40 (disclosure of information to credit reference agencies), in section 49D to be inserted into the 1991 Act, in subsections (1), (2)(a) and (4), for “Commission” substitute “Secretary of State”.

**83.** Omit section 44 and Schedule 6 (use of information).

**84.** In section 55 (regulations and orders: general), in subsection (5)—

(a) omit paragraph (a);

(b) omit paragraph (c) and the preceding “or”.

**85.** In section 56 (general interpretation), omit subsection (1).

**86.** In section 59 (transition), omit subsection (1).

**87.** In section 61 (extent), omit subsection (2)(b).

**88.** In Schedule 3—

(a) omit paragraph 40(c) (temporary modification of section 38(1) of the 1991 Act);

(b) omit paragraph 55 (transitional).

**89.**—(1) Schedule 4 (changes to the calculation of maintenance) is amended as follows.

(2) In paragraph 8(4), in the inserted paragraph 9(2), for “Commission” substitute “Secretary of State”.

(3) In paragraph 9, in the substituted paragraph 10(2), for “Commission” substitute “Secretary of State” and for “its” (in both places) substitute “Secretary of State’s”.

**90.**—(1) Schedule 5 (maintenance calculations: transfer of cases to new rules) is amended as follows.

(2) In paragraph 1(1), for “Commission” substitute “Secretary of State”.

(3) In paragraph 2(2)(e)—

(a) for “Commission” substitute “Secretary of State”; and

(b) omit “and approved by the Secretary of State”.

(4) In paragraphs 3(2)(b) and 6(3), for “Commission” substitute “Secretary of State”.

**91.**—(1) In Schedule 7 (minor and consequential amendments), paragraph 1 is amended as follows.

(2) In sub-paragraph (3), in the inserted paragraph (ba), for “Commission” substitute “Secretary of State”.

(3) In sub-paragraph (6), in the inserted subsection (7A), for “Commission” substitute “Secretary of State”.

### **Welfare Reform Act 2009**

**92.** The Welfare Reform Act 2009 is amended as follows.

**93.**—(1) Section 51 (disqualification for holding etc driving licence or travel authorisation) is amended as follows.

(2) In subsection (2)(a), for “Commission” (in both places) substitute “Secretary of State”.

(3) In subsection (2)(b), in subsections (4) and (7) of the provisions to be substituted in section 39B of the 1991 Act, for “Commission” substitute “Secretary of State”.

(4) In subsection (4), in section 39CB to be inserted into the 1991 Act—

(a) in subsection (5)(a), for “Commission” substitute “Secretary of State” and for “its” substitute “the”; and

(b) in subsection (6)(a), for “Commission” substitute “Secretary of State”.

(5) In subsection (5), in section 39DA to be inserted into the 1991 Act—

(a) in the title for “Commission’s” substitute “Secretary of State’s”.

(b) in subsection (1), for “Commission” (in both places) substitute “Secretary of State” and omit “its”;

(c) in subsection (2), for “Commission” substitute “Secretary of State” and for “Commission’s” substitute “Secretary of State’s”; and

(d) in subsection (3), for “Commission’s” substitute “Secretary of State’s”.

**94.**—(1) Schedule 5 (consequential amendments etc.) is amended as follows.

(2) In paragraph 3(2)(a) and (b), (3)(a) and (b) and (4)(a), for “Commission” substitute “Secretary of State”.

(3) In paragraph 5—

(a) in sub-paragraph (2)(b) and (c), for “Commission” substitute “Secretary of State”;

(b) in sub-paragraph (3), in the inserted subsection (1A), for “Commission” substitute “Secretary of State”; and

(c) in sub-paragraph (4)(b) and (c), for “Commission” substitute “Secretary of State”.

(4) In paragraph 6, in the substituted section 39F of the 1991 Act, in subsection (2)(e) and (f), for “Commission” substitute “Secretary of State”.

## **Welfare Reform Act 2011**

**95.** The Welfare Reform Act 2011(a) is amended as follows.

**96.** In section 124 (information-sharing between Secretary of State and HMRC), in subsection (7), in the definition of “departmental functions”—

- (a) omit the “or” at the end of paragraph (b);
- (b) after paragraph (c) insert “or
- (d) child support;”.

**97.**—(1) Section 131 (supporting maintenance agreements) is amended as follows.

(2) In subsection (1), in subsection (2A) to be inserted into section 9 of the 1991 Act —

- (a) for “Commission” substitute “Secretary of State”;
- (b) in paragraph (a), for “it” substitute “Secretary of State”.

(3) In subsection (2), in sub-paragraph (3) to be inserted into paragraph 3 of Schedule 5 to the 2008 Act, for “Commission” substitute “Secretary of State”.

**98.**—(1) Section 132 (collection of child support maintenance) is amended as follows.

(2) In subsection (2), in subsection (2A) to be inserted into section 4 of the 1991 Act, for “Commission” (in both places) substitute “Secretary of State”.

(3) In subsection (3)(b), in subsection (3A) to be inserted into section 7 of the 1991 Act, for “Commission” (in both places) substitute “Secretary of State”.

**99.**—(1) In section 133 (indicative maintenance calculations), section 9A to be inserted into the 1991 Act is amended as follows.

(2) In subsections (1), (2) and (3), for “Commission” substitute “Secretary of State”.

(3) In subsection (5), for “Commission” substitute “Secretary of State” and for “it” (in both places), substitute “the Secretary of State”.

**100.**—(1) Schedule 11 (power to require consideration of revision before appeal) is amended as follows.

(2) In paragraph 5(2), in the inserted subsections (2A) and (2B), for “Commission” (in each place) substitute “Secretary of State”.

(3) In paragraph 6(2), in the inserted subsections (3A) and (3B), for “Commission” (in each place) substitute “Secretary of State”.

## **Other Acts**

**101.** In each of the following, omit the entry relating to the Child Maintenance and Enforcement Commission—

- (a) Schedule 2 to the Parliamentary Commissioner Act 1967(b) (departments etc subject to investigation);
- (b) Part VI of Schedule 1 to the Freedom of Information Act 2000(c) (other public bodies and offices – general);
- (c) Part II of Schedule 1 to the House of Commons Disqualification Act 1975(d) (bodies of which all members are disqualified);
- (d) Schedule 1 to the Public Bodies Act 2011(e).

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(a) The Welfare Reform bill is currently before Parliament.

(b) 1967 c.13.

(c) 2000 c.36.

(d) 1975 c.24.

(e)

## PART 2 – AMENDMENTS TO STATUTORY INSTRUMENTS

### **Child Support Departure Direction and Consequential Amendments Regulations 1996**

**102.** In the Child Support Departure Direction and Consequential Amendments Regulations 1996(a)—

- (a) in regulation 1(2) (interpretation), omit ““the Commission” means the Child Maintenance and Enforcement Commission”; and
- (b) in regulation 24(1)(b) (diversion of income) for “Commission” substitute “Secretary of State”.

### **Social Security and Child Support (Decisions and Appeals) Regulations 1999**

**103.**—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(b) are amended as follows.

(2) In Regulation 1 (interpretation)—

- (a) in paragraph (3), omit ““the Commission” means the Child Maintenance and Enforcement Commission”;
- (b) in paragraph (a) of the definition of “official error” omit “the Commission” (in each place); and
- (c) in the definition of “party to the proceedings” omit “or where the proceedings relate to child support, the Commission”.

(3) In regulation 3A (revision of child support decisions)—

- (a) in paragraph (1)—
  - (i) for “Commission” (in each place) substitute “Secretary of State”,
  - (ii) for the first, second and third “it” substitute “the Secretary of State”, and
  - (iii) for the final “it” substitute “the Secretary of State”; and
- (b) in paragraph (2)(b), (3), (5), (8) and (9) for “Commission” (in each place) substitute “Secretary of State”.

(4) In regulation 6A (supersession of child support decisions)—

- (a) in paragraph (1), for “Commission” substitute “Secretary of State”;
- (b) in paragraph (2), for “Commission” substitute “Secretary of State” and for “its” substitute “the Secretary of State’s”; and
- (c) in paragraphs (3) and (4), for “Commission” (in each place) substitute “Secretary of State”.

(5) In regulation 6B (circumstances in which a child support decision may not be superseded), in paragraphs (1) and (5), for “Commission” substitute “Secretary of State”.

(6) In regulation 7C (procedure where the Secretary of State proposes to supersede a decision under section 17 of the Child Support Act on his own initiative), for “Commission” substitute “Secretary of State”, for “its” substitute “the Secretary of State’s” and for “it” substitute “the Secretary of State”.

(7) In regulation 15A (provision of information), in paragraphs (1) and (2), for “Commission” substitute “Secretary of State”, and for “it” substitute “the Secretary of State”;

(8) In regulation 15B (procedure in relation to an application made under section 16 or 17 of the Child Support Act in connection with a previously determined variation)—

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(a) S.I. 1996/2907.

(b) S.I. 1999/991.



- (a) in paragraph (1), for “Commission” substitute “Secretary of State” and for “it” (in each place) substitute “the Secretary of State”;
  - (b) in paragraph (2), for “Commission” (in each place) substitute “Secretary of State”;
  - (c) in paragraphs (3), (4), (5) and (6) for “Commission” (in each place) substitute “Secretary of State” and for “it” (in each place) substitute “the Secretary of State”;
  - (d) in paragraph (7), for “Commission” (in each place) substitute “Secretary of State” and for the first and second for “it” substitute “the Secretary of State”; and
  - (e) in paragraph (8), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.
- (9) In regulation 15C (notification of a decision made under section 16 or 17 of the Child Support Act)—
- (a) in paragraph (3), for “Commission” (in both places) substitute “Secretary of State”;
  - (b) in paragraphs (5), (9) and (11) for “Commission” (in each place) substitute “Secretary of State”, and for “it” (in each place) substitute “the Secretary of State”; and
  - (c) in paragraph (12), for “Commission” substitute “Secretary of State”.
- (10) In regulation 23 (child support decisions involving issues that arise on appeal in other cases)—
- (a) in paragraph (3), for “Commission” substitute “Secretary of State”; and
  - (b) in paragraph (4), for “Commission” substitute “Secretary of State” and for “it” (in both places) substitute “the Secretary of State”.
- (11) In regulation 24 (child support appeals that involve decisions in other cases), for “Commission” substitute “Secretary of State” and for “it” substitute “the Secretary of State”.
- (12) In regulation 30 (appeal against a decision which has been replaced or revised), in paragraphs (1) and (5) omit “, the Commission”.
- (13) In regulation 32 (late appeals), in paragraphs (2) and (4) omit “, the Commission”.
- (14) In regulation 33 (notice of appeal), in paragraphs (2) and (3) omit “, the Commission” (in each place).
- (15) In Schedule 3D, in paragraphs (9),(10) and (11) for “Commission” (in each place) substitute “Secretary of State”.

### **Child Support (Variation) Regulations 2000**

#### **104.** In the Child Support (Variation) Regulations 2000(a)—

- (a) in regulation 1 (interpretation) omit ““the Commission” means the Child Maintenance and Enforcement Commission”;
- (b) in regulation 19(4)(b) (income not taken into account and diversion of income) for “Commission” substitute “Secretary of State”.

### **Tribunal Procedure (First Tier Tribunal) (Social Entitlement Chamber) Rules 2008**

#### **105.** In rule 19 of the Tribunal Procedure (First Tier Tribunal) (Social Entitlement Chamber) Rules(b) (confidentiality in child support or trust fund cases)—

- (a) in paragraph (2)(a) omit “or the Child Maintenance and Enforcement Commission”;
- (b) in paragraph (2)(b) omit “ or the child Maintenance and Enforcement Commission, whichever has made enquiry,”;
- (c) in paragraph (2)(c) omit “, the Child Maintenance and Enforcement Commission”.

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(a) S.I. 2001/156.  
(b) S.I. 2008/2685.

### **Tribunal Procedure (Upper Tribunal) Rules 2008**

**106.** In rule 19 of the Tribunal Procedure (Upper Tribunal) Rules 2008(a) (confidentiality in child support or trust fund cases)—

- (a) in paragraph (2)(b)(iii) omit “, the Child Maintenance and Enforcement Commission”;
- (b) in paragraph (3) omit “, the Child Maintenance and Enforcement Commission”.

### **Family Procedure Rules 2010**

**107.** In the Family Procedure Rules 2010(b)—

- (a) in rule 2.3(1) (interpretation), omit ““Commission” means the Child Maintenance and Enforcement Commission.”;
- (b) in rule 8.38 (who the parties are), for “Commission” substitute “the Secretary of State”;
- (c) in rule 29.2 (disclosure of information under the Child Support Act 1991), for “Commission”, substitute “Secretary of State”.

### **Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010**

**108.** In Part 2 of the Schedule to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010(c) omit the entry for the Child Maintenance and Enforcement Commission.

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(a) S.I. 2008/2698.  
(b) S.I. 2010/2955, to which there are no relevant amendments.  
(c) S.I. 2010/521.