

Child Maintenance and Other Payments Act 2008

2008 CHAPTER 6

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An Act to establish the Child Maintenance and Enforcement Commission; to amend the law relating to child support; to make provision about lump sum payments to or in respect of persons with diffuse mesothelioma; and for connected purposes. [5th June 2008]

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)

Ss. 1-8

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

THE CHILD MAINTENANCE AND ENFORCEMENT COMMISSION

1.–5. [...¹]

Fees.

6.—(1) The Secretary of State may by regulations make provision about the charging of fees by the [²Secretary of State] 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;
- (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 [²Secretary of State] under regulations under subsection (1) to have a right of appeal against the decision to [³the First-tier Tribunal].

(6) Subsections (3) to (5), (7) and (8) of section 20 of the Child Support Act 1991 (appeals to [³the First-tier Tribunal]) apply to appeals under regulations under subsection (5) as they apply to appeals under that section.

(7) The [²Secretary of State] shall pay into the Consolidated Fund any amount which [²the Secretary of State] receives in respect of fees charged by [²the Secretary of State] under regulations under this section.

7. [...²]

Contracting out.

8.—(1) Any function of the [²Secretary of State relating to Child Support] may be exercised by, or by employees of, such person (if any) as the [²Secretary of State] may authorise for the purpose.

¹ Ss. 1-5 omitted by para. 71 of Sch. of S.I. 2012/2007 from 1.8.12.

² Words in ss. 6 & 8 substituted & s. 7 omitted by paras. 72-74 of Sch. of S.I. 2012/2007 from 1.8.12.

³ Words substituted in s. 6(5) & (6) (3.11.08) by S.I. 2008/2833, art. 225(a) & (b).

(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 [¹Secretary of State], and
- (c) shall not prevent the [¹Secretary 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 [¹Secretary 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 [¹Secretary 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 [¹Secretary 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 [¹Secretary of State] as relates to the exercise of the function.

9.-12. [...¹]

PART 2

TRANSFER OF CHILD SUPPORT FUNCTIONS ETC. TO THE COMMISSION

13.-14. [...¹]

¹ Words in s. 8 substituted & ss. 9-12 & 13-14 omitted by paras. 74, 75 & 76 of Sch. of S.I. 2012/2007 from 1.8.12.

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)

Ss. 15-19

PART 3

CHILD SUPPORT ETC.

Removal of compulsion for benefit claimants

Repeal of sections 6 and 46.

15.—The following provisions of the Child Support Act 1991 (c. 48) cease to have effect—

- (a) section 6 (under which the claim of benefit by or in respect of a parent with care, or the payment of benefit to or in respect of such a person, triggers an application by her or him for child support maintenance), and
- (b) section 46 (which enables the Secretary of State in certain circumstances to reduce the benefit of a person in relation to whom section 6 triggers the making of an application for child support maintenance).

Maintenance calculations

Changes to the calculation of maintenance.

16.—Schedule 4 (which makes various changes to the provisions about the calculation of maintenance) has effect.

Power to regulate supersession.

17.—In section 17 of the Child Support Act 1991 (c. 48) (decisions superseding earlier decisions), for subsections (2) and (3) substitute—

“(2) The Secretary of State may by regulations make provision with respect to the exercise of the power under subsection (1).

(3) Regulations under subsection (2) may, in particular—

- (a) make provision about the cases and circumstances in which the power under subsection (1) is exercisable, including provision restricting the exercise of that power by virtue of change of circumstance;
- (b) make provision with respect to the consideration by the [¹Secretary of State], when acting under subsection (1), of any issue which has not led to [¹the Secretary of State] so acting;
- (c) make provision with respect to procedure in relation to the exercise of the power under subsection (1).”

Determination of applications for a variation.

18.—(1) Section 28D of the Child Support Act 1991 is amended as follows.

(2) After subsection (2) insert—

“(2A) Subsection (2B) applies if—

- (a) the application for a variation is made by the person with care or (in the case of an application for a maintenance calculation under section 7) the person with care or the child concerned, and
- (b) it appears to the [¹Secretary of State] that consideration of further information or evidence may affect [¹the] decision under subsection (1)(a) whether or not to agree to a variation.

(2B) Before making the decision under subsection (1)(a) the [¹Secretary of State] must—

- (a) consider any such further information or evidence that is available to [¹the Secretary of State], and
- (b) where necessary, take such steps as the [¹Secretary of State] considers appropriate to obtain any such further information or evidence.”

(3) In subsection (3), after “duties” insert “, apart from the duty under subsection (2B)”.

Transfer of cases to new rules.

19.—Schedule 5 (which makes provision for, and in connection with, enabling the Commission to require existing cases to transfer to the new maintenance calculation rules or to leave the statutory scheme, so far as future accrual of liability is concerned) has effect.

¹ Words substituted in s. 17 & 18 by paras. 77 & 78 of Sch. of S.I. 2012/2007 as from 1.8.12.

Collection and enforcement

20. amends 1991 (c. 48), see Annex 1, page 1401 Use of deduction from earnings orders as basic method of payment. Deduction from earnings orders: the liable person's earnings.
- 21.**—In section 31 of the Child Support Act 1991 (deduction from earnings orders), for subsection (8) substitute—
 “(8) In this section and section 32 “earnings” means (subject to such exceptions as may be prescribed) any sums payable to a person which fall within one or more of the following paragraphs—
 (a) sums payable by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service);
 (b) periodical payments by way of pension (including an annuity payable for the purpose of providing a pension), whether or not in respect of past services;
 (c) periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment;
 (d) sums payable by way of statutory sick pay.
 (9) For the purposes of this section and section 32 any person who (as a principal and not as a servant or agent) pays to the liable person any earnings is to be treated as having the liable person in his employment; and the following are to be read accordingly—
 (a) in this section and section 32, references to the liable person’s employer; and
 (b) in section 32(3), “employment,” “employed” and “re-employed.””
22. amends 1991 (c. 48), see Annex 1, page 1401 Orders for regular deductions from accounts.
23. amends 1991 (c. 48), see Annex 1, page 1401 Lump sum deduction orders.
24. amends 1991 (c. 48), see Annex 1, page 1401 Orders preventing avoidance.
- 25.**—After section 32L of the Child Support Act 1991 (c. 48) (inserted by section 24 of this Act) insert—
“32M Liability orders
 (1) If it appears to the [¹Secretary of State] that a person has failed to pay an amount of child support maintenance, [¹the Secretary of State] may make an order against the person in respect of that amount.
 (2) An order under subsection (1) (a “liability order”) may be made in respect of an amount due under a maintenance calculation which is the subject of an appeal only if it appears to the [¹Secretary of State]—
 (a) that liability for the amount would not be affected were the appeal to succeed, or
 (b) where paragraph (a) does not apply, that the making of a liability order in respect of the amount would nonetheless be fair in all the circumstances.
 (3) A liability order shall not come into force before—
 (a) the end of the period during which an appeal can be brought under section 20 against the making of the order, and
 (b) if an appeal is brought under section 20, the time at which proceedings on the appeal (including any proceedings on a further appeal) have been concluded and any period during which a further appeal may ordinarily be brought has ended.

¹ Words substituted in s. 25 by para. 79 of Sch. of S.I. 2012/2007 as from 1.8.12.

(4) Where regulations have been made under section 29(3)(a), a person liable to pay an amount of child support maintenance is to be taken for the purposes of this section to have failed to pay the amount, unless it is paid to or through the person specified in, or by virtue of, the regulations for the case in question.

32N Regulations about liability orders

(1) The Secretary of State may by regulations make provision with respect to liability orders.

(2) Regulations under subsection (1) may, in particular—

- (a) make provision about the form and content of a liability order;
- (b) make provision for a liability order not to come into force if, before it does so, the whole of the amount in respect of which it is made is paid;
- (c) make provision for the discharge of a liability order;
- (d) make provision for the revival of a liability order in prescribed circumstances.”

Enforcement in county courts

26.—In section 36 of the Child Support Act 1991 (enforcement in county courts), in subsection (1) (under which the amount in respect of which a liability order is made is recoverable by a third party debt order or charging order as if it were payable under a county court order, but only if a county court so orders), the words “, if a county court so orders,” are omitted.

Disqualification for holding or obtaining travel authorisation

27.—Before section 40 of the Child Support Act 1991 (c. 48) insert—
“39B Disqualification for holding or obtaining travel authorisation

(1) The [‘Secretary of State] may apply to the court for an order under this section against a person where—

- (a) [‘the Secretary of State] has sought to recover an amount from the person by means of taking enforcement action by virtue of section 35 or 38, or by means of a third party debt order or a charging order by virtue of section 36;
- (b) the whole or any part of the amount remains unpaid; and
- (c) the [‘Secretary of State] is of the opinion that there has been wilful refusal or culpable neglect on the part of the person.

(2) For the purposes of subsection (1)(a), the [‘Secretary of State] is to be taken to have sought to recover an amount by means of a charging order if an interim charging order has been made, whether or not any further steps have been taken to recover the amount.

(3) A person against whom an order under this section is made is disqualified for holding or obtaining a travel authorisation while the order has effect.

(4) On an application under subsection (1) for an order against a person the court shall (in the presence of that person) inquire as to—

- (a) whether the person needs a travel authorisation to earn a living;
- (b) the person’s means;
- (c) whether there has been wilful refusal or culpable neglect on the part of the person.

(5) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the person, it may make an order under this section.

(6) The court may not take action under both this section and section 40.

(7) On an application under subsection (1) the court shall not question—

¹ Words substituted in s. 27 by para. 80 of Sch. of S.I. 2012/2007 as from 1.8.12.

- (a) the liability order by reference to which the [¹Secretary of State] acted as mentioned in paragraph (a) of that subsection; or
- (b) the maintenance calculation by reference to which that liability order was made.

(8) An order under this section shall specify the amount in respect of which it is made, which shall be the aggregate of—

- (a) the amount sought to be recovered as mentioned in subsection (1)(a), or so much of it as remains unpaid; and
- (b) an amount (determined in accordance with regulations made by the Secretary of State) in respect of the costs of the application under this section.

(9) A court which makes an order under this section shall require the person to whom it relates to produce any travel authorisation that the person holds.

(10) The court shall send to the prescribed person any travel authorisation produced to the court under subsection (9).

(11) Where a court—

- (a) makes an order under this section, or
- (b) allows an appeal against such an order,

it shall send notice of that fact to the [¹Secretary of State]; and the notice shall contain such particulars and be sent in such manner and to such address as the [¹Secretary of State] may determine.

(12) In this section “travel authorisation” means—

- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971);
- (b) an ID card issued under the Identity Cards Act 2006 that records that the person to whom it has been issued is a British citizen.

(13) In this section (except for the purposes of subsection (11)(b)) and in sections 39C to 39E, “court” means—

- (a) in relation to England and Wales, a magistrates’ court;
- (b) in relation to Scotland, the sheriff.

39C Period for which orders under section 39B are to have effect

(1) Disqualification by an order under section 39B shall be for such period not exceeding two years as the court may specify in the order.

(2) On making an order under section 39B, the court may include in the order provision suspending the running of the period for which the order is to have effect until such day and on such conditions (if any) as the court thinks just.

(3) After making such an order the court may by order suspend the running of the period for which it has effect until such day and on such conditions (if any) as the court thinks just.

(4) The powers conferred by subsections (2) and (3) may be exercised by the court only—

- (a) if the person against whom the order under section 39B is made agrees to pay the amount specified in the order; or
- (b) if the court is satisfied that the suspension in question is justified by exceptional circumstances.

(5) The [¹Secretary of State] may make a further application under section 39B if the amount specified in an order under that section has not been paid in full by the end of the period for which the order has effect.

39D Power to order search

(1) On making an order under section 39B the court may order the person against whom the order is made to be searched.

¹ Words substituted in s. 27 by para. 80 of Sch. of S.I. 2012/2007 from 1.8.12.

(2) Any money found on such a search shall, unless the court otherwise directs, be applied towards payment of the amount specified under section 39B(8); and the balance (if any) shall be returned to the person searched.

(3) The court shall not allow the application under subsection (2) of money found on a search under subsection (1) if it is satisfied that the money does not belong to the person searched.

39E Variation and revocation of orders following payment

(1) If part of the amount specified in an order under section 39B is paid to any person authorised to receive it, the court may, on an application made by the [“Secretary of State”] or the person against whom the order is made, by order—

(a) reduce the period for which the order under section 39B is to have effect; or

(b) revoke the order under section 39B.

(2) If the whole of the amount specified in an order under section 39B is paid to any person authorised to receive it, the court shall, on an application made by the [“Secretary of State”] or the person against whom the order is made, by order revoke the order under section 39B.

(3) The [“Secretary of State”] may make representations to the court as to the amount which should be paid before it would be appropriate to make an order under subsection (1) revoking an order under section 39B, and the person against whom the order was made may reply to those representations.

(4) The court may exercise the powers conferred on it by subsection (1) or (2) without the need for an application where money found on a search under section 39D(1) is applied towards payment of the amount specified in the order under section 39B.

(5) Where a court makes an order under this section, it shall send notice of that fact to the [“Secretary of State”]; and the notice shall contain such particulars and be sent in such manner and to such address as the Commission may determine.

39F Power to make supplementary provision

The Secretary of State may by regulations—

(a) make provision in relation to orders under section 39B corresponding to the provision that may be made under section 40(11);

(b) make provision for sections 39C to 39E to have effect with prescribed modifications in cases where a person against whom an order under section 39B has effect is outside the United Kingdom.

39G Application of sections 39B and 39F to Scotland

(1) In their application to Scotland, sections 39B and 39F have effect with the following modifications.

(2) In section 39B(6) for “section 40” substitute “section 40A”.

(3) For section 39F substitute—

“39F Power to make supplementary provision

In relation to orders under section 39B—

(a) the Secretary of State may by regulations make provision—

(i) for sections 39C to 39E to have effect with prescribed modifications in cases where a person against whom such an order has effect is outside the United Kingdom;

(ii) that a statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of the person’s employer, shall be sufficient evidence of the facts stated; and

¹ Words substituted in s. 27 by para. 80 of Sch. of S.I. 2012/2007 as from 1.8.12.

- (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)."*

28.—After section 39G of the Child Support Act 1991 (c. 48) (inserted by section 27 of this Act) insert— *Curfew orders*

"39H Applications for curfew orders

(1) *The [¹Secretary of State] may apply to the court for an order requiring a person to remain, for periods specified in the order, at a place so specified (a "curfew order") where—*

- (a) *[¹the Secretary of State] has sought to recover an amount from the person by means of taking enforcement action by virtue of section 35 or 38, or by means of a third party debt order or a charging order by virtue of section 36;*
 (b) *the whole or any part of the amount remains unpaid; and*
 (c) *the [¹Secretary of State] is of the opinion that there has been wilful refusal or culpable neglect on the part of the person.*

(2) *For the purposes of subsection (1)(a), the [¹Secretary of State] is to be taken to have sought to recover an amount by means of a charging order if an interim charging order has been made, whether or not any further steps have been taken to recover the amount.*

(3) *On an application for a curfew order the court shall (in the presence of the person from whom the [¹Secretary of State] has sought to recover the amount) inquire as to—*

- (a) *the person's means; and*
 (b) *whether there has been wilful refusal or culpable neglect on the part of the person.*

(4) *On an application for a curfew order the court shall not question—*

- (a) *the liability order by reference to which the [¹Secretary of State] acted as mentioned in subsection (1)(a); or*
 (b) *the maintenance calculation by reference to which that liability order was made.*

(5) *If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the person from whom the [¹Secretary of State] has sought to recover the amount, it may make a curfew order against the person.*

(6) *The court may not make a curfew order against a person who is under the age of 18.*

(7) *In this section and sections 39I to 39O "the court" means—*

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

39I Curfew orders: duration etc.

(1) *The periods and places specified as mentioned in section 39H(1) may include different periods and different places for different days, but shall not include periods which amount to less than 2 hours or more than 12 hours in any one day.*

(2) *A curfew order shall specify the period for which the requirements imposed by the order shall have effect.*

(3) *The period so specified—*

- (a) *shall not exceed 6 months; and*
 (b) *shall begin to run with the day on which the order is made unless the order provides (subject to such conditions, if any, as may be specified in the order) for it to begin to run with a later day.*

¹ Words substituted in s. 28 by para. 81 of Sch. of S.I. 2012/2007 as from 1.8.12.

(4) *The court shall (so far as practicable) ensure that any requirement imposed by a curfew order is such as to avoid—*

- (a) any conflict with the religious beliefs of the person against whom the order is made; and*
- (b) any interference with the times (if any) at which that person normally works or attends any educational establishment.*

(5) *On making a curfew order—*

- (a) a magistrates' court may not specify in the order any place outside England and Wales; and*
- (b) the sheriff may not specify in the order any place outside Scotland.*

39J Recovery of costs relating to curfew orders

(1) *On making a curfew order the court shall also make an order requiring the person against whom the curfew order is made to pay an amount (determined in accordance with regulations made by the Secretary of State) specified in the order in respect of—*

- (a) the costs of the application for the curfew order; and*
- (b) the costs of monitoring compliance with the requirements imposed by the curfew order.*

(2) *The provisions of this Act with respect to—*

- (a) the collection of child support maintenance; and*
- (b) the enforcement of an obligation to pay child support maintenance,*

apply equally (with any necessary modifications) to amounts which a person is required to pay by an order under this section.

39K Curfew orders: the amount due

(1) *A curfew order shall specify the amount in respect of which it is made, which shall be the aggregate of—*

- (a) the amount sought to be recovered as mentioned in section 39H(1)(a), or so much of it as remains unpaid; and*
- (b) the amount which the person against whom the curfew order is made is required to pay by the order under section 39J.*

(2) *If part of the amount in respect of which a curfew order was made is paid to any person authorised to receive it, the court may, on an application by the [¹Secretary of State] or the person against whom the curfew order was made, by order—*

- (a) reduce the period for which the requirements imposed by the curfew order have effect;*
- (b) provide for that period to begin to run with a day later than that with which it would otherwise have begun to run;*
- (c) suspend the running of that period, or provide for any existing such suspension to be extended, until a day specified in the order; or*
- (d) revoke the curfew order.*

(3) *An order under subsection (2)(b) or (c) may include provision for its effect to be subject to specified conditions.*

(4) *On the hearing of an application made under subsection (2) the [¹Secretary of State] may make representations to the court as to which of the powers conferred by that subsection it would be appropriate for the court to exercise, and the person against whom the curfew order was made may reply to those representations.*

(5) *If the whole of the amount in respect of which a curfew order was made is paid to any person authorised to receive it, the court shall, on an application by the [¹Secretary of State] or the person against whom the order was made, by order revoke the curfew order.*

¹ Word substituted in s. 28 by para. 81 of Sch. of S.I. 2012/2007 as from 1.8.12.

(6) The [*Secretary of State*] may make a further application under section 39H if the amount in respect of which a curfew order was made has not been paid in full when the requirements imposed by the order cease to have effect.

39L Power to order search

(1) On making a curfew order, the court may order the person against whom the order is made to be searched.

(2) Any money found on such a search shall, unless the court otherwise directs, be applied towards payment of the amount in respect of which the curfew order is made; and the balance (if any) shall be returned to the person searched.

(3) The court shall not allow the application under subsection (2) of money found on a search under this section if it is satisfied that the money does not belong to the person searched.

(4) The court may exercise the powers conferred on it by section 39K(2) and (5) without the need for an application where money found on a search under this section is applied towards payment of the amount in respect of which a curfew order is made.

39M Monitoring of curfew orders

(1) A curfew order shall—

- (a) provide for a person's compliance with the requirements imposed by the order to be monitored; and
- (b) make a person specified in the order responsible for that monitoring.

(2) The court may not make a curfew order unless—

- (a) it has been notified by the [*Secretary of State*] that arrangements for monitoring compliance with the requirements imposed by such orders are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn;
- (b) it is satisfied that the necessary provision can be made under those arrangements; and
- (c) it has the consent of any person (other than the person against whom the order is to be made) whose co-operation is necessary to secure the monitoring of compliance with the requirements imposed by the order.

(3) If a curfew order cannot be made because of the absence of any consent required by subsection (2)(c), the court may treat the application for the order as an application under section 40 (or, in the case of an application made to the sheriff, as an application under section 40A).

(4) The Secretary of State may by regulations make provision as to—

- (a) the cases or circumstances in which the person responsible for monitoring a person's compliance with the requirements imposed by a curfew order may allow that person to be absent from the place specified in the curfew order during a period so specified; and
- (b) the requirements which may be imposed in connection with such an absence.

39N Breaches of curfew orders

(1) The person responsible for monitoring a person's compliance with the requirements imposed by a curfew order, or the [*Secretary of State*], may apply to the court where it appears that the person subject to the requirements in question has failed to comply with—

- (a) any of those requirements; or
- (b) any requirements imposed by virtue of section 39M(4).

¹ Words substituted in s. 28 by para. 81 of Sch. from S.I. 2012/2007 as from 1.8.12.

(2) On any such application the court shall (in the presence of the person subject to the requirements in question) inquire as to whether the person has failed without reasonable excuse to comply with any of those requirements.

(3) If the court is of the opinion that the person has failed without reasonable excuse to comply with any of those requirements, it may—

- (a) issue a warrant of commitment against that person; or
- (b) by order provide for the requirements imposed by the curfew order to have effect for a specified further period.

(4) A warrant issued under subsection (3)(a) shall order the person against whom it is issued—

- (a) to be imprisoned for a period specified in the warrant; but
- (b) to be released (unless in custody for some other reason) on payment of the amount in respect of which the curfew order in question was made.

(5) A warrant issued under subsection (3)(a) may be directed to such person or persons as the court issuing it thinks fit.

(6) The power conferred by subsection (3)(b) may not be exercised so as to provide for the requirements imposed by the curfew order to have effect for a period exceeding 6 months after the making of the order under that subsection.

(7) Where, following the issue of a warrant under subsection (3)(a), part of the amount specified in the curfew order is paid to any person authorised to receive it, the court may, on an application by the [Secretary of State] or the person against whom the warrant was issued—

- (a) reduce the period specified in the warrant; or
- (b) order the release of the person against whom the warrant was issued.

(8) On the hearing of an application made under subsection (7) the [Secretary of State] may make representations to the court as to which of the powers conferred by that subsection it would be appropriate for the court to exercise, and the person against whom the warrant was issued may reply to those representations.

390 Effect of custody on curfew orders and power to make curfew orders

(1) The court may not make a curfew order against a person at any time when the person is in custody for any reason.

(2) The running of the period during which the requirements imposed by a curfew order have effect shall be suspended for the whole of any day during any part of which the person against whom the order is made is in custody for any reason.

(3) If the period during which the requirements imposed by a curfew order have effect would have begun to run but for its being suspended by virtue of this section, that period shall instead begin to run with the first day when its running is no longer suspended.

39P Power to make supplementary provision about curfew orders: England and Wales

(1) The Secretary of State may by regulations make provision for England and Wales with respect to curfew orders.

(2) The regulations may, in particular, make provision—

- (a) as to the form and content of a curfew order;
- (b) allowing an application for a curfew order to be renewed where no curfew order is made;
- (c) that a statement in writing to the effect that wages of any amount have been paid during any period to a person, purporting to

¹ Words substituted in s. 28 by para. 81 of Sch. from S.I. 2012/2007 as from 1.8.12.

be signed by or on behalf of that person's employer, shall be evidence of the facts stated;

- (d) that a justice of the peace may issue a summons to a person to appear before a magistrates' court and (if that person does not appear) may issue a warrant for that person's arrest;*
- (e) that, for the purpose of securing a person's presence before a magistrates' court, a justice of the peace may issue a warrant for that person's arrest without issuing a summons;*
- (f) as to the execution of a warrant for arrest;*
- (g) for the amendment or revocation of requirements imposed by a curfew order, on an application made to a magistrates' court by the [¹Secretary of State] or the person against whom the order was made;*
- (h) similar to that made by sections 39J, 39L and 39M(2) and (3), in relation to any amendment of a curfew order;*
- (i) as to the exercise by a magistrates' court of the powers conferred by sections 39K(2) and (3) and 39N(7).*

(3) Regulations under subsection (2)(g) may confer power on a magistrates' court to substitute for the place or places specified in the order a place or places in Scotland.

(4) Where a magistrates' court exercises such a power, the functions of the magistrates' court in relation to the order as so amended shall be exercisable instead by the sheriff.

39Q Power to make supplementary provision about curfew orders: Scotland

(1) The Secretary of State may by regulations make provision for Scotland with respect to curfew orders.

(2) The regulations may, in particular, make provision—

- (a) as to the content of a curfew order;*
- (b) that a statement in writing to the effect that wages of any amount have been paid during any period to a person, purporting to be signed by or on behalf of that person's employer, shall be sufficient evidence of the facts stated;*
- (c) for the amendment or revocation of requirements imposed by a curfew order, on an application made to the sheriff by the [¹Secretary of State] or the person against whom the order was made;*
- (d) similar to that made by sections 39J, 39L and 39M(2) and (3), in relation to any amendment of a curfew order;*
- (e) as to the exercise by the sheriff of the powers conferred by sections 39K(2) and (3) and 39N(7).*

(3) Regulations under subsection (2)(c) may confer power on the sheriff to substitute for the place or places specified in the order a place or places in England and Wales.

(4) Where the sheriff exercises such a power, the functions of the sheriff in relation to the order as so amended shall be exercisable instead by a magistrates' court.

(5) 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—

- (a) as to the form of a curfew order;*
- (b) allowing an application for a curfew order to be renewed where no curfew order is made;*

¹ Words substituted in s. 28 by para. 81 of Sch. of S.I. 2012/2007 as from 1.8.12.

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- (c) that the sheriff may issue a citation to a person to appear before the sheriff and (if the person does not appear) may issue a warrant for the person's arrest;
- (d) that, for the purpose of securing a person's presence before the sheriff, the sheriff may issue a warrant for the person's arrest without issuing a citation;
- (e) as to the execution of a warrant of arrest."

Commitment to prison.

29.—(1) In section 40 of the Child Support Act 1991 (c. 48) (commitment to prison), before subsection (3) insert—

"(2A) The [¹Secretary of State] may apply to a magistrates' court for the issue of a warrant committing a person to prison where—

- (a) [¹the Secretary of State] has sought to recover an amount from the person by means of taking enforcement action by virtue of section 35 or 38, or by means of a third party debt order or a charging order by virtue of section 36;
- (b) the whole or any part of the amount remains unpaid; and
- (c) the [¹Secretary of State] is of the opinion that there has been wilful refusal or culpable neglect on the part of the person from whom [¹the Secretary of State] has sought to recover the amount ("the liable person").

(2B) For the purposes of subsection (2A)(a), the [¹Secretary of State] is to be taken to have sought to recover an amount by means of a charging order if an interim charging order has been made, whether or not any further steps have been taken to recover the amount.

(2C) On an application under subsection (2A) the court shall (in the presence of the liable person) inquire as to—

- (a) the liable person's means; and
- (b) whether there has been wilful refusal or culpable neglect on the part of the liable person.

(2D) On an application under subsection (2A) the court shall not question—

- (a) the liability order by reference to which the [¹Secretary of State] acted as mentioned in paragraph (a) of that subsection; or
- (b) the maintenance calculation by reference to which that liability order was made."

(2) For subsection (10) of that section, substitute—

"(10) On acting as mentioned in subsection (3), the court may order the liable person to be searched.

(10A) Any money found on such a search shall, unless the court otherwise directs, be applied towards payment of the relevant amount; and the balance (if any) shall be returned to the person searched.

(10B) The reference in subsection (10A) to the relevant amount is—

- (a) where the order under subsection (10) is made by virtue of the court acting under subsection (3)(a), to the amount mentioned in subsection (4)(a);
- (b) where the order under subsection (10) is made by virtue of the court acting under subsection (3)(b), to the amount mentioned in subsection (4)(a)(i).

(10C) The court shall not allow the application under subsection (10A) of money found on a search under subsection (10) if it is satisfied that the money does not belong to the person searched."

¹ Words substituted in s. 29 by para. 82 of Sch. of S.I. 2012/2007 as from 1.8.12.

(3) In section 40A of that Act (commitment to prison: Scotland), before subsection (1) insert–

“(A1) The [¹Secretary of State] may apply to the sheriff for the issue of a warrant committing a person to prison where–

- (a) [¹the Secretary of State] has sought to recover an amount from the person by means of taking enforcement action by virtue of section 35 or 38, or by means of a third party debt order or a charging order by virtue of section 36;
- (b) the whole or any part of the amount remains unpaid; and
- (c) the [¹Secretary of State] is of the opinion that there has been wilful refusal or culpable neglect on the part of the person from whom [¹the Secretary of State] has sought to recover the amount (“the liable person”).

(A2) For the purposes of subsection (A1)(a), the [¹Secretary of State] is to be taken to have sought to recover an amount by means of a charging order if an interim charging order has been made, whether or not any further steps have been taken to recover the amount.

(A3) On an application under subsection (A1), the sheriff shall (in the presence of the liable person) inquire into–

- (a) the liable person’s means; and
- (b) whether there has been wilful refusal or culpable neglect on the part of the liable person.

(A4) On an application under subsection (A1), the sheriff shall not question–

- (a) the liability order by reference to which the [¹Secretary of State] acted as mentioned in paragraph (a) of that subsection; or
- (b) the maintenance calculation by reference to which that liability order was made.”

(4) After subsection (7) of that section, insert–

“(7A) On acting as mentioned in subsection (1), the sheriff may order the liable person to be searched.

(7B) Any money found on such a search shall, unless the sheriff otherwise directs, be applied towards payment of the relevant amount; and the balance (if any) shall be returned to the person searched.

(7C) The reference in subsection (7B) to the relevant amount is–

- (a) where the order under subsection (7A) is made by virtue of the court acting under subsection (1)(a), to the amount mentioned in subsection (2)(a);
- (b) where the order under subsection (7A) is made by virtue of the court acting under subsection (1)(b), to the amount mentioned in subsection (2)(a)(i).

(7D) The sheriff shall not allow the application under subsection (7B) of money found on a search under subsection (7A) if the sheriff is satisfied that the money does not belong to the person searched.”

30.–(1) In section 40B of the Child Support Act 1991 (c. 48) (disqualification from driving), for the heading and subsection (1) substitute–

“40B Disqualification for holding or obtaining driving licence

(A1) The [¹Secretary of State] may apply to the court for an order disqualifying a person for holding or obtaining a driving licence where–

- (a) [¹the Secretary of State] has sought to recover an amount from the person by means of taking enforcement action by virtue of section 35 or 38, or by means of a third party debt order or a charging order by virtue of section 36;

¹ Words substituted in ss. 29 & 30 by paras. 82 & 83 of Sch. of S.I. 2012/2007 as from 1.8.12.

- (b) the whole or any part of the amount remains unpaid; and
- (c) the [¹Secretary of State] is of the opinion that there has been wilful refusal or culpable neglect on the part of the person from whom [¹the Secretary of State] has sought to recover the amount ("the liable person").

(A2) Disqualification by an order under subsection (A1) (a "disqualification order") shall be for such period not exceeding two years as the court may specify in the order.

(A3) For the purposes of subsection (A1)(a), the [¹Secretary of State] is to be taken to have sought to recover an amount by means of a charging order if an interim charging order has been made, whether or not any further steps have been taken to recover the amount.

(A4) On an application under subsection (A1) the court shall (in the presence of the liable person) inquire as to—

- (a) whether the liable person needs a driving licence to earn a living;
- (b) the liable person's means; and
- (c) whether there has been wilful refusal or culpable neglect on the part of the liable person.

(A5) On an application under subsection (A1) the court shall not question—

- (a) the liability order by reference to which the [¹Secretary of State] acted as mentioned in paragraph (a) of that subsection; or
- (b) the maintenance calculation by reference to which that liability order was made.

(1) If, but only if, the court is of the opinion that there has been wilful refusal or culpable neglect on the part of the liable person, it may—

- (a) make a disqualification order against the liable person; or
- (b) make such an order but suspend its operation until such time and on such conditions (if any) as it thinks just."

(2) For subsection (10) of that section, substitute—

"(10) On making a disqualification order, the court may order the liable person to be searched.

(10A) Any money found on such a search shall, unless the court otherwise directs, be applied towards payment of the amount due; and the balance (if any) shall be returned to the person searched.

(10B) The court shall not allow the application under subsection (10A) of money found on a search under subsection (10) if it is satisfied that the money does not belong to the person searched.

(10C) The court may exercise the powers conferred on it by subsection (5) without the need for an application where money found on a search under subsection (10) is applied towards payment of the amount due."

Debt management powers

Power to treat liability as satisfied.

31. amends 1991 (c. 48), see Annex 1, page 1401

Power to accept part payment of arrears in full and final satisfaction.

32.—After section 41C of the Child Support Act 1991 (inserted by section 31 of this Act) insert—

"41D Power to accept part payment of arrears in full and final satisfaction

(1) The [¹Secretary of State] may, in relation to any arrears of child support maintenance, accept payment of part in satisfaction of liability for the whole.

(2) The Secretary of State must by regulations make provision with respect to the exercise of the power under subsection (1).

¹ Words substituted in s. 30 & 32 by paras. 83 & 84 of Sch. of S.I. 2012/2007 as from 1.8.12.

(3) The regulations must provide that unless one of the conditions in subsection (4) is satisfied the [¹Secretary of State] may not exercise the power under subsection (1) without the appropriate consent.

(4) The conditions are—

- (a) that the [¹Secretary of State] would be entitled to retain the whole of the arrears under section 41(2) if [¹the Secretary of State] recovered them;
- (b) that the [¹Secretary of State] would be entitled to retain part of the arrears under section 41(2) if [¹the Secretary of State] recovered them, and the part of the arrears that the [¹Secretary of State] would not be entitled to retain is equal to or less than the payment accepted under subsection (1).

(5) Unless the maintenance calculation was made under section 7, the appropriate consent is the written consent of the person with care with respect to whom the maintenance calculation was made.

(6) If the maintenance calculation was made under section 7, the appropriate consent is—

- (a) the written consent of the child who made the application under section 7(1), and
- (b) if subsection (7) applies, the written consent of the person with care of that child.

(7) This subsection applies if—

- (a) the maintenance calculation was made under section 7(2), or
- (b) the Secretary of State has made arrangements under section 7(3) on the application of the person with care.”

33.—After section 41D of the Child Support Act 1991 (c. 48) (inserted by section 32 of this Act) insert— *Power to write off arrears.*

“41E Power to write off arrears

(1) The [¹Secretary of State] may extinguish liability in respect of arrears of child support maintenance if it appears to [¹the Secretary of State]—

- (a) that the circumstances of the case are of a description specified in regulations made by the Secretary of State, and
- (b) that it would be unfair or otherwise inappropriate to enforce liability in respect of the arrears.

(2) The Secretary of State may by regulations make provision with respect to the exercise of the power under subsection (1).”

34.—After section 49 of the Child Support Act 1991 insert— *Transfer of arrears.*

“49A Transfer of arrears

(1) *The Secretary of State may by regulations make provision enabling the [¹Secretary of State] in prescribed circumstances to enter into arrangements (“transfer arrangements”) under which liability in respect of arrears of child support maintenance becomes debt due to the person with whom the arrangements are entered into (“the transferee”).*

(2) *Liability which is the subject of transfer arrangements—*

- (a) *ceases to be liability in relation to which the [¹Secretary of State’s] functions with respect to collection and enforcement are exercisable, and*
- (b) *becomes debt in which only the transferee has an interest.*

(3) *Regulations under subsection (1) must provide that unless one of the conditions in subsection (4) is satisfied the [¹Secretary of State] may not enter into transfer arrangements in relation to arrears of child support maintenance without the appropriate consent.*

(4) *The conditions are—*

¹ Words substituted in ss. 32-34 by paras. 84-86 of Sch. of S.I. 2012/2007 as from 1.8.12.

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- (a) that the [¹Secretary of State] would be entitled to retain the whole of the arrears under section 41(2) if [¹the Secretary of State] recovered them;
 - (b) that the [¹Secretary of State] would be entitled to retain part of the arrears under section 41(2) if [¹the Secretary of State] recovered them, and the part of the arrears that the [¹Secretary of State] would not be entitled to retain is equal to or less than the transfer payment.
- (5) In subsection (4)(b), “transfer payment” means—
- (a) the payment that the [¹Secretary of State] would receive from the transferee on the arrangements taking effect, and
 - (b) such other payments under the transfer arrangements as may be prescribed.
- (6) Unless the maintenance calculation was made under section 7, the appropriate consent is the written consent of the person with care with respect to whom the maintenance calculation was made.
- (7) If the maintenance calculation was made under section 7, the appropriate consent is—
- (a) the written consent of the child who made the application under section 7(1), and
 - (b) if subsection (8) applies, the written consent of the person with care of that child.
- (8) This subsection applies if—
- (a) the maintenance calculation was made under section 7(2), or
 - (b) the Secretary of State has made arrangements under section 7(3) on the application of the person with care.
- (9) Regulations under subsection (1) may, in particular—
- (a) specify when arrears of child support maintenance may be the subject of transfer arrangements;
 - (b) specify the descriptions of person with whom transfer arrangements may be entered into;
 - (c) specify terms and conditions which transfer arrangements must include;
 - (d) provide that a payment made to the [¹Secretary of State] under transfer arrangements may be treated for prescribed purposes as if it were a payment of child support maintenance.
- (10) Regulations under subsection (1) may include—
- (a) provision with respect to the recovery of debt to which a person is entitled by virtue of transfer arrangements;
 - (b) provision enabling the [¹Secretary of State] in prescribed circumstances to prevent a person entitled to debt by virtue of transfer arrangements from taking steps to recover it;
 - (c) provision enabling the [¹Secretary of State] to supply information of a prescribed description to a person entitled to debt by virtue of transfer arrangements for the purpose of enabling the debt to be recovered.”

Miscellaneous

35. & 36. amends 1991 (c. 48), see annex 1, page 1401

Additional special case.

37.—In section 42(2) of the Child Support Act 1991 (examples of cases in relation to which the power under subsection (1) to prescribe circumstances in which a case is to be treated as a special case for the purposes of the Act may be exercised), at the end insert—

¹ Words substituted in s. 34 by para. 86 of Sch. of S.I. 2012/2007 as from 1.8.12.

- “(g) the same persons are the parents of two or more children and each parent is—
- (i) a non-resident parent in relation to one or more of the children, and
 - (ii) a person with care in relation to one or more of the children.”

38. amends 1991 (c. 48), see annex 1, page 1401

39.—(1) After section 49A of the Child Support Act 1991 (inserted by section 34 of this Act), insert—

Disclosure of information relating to family proceedings.

“49B Disclosure of information relating to family proceedings

(1) Where this section applies, a disclosure of information relating to family proceedings made to the [¹Secretary of State for the purposes of the Secretary of State’s functions relating to child support], or to a person providing services to the [¹Secretary of State for those purposes], by a party to the proceedings is not (if it would otherwise be) a contempt of court or punishable as a contempt of court.

(2) This section applies if—

- (a) the party is a person with care or non-resident parent in relation to a child,
- (b) child support maintenance is payable, or an application for a maintenance calculation has been made, in respect of the child, and
- (c) the party reasonably considers that the information is relevant to the exercise of the [¹Secretary of State’s] functions relating to child support in relation to the child.

(3) This section also applies if—

- (a) an application for a maintenance calculation has been made under section 7(1) by the party, or child support maintenance is payable in accordance with a maintenance calculation made on an application made under section 7(1) by the party, and
- (b) the party reasonably considers that the information is relevant to the exercise of the [¹Secretary of State’s] functions relating to child support in relation to the party.

(4) A disclosure by a party’s representative is to be treated for the purposes of this section as a disclosure by the party, if the representative is instructed by the party to make the disclosure.

(5) In this section, “representative” means

- (a) in England and Wales—
 - (i) a barrister or a solicitor, solicitor’s employee or other authorised litigator (as defined in the Courts and Legal Services Act 1990) who has been instructed to act for a party in relation to the proceedings,
 - (ii) a non-professional person who gives lay advice on behalf of an organisation in the lay advice sector, or
 - (iii) any person permitted by the court to sit beside an unrepresented litigant in court to assist that litigant by prompting, taking notes and giving advice to the litigant;
- (b) in Scotland, a legal representative.

(6) This section does not apply if the court dealing with the proceedings so directs.

49C Meaning of “family proceedings”

(1) In section 49B, “family proceedings” means any of the following proceedings commenced on or after the day on which that section comes into force—

¹ Words substituted in s. 39 by para. 87 of Sch. of S.I. 2012/2007 as from 1.8.12.

- (a) proceedings for ancillary relief (within the meaning of subsection (2));
 - (b) proceedings under section 17 of the Married Women's Property Act 1882 (questions between husband and wife as to property);
 - (c) proceedings under any of the following provisions of the 1973 Act—
 - (i) section 27 (financial provision in cases of neglect to maintain);
 - (ii) section 35 (alteration of maintenance agreements);
 - (d) proceedings under Part 1 of the Domestic Proceedings and Magistrates' Courts Act 1978 (powers of court to make orders for financial provision);
 - (e) proceedings relating to orders for financial provision within the meaning of section 8 of the Family Law (Scotland) Act 1984;
 - (f) proceedings relating to an action for aliment within the meaning of section 2 of that Act;
 - (g) proceedings under Part 3 of the Matrimonial and Family Proceedings Act 1984 (financial relief in England and Wales after overseas divorce etc.);
 - (h) proceedings under Schedule 1 to the Children Act 1989 (financial provision for children);
 - (i) proceedings under sections 33 to 40 of the Family Law Act 1996 (occupation orders);
 - (j) proceedings under any of the following provisions of the 2004 Act—
 - (i) section 66 (disputes between civil partners about property);
 - (ii) paragraph 41 of Schedule 5 (orders where failure to maintain);
 - (iii) paragraph 69 of Schedule 5 (alteration of maintenance agreements by the court);
 - (iv) Schedule 6 (financial relief in magistrates' courts etc.);
 - (v) Schedule 7 (financial relief in England and Wales after overseas dissolution etc. of a civil partnership).
- (2) In subsection (1), "ancillary relief" means any of the following—
- (a) an order under section 37(2)(b) or (c) of the 1973 Act or paragraph 74(3) or (4) of Schedule 5 to the 2004 Act (avoidance of disposition orders);
 - (b) any of the orders mentioned in section 21(1) of the 1973 Act (except an order under section 27(6) of that Act) or any of the orders mentioned in paragraph 2(1) of Schedule 5 to the 2004 Act (financial provision orders) made under Part 1 of that Schedule;
 - (c) an order under section 22 of the 1973 Act (orders for maintenance pending suit);
 - (d) an order under paragraph 38 of Schedule 5 to the 2004 Act (orders for maintenance pending outcome of proceedings);
 - (e) any of the orders mentioned in section 21(2) of the 1973 Act or any of the orders mentioned in paragraph 7(1) of Schedule 5 to the 2004 Act (property adjustment orders);
 - (f) an order under section 31 of the 1973 Act or an order under Part 11 of Schedule 5 to the 2004 Act (variation orders);
 - (g) an order under section 24B of the 1973 Act or an order under paragraph 15 of Schedule 5 to the 2004 Act (pension sharing orders).
- (3) The Secretary of State may by order amend this section so as to provide that "family proceedings" in section 49B includes proceedings of a description specified in the order, other than proceedings commenced before the day on which the order comes into force.
- (4) An order under subsection (3) may be made only with the consent of the Lord Chancellor.

(5) *In this section—*

“the 1973 Act” means the Matrimonial Causes Act 1973;

“the 2004 Act” means the Civil Partnership Act 2004.”

40.—After section 49C of the Child Support Act 1991 (c. 48) (inserted by section 39 of this Act) insert—

Disclosure of information to credit reference agencies.

“49D Disclosure of information to credit reference agencies

(1) *Subject to subsection (3), the [¹Secretary of State] may supply qualifying information to a credit reference agency for use for the purpose of furnishing information relevant to the financial standing of individuals.*

(2) *The reference in subsection (1) to qualifying information is to information which—*

(a) *is held by the [¹Secretary of State] for the purposes of this Act,*

(b) *relates to a person who is liable to pay child support maintenance, and*

(c) *is of a prescribed description.*

(3) *Information may not be supplied under subsection (1) without the consent of the person to whom it relates, unless a liability order against that person is in force.*

(4) *No provision may be made under section 14(3) authorising the supply of information by the [¹Secretary of State] to credit reference agencies.*

(5) *In this section, “credit reference agency” has the same meaning as in the Consumer Credit Act 1974.”*

41.—After section 51 of the Child Support Act 1991 insert—

Pilot schemes.

“51A Pilot schemes

(1) *Any regulations made under this Act may be made so as to have effect for a specified period not exceeding 24 months.*

(2) *Regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as a “pilot scheme”.*

(3) *A pilot scheme may provide that its provisions are to apply only in relation to—*

(a) *one or more specified areas or localities;*

(b) *one or more specified classes of person;*

(c) *persons selected by reference to prescribed criteria, or on a sampling basis.*

(4) *A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.*

(5) *A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.”*

42.—For section 55 of the Child Support Act 1991 (c. 48) substitute—

Meaning of “child”.

“55 Meaning of “child”

(1) *In this Act, “child” means (subject to subsection (2)) a person who—*

(a) *has not attained the age of 16, or*

(b) *has not attained the age of 20 and satisfies such conditions as may be prescribed.*

(2) *A person who is or has been party to a marriage or civil partnership is not a child for the purposes of this Act.*

(3) *For the purposes of subsection (2), “marriage” and “civil partnership” include a void marriage and a void civil partnership respectively.”*

43.—Any outstanding liability in respect of the following is extinguished—

Extinction of liability in respect of interest and fees.

(a) *interest under the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992 (S.I. 1992/1816);*

(b) *fees under the Child Support Fees Regulations 1992 (S.I. 1992/3094).*

¹ Words substituted in s. 40 by para. 88 of Sch. of S.I. 2012/2007 as from 1.8.12.

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)

Ss. 44-55

44. [...¹]

45. amends 1992 c. 5, see annex 1, page 1401

PART 4

46. - 54. outside the scope of this work

PART 5

GENERAL

Regulations and orders:
general.

55.—(1) This section has effect in relation to regulations under this Act, except Part 4.

(2) Power to make regulations is exercisable by statutory instrument.

(3) Power to make regulations includes power to make incidental, supplementary, consequential or transitional provision or savings.

(4) Power to make regulations may be exercised—

(a) in relation to all cases to which it extends, in relation to those cases but subject to specified exceptions or in relation to any specified cases or classes of case;

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which it extends or any lesser provision (whether by way of exception or otherwise);

(ii) the same provision for all cases, different provision for different cases or classes of case or different provision as respects the same case or class of case but for different purposes of this Act;

(iii) provision which is either unconditional or is subject to any specified condition;

(c) so as to provide for a person to exercise a discretion in dealing with any matter.

(5) A statutory instrument containing—

(a) regulations under section 6(1) or (4), [¹or]

(b) the first regulations under paragraphs 2(1), 3(1), 5(1) or (2), 6(1) or (3) or 7 of Schedule 5, [...¹].

(6) A statutory instrument that—

(a) contains regulations, and

(b) is not subject to a requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

¹ Words in s. 44 & s. 55(5)(b) & (c) omitted & word inserted in s. 55(5)(a) by paras. 89 & 90 of Sch. of S.I. 2012/2007 as from 1.8.12.

56. [...¹]

(2) Where—

- (a) this Act amends or repeals an enactment contained in the Child Support Act 1991 (c. 48) which has been amended by the Child Support, Pensions and Social Security Act 2000 (c. 19), and
 - (b) the amendment by the 2000 Act has been brought into force for limited purposes only,
- the reference to the enactment shall, unless the contrary intention appears, be read as a reference to the enactment as it has effect apart from the 2000 Act, as well as to the enactment as amended by that Act.

57.—(1) Schedule 7 (which makes minor and consequential amendments) has effect.

Minor and consequential amendments.

(2) The Secretary of State may by regulations make provision consequential on this Act amending, repealing or revoking any provision of—

- (a) an Act passed on or before the last day of the Session in which this Act is passed, or
- (b) an instrument made under an Act before the passing of this Act.

58. The enactments specified in Schedule 8 are repealed to the extent specified.

Repeals.

59. [...¹]

Transition.

(2) The Secretary of State may by regulations make provision for the Child Support Act 1991, as amended by Schedule 3, to have effect, until the coming into force of section 15, with such modifications as the Secretary of State considers necessary in consequence of the retention of functions under section 46 of that Act.

(3) The Secretary of State may, in relation to section 6 or 46 of the Child Support Act 1991, by regulations make provision for the section to have effect with such modifications as the Secretary of State considers expedient in anticipation of the coming into force of section 15.

(4) Sections 20(5A), 32A, 32E, 32F, 32J, 32L, 32M, 41C to 41E, 43A, 49A, 49B and 49D of the Child Support Act 1991 shall have effect as if “child support maintenance” included periodical payments required to be paid in accordance with a maintenance assessment under the Act.

(5) Sections 20(7A), 32A, 32C, 32E, 32F, 32J, 32L, 32M, 39B, 39H, 40, 40A, 40B and 49B of the Child Support Act 1991 shall have effect as if “maintenance calculation” included a maintenance assessment under the Act.

(6) Sections 35, 36, 38, 39B, 39H, 39K, 40, 40B and 49D of the Child Support Act 1991 shall have effect as if orders made under section 33 of that Act had been made under section 32M of that Act.

(7) An order may be made under section 32M of the Child Support Act 1991 in respect of an amount even though the time within which an application could have been instituted under section 33 of that Act for an order in respect of that amount has expired.

(8) The Secretary of State may by regulations make in connection with the coming into force of any provision of this Act such transitional provision or savings as the Secretary of State considers necessary or expedient.

¹ S. 56(1) & s. 59(1) omitted by paras. 91 & 92 of Sch. of S.I. 2012/2007 as from 1.8.12.

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)

Ss. 60-63

Financial provisions.

- 60.**—(1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State or a government department in consequence of this Act, and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) here shall be authorised the extinguishing in consequence of this Act of liabilities owed to the Crown under the Child Support Act 1991.

Extent.

61.—(1) Subject to the following provisions, this Act extends to England and Wales and Scotland only.

(2) The following provisions also extend to Northern Ireland—

- (a) this section and sections 55, 57(2), 62 and 63;
- (b) [...¹]

(3) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates.

Commencement.

62.—(1) This section and sections 55, 59(8), 61 and 63 shall come into force on the day on which this Act is passed.

(2) Section 35 shall come into force on the day after the day on which this Act is passed.

(3) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different purposes.

(4) An order under subsection (3) may include such transitional provision or savings as the Secretary of State considers necessary or expedient in connection with bringing any provision of this Act into force.

(5) An order under subsection (3) appointing the day on which section 39 is to come into force in England and Wales may be made only with the consent of the Lord Chancellor.

Citation.

63. This Act may be cited as the Child Maintenance and Other Payments Act 2008.

¹ S. 61(b) omitted by para. 93 of Sch. of S.I. 2012/2007 as from 1.8.12.

SCHEDULES

SCHEDULE 1

Section 1

THE COMMISSION

[...¹]

SCHEDULE 2

Section 13

TRANSFER OF FUNCTIONS UNDER SUBORDINATE LEGISLATION

[...¹]

SCHEDULE 3

Section 13

TRANSFER OF CHILD SUPPORT FUNCTIONS

PART 1

CONSEQUENTIAL AMENDMENTS

1. - 40(a) amend 1991 c. 48, see Annex 1, page 1401

(b) [...²]

[²41] - 53. amend 1991 c. 48, see annex 1, page 1401

54. amends 1998 c. 14, see annex 1, page 1401

PART 2

TRANSITIONAL PROVISION AND SAVINGS

55. [...²]

SCHEDULE 4

Section 16

CHANGES TO THE CALCULATION OF MAINTENANCE

Introductory

1. Part 1 of Schedule 1 to the Child Support Act 1991 (c. 48) (calculation of weekly amount of child support maintenance) is amended as follows.

Calculation by reference to gross weekly income

2. In Part 1 (under which the weekly amount of child support maintenance payable is calculated by reference to the non-resident parent's net weekly income), for "net", in each place where it occurs, substitute "gross".

¹ Schedules 1 & 2 omitted by paras. 71 & 76 of Sch. of S.I. 2012/2007 from 1.8.12.

² Words in Sch. 3, para. 40(b) & (c) & 55 omitted by paras. 94(a) & (b) of Sch. of S.I. 2012/2007 as from 1.8.12.

Change to basic rate

3. For paragraph 2 (basic rate) substitute—
- “2—(1) Subject to sub-paragraph (2), the basic rate is the following percentage of the non-resident parent’s gross weekly income—
- * See reg. 2 of S.I. 2012/2678 at page 7301 for details of modifications of this schedule in certain situations*
- 12% where the non-resident parent has one qualifying child;
16% where the non-resident parent has two qualifying children;
19% where the non-resident parent has three or more qualifying children.
- (2) If the gross weekly income of the non-resident parent exceeds £800, the basic rate is the aggregate of the amount found by applying sub-paragraph (1) in relation to the first £800 of that income and the following percentage of the remainder—
- 9% where the non-resident parent has one qualifying child;
12% where the non-resident parent has two qualifying children;
15% where the non-resident parent has three or more qualifying children.
- (3) If the non-resident parent also has one or more relevant other children, gross weekly income shall be treated for the purposes of sub-paragraphs (1) and (2) as reduced by the following percentage—
- 12% where the non-resident parent has one relevant other child;
16% where the non-resident parent has two relevant other children;
19% where the non-resident parent has three or more relevant other children.”

Increase in flat rate and minimum amounts of liability

4. *In the following provisions, for “£5” substitute “£7”–*
- (a) *paragraph 3(3) (minimum amount of liability in the case of reduced rate);*
- (b) *paragraph 4(1) (amount of flat rate of liability);*
- (c) *paragraph 7(7) (minimum amount of liability in the case of basic and reduced rates where reduction because of shared care applies).*

Applicable rate where non-resident parent party to other maintenance arrangement

- 5.—(1) In paragraph 1(1) (under which the weekly rate of child support maintenance is the basic rate unless a reduced rate, a flat rate or a nil rate applies), at the beginning insert “Subject to paragraph 5A,”.
- (2) After paragraph 5 insert—
- “Non-resident parent party to other maintenance arrangement
- 5A—(1) This paragraph applies where—
- (a) the non-resident parent is a party to a qualifying maintenance arrangement with respect to a child of his who is not a qualifying child, and
- (b) the weekly rate of child support maintenance apart from this paragraph would be the basic rate or a reduced rate or calculated following agreement to a variation where the rate would otherwise be a flat rate or the nil rate.
- (2) The weekly rate of child support maintenance is the greater of £7 and the amount found as follows.
- (3) First, calculate the amount which would be payable if the non-resident parent’s qualifying children also included every child with respect to whom the non-resident parent is a party to a qualifying maintenance arrangement.
- (4) Second, divide the amount so calculated by the number of children taken into account for the purposes of the calculation.

(5) Third, multiply the amount so found by the number of children who, for purposes other than the calculation under sub-paragraph (3), are qualifying children of the non-resident parent.

(6) For the purposes of this paragraph, the non-resident parent is a party to a qualifying maintenance arrangement with respect to a child if the non-resident parent is—

- (a) liable to pay maintenance or aliment for the child under a maintenance order, or
- (b) a party to an agreement of a prescribed description which provides for the non-resident parent to make payments for the benefit of the child, and the child is habitually resident in the United Kingdom.”

Shared care

6. In paragraph 7(2) (circumstances in which decrease for shared care applies in cases where child support maintenance is payable at the basic rate or a reduced rate), for “If the care of a qualifying child is shared” substitute “If the care of a qualifying child is, or is to be, shared”.

7. In paragraph 8(2) (circumstances in which decrease for shared care applies in cases where child support maintenance payable at a flat rate), for “If the care of a qualifying child is shared” substitute “If the care of a qualifying child is, or is to be, shared”.

8.—(1) In paragraph 9 (regulations about shared care), the existing provision becomes sub-paragraph (1).

(2) In that sub-paragraph, before paragraph (a) insert—

“(za) or how it is to be determined whether the care of a qualifying child is to be shared as mentioned in paragraph 7(2);”.

(3) In that sub-paragraph, after paragraph (b) insert—

“(ba) for how it is to be determined how many nights count for those purposes;”.

(4) After that sub-paragraph insert—

“(2) Regulations under sub-paragraph (1)(ba) may include provision enabling the [¹Secretary of State] to proceed for a prescribed period on the basis of a prescribed assumption.”

Weekly income

9. In paragraph 10 (which confers power to make regulations about the manner in which weekly income is to be determined), for sub-paragraph (2) substitute—

“(2) The regulations may, in particular—

- (a) provide for determination in prescribed circumstances by reference to income of a prescribed description in a prescribed past period;
- (b) provide for the [¹Secretary of State] to estimate any income or make an assumption as to any fact where, in [¹the Secretary of State’s] view, the information at [¹the Secretary of State’s] disposal is unreliable or insufficient, or relates to an atypical period in the life of the non-resident parent.”

10. In paragraph 10(3) (under which weekly income over £2,000 is to be ignored for the purposes of Schedule 1), for “£2,000” substitute “£3,000”.

¹ Words substituted in Sch. 4, paras. 8(4) & 9 by paras. 95(2) & (3) of Sch. of S.I. 2012/2007 as from 1.8.12.

SCHEDULE 5

MAINTENANCE CALCULATIONS: TRANSFER OF CASES TO NEW RULES

Power to require a decision about whether to stay in the statutory scheme

1.—(1) The [¹Secretary of State] may require the interested parties in relation to an existing case to choose whether or not to stay in the statutory scheme, so far as future accrual of liability is concerned.

(2) The reference in sub-paragraph (1) to an existing case is to any of the following—

- (a) a maintenance assessment,
- (b) an application for a maintenance assessment,
- (c) a maintenance calculation made under existing rules, and
- (d) an application for a maintenance calculation which will fall to be made under existing rules.

(3) For the purposes of this paragraph, a maintenance calculation is made (or will fall to be made) under existing rules if the amount of the periodical payments required to be paid in accordance with it is (or will be) determined otherwise than in accordance with Part 1 of Schedule 1 to the Child Support Act 1991 (c. 48) as amended by this Act.

2.—(1) The Secretary of State may by regulations make provision about the exercise of the power under paragraph 1(1).

(2) Regulations under sub-paragraph (1) may, in particular—

- (a) make provision about timing in relation to exercise of the power;
- (b) make provision for exercise of the power in stages;
- (c) specify principles for determining the order in which particular cases are to be dealt with under the power;
- (d) make provision about procedure in relation to exercise of the power;
- (e) make provision for exercise of the power in accordance with a scheme prepared by the [¹Secretary of State] [¹...].

3.—(1) The Secretary of State shall by regulations make such provision as he thinks fit about exercise of the right to make a choice required under paragraph 1(1).

(2) Regulations under sub-paragraph (1) shall, in particular—

- (a) make provision about the time within which the choice must be made;
- (b) make provision for a choice to stay in the statutory scheme to be made by means of an application to the [¹Secretary of State] for a maintenance calculation;
- (c) make provision about the form and content of any application required by provision under paragraph (b).

4. If, in a particular case, any of the interested parties chooses not to stay in the statutory scheme, that person's choice shall be disregarded if any of the other interested parties chooses to stay in the statutory scheme.

¹ Words substituted & omitted in Sch. 5, paras. 1(1), (2)(e) & 3(2)(b) by para. 96 of Sch. of S.I. 2012/2007 as from 1.8.12.

Effect on accrual of liability of exercise of power under paragraph 1

5.—(1) Where the power under paragraph 1(1) is exercised in relation to a maintenance assessment or maintenance calculation, liability under the assessment or calculation shall cease to accrue with effect from such date as may be determined in accordance with regulations made by the Secretary of State.

(2) Where the power under paragraph 1(1) is exercised in relation to an application for a maintenance assessment or maintenance calculation, liability under any assessment or calculation made in response to the application shall accrue only in respect of the period ending with such date as may be determined in accordance with regulations made by the Secretary of State.

Additional powers

6.—(1) The Secretary of State may by regulations make such provision as appears to the Secretary of State to be necessary or expedient for the purposes of, or in connection with, giving effect to a decision not to leave the statutory scheme.

(2) Regulations under sub-paragraph (1) may, in particular—

- (a) make provision about procedure in relation to determination of an application made in pursuance of regulations under paragraph 3;
- (b) make provision about the application of the Child Support Act 1991 (c. 48) in relation to a maintenance calculation made in response to such an application;
- (c) prescribe circumstances in which liability under such a maintenance calculation is to be subject to a prescribed adjustment.

(3) The Secretary of State may by regulations make provision enabling the [Secretary of State] to treat an application of the kind mentioned in paragraph 1(2)(b) or (d) as withdrawn if none of the interested parties chooses to stay in the statutory scheme.

Interpretation

7. In this Schedule—

“interested parties” has such meaning as may be prescribed;

“maintenance assessment” means an assessment of maintenance made under the Child Support Act 1991;

“maintenance calculation” means a calculation of maintenance made under that Act;

“prescribed” means prescribed by regulations made by the Secretary of State;

“statutory scheme” means the scheme for child support maintenance under that Act.

¹ Words in Sch. 5, para. 6(3) substituted by para. 96 of Sch. of S.I. 2012/2007 as from 1.8.12.

[...¹]

¹ Sch. 6 omitted by para. 89 of Sch. of S.I. 2012/2007 as from 1.8.12.

SCHEDULE 7

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 [¹Secretary of State] 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 [¹Secretary of State] to make a liability order, an appeal tribunal shall not question the maintenance calculation by reference to which the liability order was made.”
- (7) amends 1991 (c. 48), see Annex 1, page 1401
- (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)-(10) amends 1991 (c. 48), see Annex 1, page 1401
- (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)”.

¹ Words substituted in Sch. 7 by para. 97 of Sch. of S.I. 2012/2007 as from 1.8.12.

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- (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).”*
- (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 - (21)amends 1991 c. 48, see Annex 1, page 1401
- (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–*
- “(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) amends 1991 (c. 48), see Annex 1, page 1401

(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”.

(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) amends 1991 (c. 48), see Annex 1, page 1401

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(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”.

Social Security Administration Act 1992 (c. 5)

2.—(1) The Social Security Administration Act 1992 is amended as follows.

(2)-(6) amends 1992 (c. 5), see Annex 1, page 1401

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) [...¹]

4. amends 2002 (c. 21), see Annex 1, page 1401

¹ Para. 3(3) repealed (8.5.12) by the Welfare Reform Act 2012 (c. 5), Sch. 14, part 14.

Tax Credits Act 2002 (c. 21)

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)":*

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)":*

SCHEDULE 8

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Debtors (Scotland) Act 1987 (c. 48)	Section 1(5)(cc).
Child Support Act 1991 (c. 48)	<p>In section 4—</p> <p>(a) subsections (9) and (11);</p> <p>(b) in subsection (10), paragraph (b) and the word “or” immediately before it.</p> <p>Section 6.</p> <p>In section 7(1), paragraph (b) and the word “or” immediately before it.</p> <p>In section 8(1), the words “(or treated as made)”.</p> <p>In section 9(6), paragraphs (a) and (b) and the word “and” immediately preceding them.</p> <p>Section 11(3) to (5).</p> <p>In section 12(2), the words from “(or” to “made)”.</p> <p>In section 14(1), the words “or treated as made” and “(or application treated as made)”.</p> <p>Sections 16(1A)(b), 17(1)(c) and 20(1)(c), (2)(b) and (6).</p> <p>Section 20(1)(e).</p> <p>In section 26(1), the words “or treated as made”.</p> <p>In section 27(1)(a), the words “(or is treated as having been made)” and “or treated as made”.</p> <p>In section 27A(1)—</p> <p>(a) in paragraph (a), the words “or treated as made”;</p> <p>(b) in paragraph (b), the words “or, as the case may be, treated as made”.</p> <p>In section 28(1)(a), the words “or treated as made”, in both places.</p> <p>In section 28ZA(1)(a), the words from “or with” to “section 46”.</p> <p>In section 28ZC—</p> <p>(a) in subsection (1)(b)(i), the words from “or one” to “benefit”;</p> <p>(b) in subsection (3), the words “or the reduction of a person’s benefit”.</p> <p>In section 28A—</p> <p>(a) in subsection (1), the words “, or treated as made under section 6,”;</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<p>(b) in subsection (3), the words from “or” to “section 6”.</p> <p>In section 28F(4)(a), the words from “(including” to “made)”.</p> <p>In section 28J(1)(a), the words from “, or is” to “section 6”.</p> <p>In section 29(1), paragraph (a) and the word “or” at the end of it.</p> <p><i>Section 32(2)(a).</i></p> <p><i>Sections 33 and 34.</i></p> <p><i>In section 36–</i></p> <p>(a) <i>in subsection (1), the words “, if a county court so orders,”;</i></p> <p>(b) <i>subsection (2).</i></p> <p><i>Sections 37, 39A, 40A(8)(c) and 40B(12)(b) and (c).</i></p> <p>In section 41(1)(a), the word “, 6”.</p> <p><i>Sections 46, 47 and 50(5).</i></p> <p><i>In section 52(2), the words “6(1),” and “, 46”.</i></p> <p>In Schedule 1, in paragraph 9(1)(a), the words from “or” to the end.</p> <p>Schedule 2.</p> <p>In Schedule 4A, paragraph 5(2).</p> <p>In Schedule 4B, in paragraph 2(3)–</p> <p>(a) in paragraphs (a), (d) and (e), the words “(or treated as made)”;</p> <p>(b) in paragraph (c), the words “(or treated as having been applied for)”.</p> <p><i>In Schedule 5, paragraph 8(2).</i></p>
<i>Social Security Administration Act 1992 (c. 5)</i>	<p><i>Sections 106(7) and 107.</i></p> <p><i>In section 122(3), the word “or” at the end of paragraph (b).</i></p>
Child Support Act 1995 (c. 34)	In Schedule 3, paragraphs 9 and 10.
Welfare Reform and Pensions Act 1999 (c. 30)	Section 80.
<i>Child Support, Pensions and Social Security Act 2000 (c. 19)</i>	<p><i>Sections 3, 16(1), 19 and 28.</i></p> <p><i>In Schedule 3, paragraph 11(3)(b), (4)(a), (5)(a), (6), (8), (9), (10)(a), (11)(a), (13)(a) and (d), (17) and (22)(b).</i></p>
Employment Act 2002 (c. 22)	In Schedule 6, paragraphs 11(a) and 13(a).
Civil Partnership Act 2004 (c. 33)	In Schedule 24, paragraph 3.
Welfare Reform Act 2007 (c. 5)	In Schedule 3, paragraph 7(2) to (5).
Tribunals, Courts and Enforcement Act 2007 (c. 15)	In Schedule 13, paragraphs 96 and 97.

**CHILD MAINTENANCE AND OTHER
PAYMENTS ACT 1998
LIST OF OMISSIONS**

The following provisions have been omitted from the text for the reasons stated:–

S. 20	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
S. 22 - 24	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
S. 31	<i>inserts s. 41C to the Child Support Act 1991 (c. 48).</i>
Ss. 35 - 36	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
S. 38	<i>inserts s. 43A to the Child Support Act 1991 (c. 48).</i>
S. 45	<i>makes consequential amendments to the Social Security Administration Act 1992 (c. 5).</i>
Ss. 46 - 54	<i>makes amendments to work outside the scope of these volumes.</i>
Sch. 3 para. 1 - 40(a)	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
para. 40(c) - 53	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
para. 54	<i>makes para. 10 of the Social Security Act 1998 (c. 14).</i>
Sch. 7 para. 1(7)		
para. 1 (9)-(10)		
para. 1 (26)		
para. 1 (32)		
para. 1 (34)	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
para. 2(3)-(6)	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
para. 3	<i>makes consequential amendments to the Social Security Act 1998 (c. 14).</i>
para. 4	<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>
Sch. 7 para. 1(19) - (22)(a)...		<i>makes consequential amendments to the Child Support Act 1991 (c. 48).</i>

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 COMMENCEMENT DATES

(a) *List of Commencement Orders*

<i>S.I. No</i>	<i>Title of Order</i>	<i>Page No. if reproduced in these Volumes</i>
2008/1476	<i>The Child Maintenance and Other Payments Act 2008 (Commencement) Order 2008</i>	4161
2008/2033	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 2) Order 2008</i>	4165
2008/2548	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 3 and Transitional and Savings Provisions) Order 2008</i>	4167
2008/2675	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 4 and Transitional Provision) Order 2008</i>	4171
2009/1314	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 5) Order 2009</i>	4173
2009/3072	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 6) Order 2009</i>	4175
2010/697	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 7) Order 2010</i>	4177
2012/1649	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 8) Order 2012</i>	4191
2012/2523	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 9) and the Welfare Reform Act 2009 (Commencement No. 9) Order 2012</i>	4181
2012/3042	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 10 and Transitional Provisions) Order 2012</i>	4193
2013/1860	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 11 and Transitional Provisions) Order 2013</i>	4201
2013/2947	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 12 and Savings Provisions) and the Welfare Reform Act 2012 (Commencement No. 15) Order 2013</i>	4211
2014/576	<i>The Child Maintenance and Other Payments Act 2008 (Commencement No. 13) Order 2014</i>	4219

(b) *Dates on which provisions of the Child Maintenance and Other payments Act 2008 came into force*

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)**Annex 2**

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
<i>section 1 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 1 (for all other purposes)</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 2</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 3 (partially)</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 3 (for all other purposes)</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>section 4</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 5</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 6</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 7</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 8</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 9</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 10</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 11</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 12</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>section 13</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>section 14</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>section 15 (partially)</i>	<i>14th July 2008</i>	<i>2008/1476</i>
<i>section 15 (for all other purposes)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>section 16 (for reg making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 16 (partially)</i>	<i>10th December 2012</i>	<i>2012/3042</i>
<i>section 17 (for reg. making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 17</i>	<i>10th December 2012</i>	<i>2012/3042</i>
<i>section 17 (partially)</i>	<i>29th July 2013</i>	<i>2013/1860</i>
<i>section 17 (partially)</i>	<i>25th November 2013</i>	<i>2013/2947</i>
<i>section 18</i>	<i>10th December 2012</i>	<i>2012/3042</i>
<i>section 19 (partially)</i>	<i>9th March 2014</i>	<i>2014/576</i>
<i>section 20 (partially)</i>	<i>26th September 2008</i>	<i>2008/2548</i>
<i>section 20 (for all other purposes)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>section 22 (partially)</i>	<i>1st June 2009</i>	<i>2009/1314</i>

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)

Annex 2

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
<i>section 22 (for all other purposes)</i>	<i>3rd August 2009</i>	<i>2009/1314</i>
<i>section 23 (partially)</i>	<i>1st June 2009</i>	<i>2009/1314</i>
<i>section 23 (for all other purposes)</i>	<i>3rd August 2009</i>	<i>2009/1314</i>
<i>section 31 (partially)</i>	<i>26th November 2009</i>	<i>2009/3072</i>
<i>section 31 (for all other purposes)</i>	<i>25th January 2010</i>	<i>2009/3072</i>
<i>section 32 (for reg making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 33 (for reg making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 36 (partially)</i>	<i>26th September 2008</i>	<i>2008/2548</i>
<i>section 36 (for all other purposes)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>section 38</i>	<i>26th November 2009</i>	<i>2009/3072</i>
<i>section 42 (for reg making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 43</i>	<i>5th August 2008</i>	<i>2008/2033</i>
<i>section 44</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>section 45</i>	<i>14th July 2008</i>	<i>2008/1476</i>
<i>section 46 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 46 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 47</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 47 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 47 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 48 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 48 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 49 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 49 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 50 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 50 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 51</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 52</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 53 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 53 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)**Annex 2**

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
<i>section 54 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 54 (for all other purposes)</i>	<i>1st October 2008</i>	<i>2008/1476</i>
<i>section 54</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 55</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 56</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 57(1) (partially)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>section 57(1) (partially)</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>section 57(1) (partially)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 57(1) (partially)</i>	<i>10th December 2012</i>	<i>2012/3042</i>
<i>section 57 (2)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 58 (partially)</i>	<i>14th July 2008</i>	<i>2008/1476</i>
<i>section 58 (partially)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>section 58 (partially)</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>section 58 (for reg making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>section 58</i>	<i>10th December 2012</i>	<i>2012/3042</i>
<i>section 59</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>section 60 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>schedule 1 (partially)</i>	<i>10th June 2008</i>	<i>2008/1476</i>
<i>schedule 1 (for all other purposes)</i>	<i>24th July 2008</i>	<i>2008/2033</i>
<i>schedule 2</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>schedule 3 (partially)</i>	<i>See article 2(a) of Commencement Order No. 4(4)</i>	<i>2008/2675</i>
<i>schedule 3 (partially)</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>schedule 4 (for reg making purposes)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>schedule 5 (partially)</i>	<i>9th March 2014</i>	<i>2014/576</i>
<i>schedule 6</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>schedule 7 (partially)</i>	<i>14th July 2008</i>	<i>2008/1476</i>
<i>schedule 7 (partially)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>schedule 7 (partially)</i>	<i>1st November 2008</i>	<i>2008/2675</i>

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008 (c. 6)**Annex 2**

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
<i>schedule 7 (partially)</i>	<i>27th June 2012</i>	<i>2012/1649</i>
<i>schedule 7 (partially)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>schedule 7 (partially)</i>	<i>10th December 2012</i>	<i>2012/3042</i>
<i>schedule 8 (partially)</i>	<i>14th July 2008</i>	<i>2008/1476</i>
<i>schedule 8 (partially)</i>	<i>27th October 2008</i>	<i>2008/2548</i>
<i>schedule 8 (partially)</i>	<i>1st November 2008</i>	<i>2008/2675</i>
<i>schedule 8 (partially)</i>	<i>1st June 2009</i>	<i>2009/1314</i>
<i>schedule 8 (partially)</i>	<i>8th October 2012</i>	<i>2012/2523</i>
<i>schedule 8 (partially)</i>	<i>10th December 2012</i>	<i>2012/3042</i>

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