Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

PUBLIC BODIES
FAMILY LAW
CHILD SUPPORT

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

Made - - - - 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(**1**) ("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.

(**1**) 2011 c.24.

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(**2**);

"the 2008 Act" means the Child Maintenance and Other Payments Act 2008(**3**);

"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

(**2**) 1991 c.48.
(**3**) 2008 c.6.

(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.

(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.

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

Date

SCHEDULE Article 3(2)

Consequential, supplementary and incidental amendments

PART 1

Amendments to Acts

The Child Support Act 1991

1. The 1991 Act is amended as follows.

2. In section 2 (welfare of children: the general principle)(**4**)—

(a) for "Commission" substitute "Secretary of State";

(b) for "it" substitute "the Secretary of State"; and

(c) for "its" substitute "the".

3. In section 4 (child support maintenance)(**5**)—

(a) in subsection (1), for "Commission" substitute "Secretary of State";

(b) in subsection (2), for "Commission" substitute "Secretary of State" and for "it" substitute "the Secretary of State";

(c) in subsection (3), for "Commission" (in both places) substitute "Secretary of State" and for "it" substitute "the Secretary of State";

(d) in subsection (4), for "Commission" (in both places) substitute "Secretary of State";

(e) in subsection (5), for "Commission" substitute "Secretary of State" and for "it" substitute "the Secretary of State"; and

(f) in subsections (6) and (7)(b), for "Commission" substitute "Secretary of State".

4. In section 7 (right of child in Scotland to apply for calculation)(**6**)—

(a) in subsections (1) and (2), for "Commission" substitute "Secretary of State";

(b) in subsection (3), for "Commission" substitute "Secretary of State" and for "it" substitute "the Secretary of State";

(c) in subsection (4), for "Commission" (in both places) substitute "Secretary of State" and for "it" substitute "the Secretary of State";

(d) in subsection (5), for "Commission" (in both places) substitute "Secretary of State"; and

(e) in subsections (6), (7) and (8)(b), for "Commission" substitute "Secretary of State".

5. In section 8 (role of the courts with respect to maintenance for children), in subsections (1) and (2), for "Commission" substitute "Secretary of State".

6. In section 10 (relationship between maintenance calculations and certain court orders etc)(**7**)—

(a) in subsection (4)(a), for "Commission" substitute "Secretary of State" and for "it" substitute "the Secretary of State"; and

(b) in subsections (4)(b) and (5), for "Commission" substitute "Secretary of State".

(**4**) Section 2 was amended by the Child Maintenance and Other Payments Act 2008 (c.6) ("the 2008 Act").
(**5**) Relevant amendments were made by the Social Security Act 1998 (c.14) ("the 1998 Act"), the Child Support, Pensions and Social Security Act 2000 (c.19) ("the 2000 Act") and the 2008 Act.
(**6**) Relevant amendments were made to sections 7 and 8 by the 1998 Act, the 2000 Act and the 2008 Act.
(**7**) Relevant amendments were made by the 1998 Act, the 2000 Act and the 2008 Act.

7. In section 11 (as substituted by the Child Support, Pensions and Social Security Act 2000) (maintenance calculations)(**8**)—

(a) in subsections (1) and (2), for "Commission" substitute "Secretary of State" and for "it" substitute "the Secretary of State"; and

(b) in subsection (7), for "Commission" substitute "Secretary of State" and for "it determines" substitute "determined".

8.—(1) Section 12 (as substituted by the Child Support, Pensions and Social Security Act 2000) (default and interim maintenance decisions)(**9**) is amended as follows.

(2) In subsection (1)—

(a) for "Commission" (in both places) substitute "Secretary of State";

(b) for the second "it" substitute "the Secretary of State";

(c) for "it to do so" substitute "such a decision to be made"; and

(d) for the final "it" substitute "the Secretary of State".

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

9. In section 14 (information required by Commission)(**10**), in the title and in subsections (3) and (4) for "Commission" (in each place) substitute "Secretary of State".

10. In section 15 (powers of inspectors)(**11**)—

(a) in subsection (1), for "Commission" substitute "Secretary of State" and for "it" substitute "the Secretary of State"; and

(b) in subsection (2), for "Commission" substitute "the Secretary of State".

11.—(1) Section 16 (revision of decisions)(**12**) is amended as follows.

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

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

(4) In subsection (1B)—

(a) for "Commission" substitute "Secretary of State";

(b) in paragraph (a), for the first "it" substitute "the Secretary of State" and omit "it were"; and

(c) in paragraph (b), for the first "it" substitute "the Secretary of State" and for "its" substitute "the".

(5) In subsection (2)—

(a) for "Commission" substitute "Secretary of State";

(b) for "it" substitute "the Secretary of State"; and

(c) for "its" substitute "the Secretary of State's".

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

12.—(1) Section 17 (decisions superseding earlier decisions)(**13**) is amended as follows.

(**8**) Section 11 was substituted by section 1 of the 2000 Act and amended by the 2008 Act.
(**9**) Section 12 was substituted by section 4 of the 2000 Act and amended by the 2008 Act.
(**10**) Relevant amendments were made by the 1998 Act and the 2008 Act.
(**11**) Relevant amendments were made by the 2000 Act and the 2008 Act.
(**12**) Section 16 was substituted by section 40 of the 1998 Act and amended by the 2000 Act, the 2008 Act and S.I. 2008/2833.
(**13**) Section 17 was inserted by section 41 of the 1998 Act and amended by the 2000 Act, the 2008 Act and S.I. 2008/2833.