

2012 No. 2007

PUBLIC BODIES

FAMILY LAW

CHILD SUPPORT

**The Public Bodies (Child Maintenance and
Enforcement Commission: Abolition and Transfer of
Functions) Order 2012**

Made - - - - 31st July 2012

Coming into force in accordance with article 1.

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 1(1) and (2), 6(1) and (5), 23(1)(a) and 35(2) of the Public Bodies Act 2011(a) (“the Act”).

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

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

The Secretary of State has consulted in accordance with section 10 of the Act.

A draft of this Order and an explanatory document containing the information required in section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3). In accordance with section 11(4) of the Act, the draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012.

(2) Subject to paragraph (3), this Order comes into force on the day after the day on which it is made.

(3) Paragraph 109(f) of the Schedule comes into force on the day after that on which the other provisions of this Order come into force.

(4) In this Order—

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

(a) 2011 c. 24.

(b) 1991 c. 48.

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

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

“the commencement date” means the date on which this Order (other than paragraph 109(f) of the Schedule) comes into force.

Abolition of the Commission

2. The Commission is abolished.

Transfer of functions of the Commission to the Secretary of State

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

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

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

Accounts and audit

4.—(1) It is the duty of the Secretary of State to take such action as may be necessary for the winding up of the affairs of the Commission, including the preparation of a statement of accounts for the period beginning on 1st April 2012 and ending on the commencement date.

(2) The Secretary of State must send a copy of the statement of accounts referred to in paragraph (1) to the Comptroller and Auditor General before the end of the period of five months beginning with the commencement date.

(3) The Comptroller and Auditor General must—

- (a) examine, certify and report on the statement of accounts received under paragraph (2); and
- (b) send a copy of that report and certified statement to the Secretary of State.

(4) The Secretary of State must lay before Parliament a copy of the report and statement sent under paragraph (3)(b).

Provision for the continuity of the exercise of functions

5.—(1) Anything which—

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

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

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

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

(a) 2008 c. 6.

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

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

Signed by authority of the Secretary of State for Work and Pensions.

31st July 2012

Maria Miller
Parliamentary Under-Secretary of State,
Department for Work and Pensions

[The Article 3(2) Schedule Part 1 makes various amends to various Acts.]

[The Article 3(2) Schedule Part 2 makes various amends to various S.I.'s.]

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EXPLANATORY NOTE

(This note is not part of the Order)

The Public Bodies Act 2011 provides for the abolition, and associated transfer of functions, by order of any body specified in Schedule 1 to that Act. The Child Maintenance and Enforcement Commission (“the Commission”) is a body listed in that Schedule.

Article 2 abolishes the Commission.

Article 3(1) transfers the functions of the Commission to the Secretary of State. Article 3(2) and the Schedule make consequential, incidental and supplementary amendments. Article 3(3) transfers the property, rights and liabilities of the Commission to the Secretary of State.

Article 4 makes provision in relation to the winding up of the Commission’s affairs by the Secretary of State, including the preparation of final accounts.

Article 5 makes provision for the continuity of the exercise of functions on the transfer of functions from the Commission to the Secretary of State. Paragraph (1) ensures that anything which relates to the transferring functions which has been done, or is in the process of being done, by or in relation to Commission, immediately before its abolition can be continued by, or in relation to the Secretary of State. Paragraph (2) provides that anything done by or in relation to the Commission before its abolition for the purposes of, or in connection with, the transferring functions shall continue to have effect as if done by or in relation to the Secretary of State. Paragraph (3) ensures that, as far as necessary, documents have effect as if any reference to the Commission is a reference to the Secretary of State. Paragraph (4) prevents the transfer of functions, property, rights and liabilities from the Commission to the Secretary of State affecting the validity of anything done by or in relation to the Commission prior to the transfer. Paragraph (5) prevents a reference to the Commission in any document or notice issued by the Secretary of the State, following the transfer, invalidating that document or notice.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.