

LORDS AMENDMENTS TO THE  
CHILD MAINTENANCE AND OTHER PAYMENTS BILL

*[The page and line references are to HL Bill 12, the bill as first printed for the Lords.]*

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**Clause 9**

- 1** Page 4, line 35, leave out “section” and insert “sections 7(1) and”

**After Clause 10**

- 2** Insert the following new Clause –

**“Review of the status of the Commission**

- (1) The Secretary of State must review the status of the Commission as a Crown body.
- (2) The review under subsection (1) must be conducted as soon as reasonably practicable after the end of the initial period.
- (3) The Secretary of State may review the status of the Commission as a Crown body at any other time after the end of the initial period, if the Secretary of State considers it appropriate to do so.
- (4) The Secretary of State must prepare a report of any review under subsection (1) or (3).
- (5) The Secretary of State must lay before Parliament a copy of the report.
- (6) If, on a review under this section, it appears to the Secretary of State appropriate to do so, the Secretary of State may by order made by statutory instrument provide that the Commission is to cease to be a Crown body.
- (7) An order under subsection (6) may –
  - (a) make any amendment to Schedule 1 that appears to the Secretary of State to be necessary or expedient in consequence of the Commission ceasing to be a Crown body;
  - (b) provide for the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) to apply, subject to

such modifications and exceptions as may be prescribed, as if, on the Commission ceasing to be a Crown body, there were a transfer of an undertaking or business which is a relevant transfer.

(8) In this section –

“Crown body” means a body whose functions are to be exercised on behalf of the Crown;

“initial period” means the period of 3 years beginning with the day on which section 12 comes into force.”

### Clause 13

3 Leave out Clause 13

### Clause 14

4 Page 6, line 39, leave out subsection (2)

5 Page 6, line 42, leave out “transfer scheme” and insert “scheme under subsection (1) (“a transfer scheme”)”

### After Clause 17

6 Insert the following new Clause –

#### **“Determination of applications for a variation**

(1) Section 28D of the Child Support Act 1991 (c. 48) 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 Commission that consideration of further information or evidence may affect its decision under subsection (1)(a) whether or not to agree to a variation.

(2B) Before making the decision under subsection (1)(a) the Commission must –

- (a) consider any such further information or evidence that is available to it, and
- (b) where necessary, take such steps as the Commission considers appropriate to obtain any such further information or evidence.”

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

### Clause 21

7 Page 9, line 34, leave out “a current” and insert “an”

8 Page 9, leave out lines 35 to 37

- 9 Page 10, line 11, at end insert –  
“(3A) An order under this section –  
(a) may not be made in respect of an account of a prescribed description; and  
(b) may be made in respect of a joint account which is held by the person against whom the order is made and one or more other persons, and which is not of a description prescribed under paragraph (a), if (but only if) regulations made by the Secretary of State so provide.”
- 10 Page 10, line 13, leave out “current”
- 11 Page 10, line 20, leave out “account-holder in the”
- 12 Page 10, line 25, at end insert “; and  
( ) if the order is made in respect of a joint account, the other account-holders.”
- 13 Page 10, line 38, at end insert –  
**“32AA Orders under section 32A: joint accounts**  
(1) Before making an order under section 32A in respect of a joint account the Commission shall offer each of the account-holders an opportunity to make representations about –  
(a) the proposal to make the order; and  
(b) the amounts to be deducted under the order, if it is made.  
(2) The amounts to be deducted from a joint account under such an order shall not exceed the amounts that appear to the Commission to be fair in all the circumstances.  
(3) In determining those amounts the Commission shall have particular regard to –  
(a) any representations made in accordance with subsection (1)(b);  
(b) the amount contributed to the account by each of the account-holders; and  
(c) such other matters as may be prescribed.”
- 14 Page 11, line 6, leave out “a person’s credit in a current” and insert “the credit of an”
- 15 Page 11, line 11, leave out from “deposit-taker” to end of line 13 and insert “at which an order is directed to deduct from the amount standing to the credit of the account specified in the order a prescribed amount towards its administrative costs before making any deduction required by section 32A(5)(a);”
- 16 Page 11, line 15, after “made” insert “(and, in the case of an order made in respect of a joint account, to the other account-holders)”
- 17 Page 11, line 32, leave out from “which” to “order” in line 33 and insert “the deposit-taker at which an order is directed, the person against whom the order is made and (in the case of an order made in respect of a joint account) the other account-holders may apply to the Commission for it to review the”
- 18 Page 11, line 48, leave out “current”
- 19 Page 11, line 50, leave out “current”

- 20 Page 12, line 1, leave out “may” and insert “shall”
- 21 Page 12, line 2, leave out “magistrates’ court (or, in Scotland, to the sheriff)” and insert “court”
- 22 Page 12, line 8, leave out “or (as the case may be) the sheriff”
- 23 Page 12, line 13, leave out from “of” to end of line 15 and insert “the court to which the appeal under the regulations lies”

### Clause 22

- 24 Page 12, leave out lines 32 to 45 and insert –
- “(1) The Commission may make an order under this section if it appears to the Commission that a person (referred to in this section and sections 32E to 32G as “the liable person”) has failed to pay an amount of child support maintenance and –
- (a) an amount stands to the credit of an account held by the liable person with a deposit-taker; or
- (b) an amount not within paragraph (a) that is of a prescribed description is due or accruing to the liable person from another person (referred to in this section and sections 32E to 32G as the “third party”).
- (1A) An order under this section –
- (a) may not be made by virtue of subsection (1)(a) in respect of an account of a prescribed description; and
- (b) may be made by virtue of subsection (1)(a) in respect of a joint account which is held by the liable person and one or more other persons, and which is not of a description prescribed under paragraph (a) of this subsection, if (but only if) regulations made by the Secretary of State so provide.
- (1B) The Secretary of State may by regulations make provision as to conditions that are to be disregarded in determining whether an amount is due or accruing to the liable person for the purposes of subsection (1)(b).”
- 25 Page 13, line 2, after “the” insert “deposit-taker or”
- 26 Page 13, line 2, at end insert –
- “( ) if made by virtue of subsection (1)(a), shall specify the account in respect of which it is made; and”
- 27 Page 13, line 5, leave out from “32E” to end of line 17
- 28 Page 13, line 28, after “the” insert “deposit-taker or”
- 29 Page 13, line 29, at end insert “; and
- ( ) if the order is made in respect of a joint account, the other account-holders.”
- 30 Page 13, line 31, after “the” insert “deposit-taker or”
- 31 Page 13, line 39, after “the” insert “deposit-taker or”
- 32 Page 14, line 9, after first “the” insert “deposit-taker or”
- 33 Page 14, line 10, after “directed;” insert –

“( ) if the interim order was made by virtue of section 32D(1)(a), shall specify the account specified in the interim order;”

34 Page 14, line 13, after “specified” insert –

“( ) ”

35 Page 14, line 15, at end insert “; and

( ) if the order is made in respect of a joint account, shall not exceed the amount that appears to the Commission to be fair in all the circumstances.

(3A) In determining the amount to be specified in an order made in respect of a joint account the Commission shall have particular regard –

(a) to the amount contributed to the account by each of the account-holders; and

(b) to such other matters as may be prescribed.”

36 Page 14, line 26, after “the” insert “deposit-taker or”

37 Page 14, line 27, at end insert “; and

( ) if the order is made in respect of a joint account, the other account-holders.”

38 Page 14, line 28, leave out from beginning to end of line 32 on page 15 and insert –

**“32EA Orders under sections 32D and 32E: freezing of accounts etc.**

- (1) During the relevant period, an order under section 32D or 32E which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker not to do anything that would reduce the amount standing to the credit of the account below the amount specified in the order (or, if already below that amount, that would further reduce it).
- (2) During the relevant period, any other order under section 32D or 32E shall operate as an instruction to the third party at which it is directed not to do anything that would reduce the amount due to the liable person below the amount specified in the order (or, if already below that amount, that would further reduce it).
- (3) Subsections (1) and (2) have effect subject to regulations made under section 32EC(1).
- (4) In this section “the relevant period”, in relation to an order under section 32D, means the period during which the order is in force.
- (5) In this section and section 32EB “the relevant period”, in relation to an order under section 32E, means the period which –
  - (a) begins with the service of the order on the deposit-taker or third party at which it is directed; and
  - (b) (subject to subsection (6)) ends with the end of the period during which an appeal can be brought against the order by virtue of regulations under section 32G(6).
- (6) If an appeal is brought by virtue of the regulations, the relevant period ends at the time at which –
  - (a) proceedings on the appeal (including any proceedings on a further appeal) have been concluded; and

- (b) any period during which a further appeal may ordinarily be brought has ended.
- (7) References in this section and sections 32EB and 32G to the amount due to the liable person are to be read as references to the total of any amounts within section 32D(1)(b) that are due or accruing to the liable person from the third party in question.

### **32EB Orders under section 32E: deductions and payments**

- (1) Once the relevant period has ended, an order under section 32E which specifies an account held with a deposit-taker shall operate as an instruction to the deposit-taker –
- (a) if the amount standing to the credit of the account is less than the remaining amount, to pay to the Commission the amount standing to the credit of the account; and
  - (b) otherwise, to deduct from the account and pay to the Commission the remaining amount.
- (2) If an amount of arrears specified in the order remains unpaid after any payment required by subsection (1) has been made, the order shall operate until the relevant time as an instruction to the deposit-taker –
- (a) to pay to the Commission any amount (not exceeding the remaining amount) standing to the credit of the account specified in the order; and
  - (b) not to do anything else that would reduce the amount standing to the credit of the account.
- (3) Once the relevant period has ended, any other order under section 32E shall operate as an instruction to the third party at which it is directed –
- (a) if the amount due to the liable person is less than the remaining amount, to pay to the Commission the amount due to the liable person; and
  - (b) otherwise, to deduct from the amount due to the liable person and pay to the Commission the remaining amount.
- (4) If an amount of arrears specified in the order remains unpaid after any payment required by subsection (3) has been made, the order shall operate until the relevant time as an instruction to the third party –
- (a) to pay to the Commission any amount (not exceeding the remaining amount) due to the liable person; and
  - (b) not to do anything else that would reduce any amount due to the liable person.
- (5) This section has effect subject to regulations made under sections 32EC(1) and 32G(2)(c).
- (6) In this section –
- “the relevant time” means the earliest of the following –
    - (a) the time at which the remaining amount is paid;
    - (b) the time at which the order lapses or is discharged; and
    - (c) the time at which a prescribed event occurs or prescribed circumstances arise;
  - “the remaining amount”, in relation to any time, means the amount of arrears specified in the order under section 32E which remains unpaid at that time.

**32EC Power to disapply sections 32EA(1) and (2) and 32EB(2)(b) and (4)(b)**

- (1) The Secretary of State may by regulations make provision as to circumstances in which things that would otherwise be in breach of sections 32EA(1) and (2) and 32EB(2)(b) and (4)(b) may be done.
- (2) Regulations under subsection (1) may require the Commission's consent to be obtained in prescribed circumstances.
- (3) Regulations under subsection (1) which require the Commission's consent to be obtained may provide for an application for that consent to be made—
  - (a) by the deposit-taker or third party at which the order under section 32D or 32E is directed;
  - (b) by the liable person; and
  - (c) if the order is made in respect of a joint account, by any of the other account-holders.
- (4) If regulations under subsection (1) require the Commission's consent to be obtained, the Secretary of State shall by regulations provide for a person of a prescribed description to have a right of appeal to a court against the withholding of that consent.
- (5) Regulations under subsection (4) may include—
  - (a) provision with respect to the period within which a right of appeal under the regulations may be exercised;
  - (b) provision with respect to the powers of the court to which the appeal under the regulations lies.”

**39** Page 15, leave out lines 37 to 39

**40** Page 15, line 39, at end insert—

“( ) as to circumstances in which amounts standing to the credit of an account are to be disregarded for the purposes of sections 32D, 32EA and 32EB;”

**41** Page 15, leave out lines 42 to 44 and insert—

“(c) allowing a deposit-taker or third party at which an order under section 32E is directed to deduct from the amount standing to the credit of the account specified in the order, or due to the liable person, a prescribed amount towards its administrative costs before making any payment to the Commission required by section 32EB;”

**42** Page 15, line 45, after “person” insert “(and, in the case of an order made in respect of a joint account, to the other account-holders)”

**43** Page 16, line 1, after “a” insert “deposit-taker or”

**44** Page 16, leave out lines 16 to 20

**45** Page 16, line 31, leave out “magistrates’ court (or, in Scotland, to the sheriff)” and insert “court”

**46** Page 16, leave out lines 33 to 37

**47** Page 16, line 38, leave out “or (as the case may be) the sheriff”

**48** Page 16, line 42, leave out “subsections (6) and (7)” and insert “subsection (6)”

**49** Page 16, line 45, leave out from “of” to end of line 47 and insert “the court to which the appeal under the regulations lies”

**After Clause 22**

50 Insert the following new Clause –

**“Orders preventing avoidance**

After section 32H of the Child Support Act 1991 (inserted by section 22 of this Act) insert –

**“32HA Orders preventing avoidance**

- (1) The Commission may apply to the court, on the grounds that a person –
  - (a) has failed to pay an amount of child support maintenance, and
  - (b) with the intention of avoiding payment of child support maintenance, is about to make a disposition or to transfer out of the jurisdiction or otherwise deal with any property, for an order restraining or, in Scotland, interdicting the person from doing so.
- (2) The Commission may apply to the court, on the grounds that a person –
  - (a) has failed to pay an amount of child support maintenance, and
  - (b) with the intention of avoiding payment of child support maintenance, has at any time made a reviewable disposition, for an order setting aside or, in Scotland, reducing the disposition.
- (3) If the court is satisfied of the grounds mentioned in subsection (1) or (2) it may make an order under that subsection.
- (4) Where the court makes an order under subsection (1) or (2) it may make such consequential provision by order or directions as it thinks fit for giving effect to the order (including provision requiring the making of any payments or the disposal of any property).
- (5) Any disposition is a reviewable disposition for the purposes of subsection (2), unless it was made for valuable or, in Scotland, adequate consideration (other than marriage) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of an intention to avoid payment of child support maintenance.
- (6) Subsection (7) applies where an application is made under this section with respect to –
  - (a) a disposition or other dealing with property which is about to take place, or
  - (b) a disposition which took place after the making of the application on which the maintenance calculation concerned was made.
- (7) If the court is satisfied –
  - (a) in a case falling within subsection (1), that the disposition or other dealing would (apart from this section) have the



consequence of making ineffective a step that has been or may be taken to recover the amount outstanding, or

- (b) in a case falling within subsection (2), that the disposition has had that consequence,

it is to be presumed, unless the contrary is shown, that the person who disposed of or is about to dispose of or deal with the property did so or, as the case may be, is about to do so, with the intention of avoiding payment of child support maintenance.

- (8) In this section “disposition” does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.
- (9) This section does not apply to a disposition made before the coming into force of section (*Orders preventing avoidance*) of the Child Maintenance and Other Payments Act 2008.
- (10) In this section “the court” means –
- (a) in relation to England and Wales, the High Court;
- (b) in relation to Scotland, the Court of Session or the sheriff.
- (11) An order under this section interdicting a person –
- (a) is effective for such period (including an indefinite period) as the order may specify;
- (b) may, on application to the court, be varied or recalled.”

### Clause 23

51 Page 17, line 14, leave out “32H” and insert “32HA”

52 Page 17, line 14, leave out “22” and insert “(*Orders preventing avoidance*)”

### Clause 25

53 Page 18, line 16, leave out “make” and insert “apply to the court for”

54 Page 18, leave out lines 32 to 34 and insert –

- “(4A) 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.
- (4B) 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.
- (4C) The court may not take action under both this section and section 40.
- (4D) On an application under subsection (1) the court shall not question –
- (a) the liability order by reference to which the Commission acted as mentioned in paragraph (a) of that subsection; or
- (b) the maintenance calculation by reference to which that liability order was made.”

- 55 Page 18, leave out lines 39 to 41 and insert –  
“(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.”
- 56 Page 18, leave out lines 42 to 44 and insert –  
“(6A) 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.  
(6B) The court shall send to the prescribed person any travel authorisation produced to the court under subsection (6A).  
(6C) 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 Commission; and the notice shall contain such particulars and be sent in such manner and to such address as the Commission may determine.”
- 57 Page 19, line 5, at end insert –  
“( ) In this section (except for the purposes of subsection (6C)(b)) and in sections 39C to 39H, “court” means –  
(a) in relation to England and Wales, a magistrates’ court;  
(b) in relation to Scotland, the sheriff.”
- 58 Page 19, leave out lines 7 to 14 and insert –  
“( ) Disqualification by an order under section 39B shall be for such period not exceeding two years as the court may specify in the order.”
- 59 Page 19, line 15, leave out “Commission” and insert “court”
- 60 Page 19, line 18, leave out “Commission” and insert “court”
- 61 Page 19, line 18, leave out “fit” and insert “just”
- 62 Page 19, line 19, leave out “Commission” and insert “court”
- 63 Page 19, line 21, leave out “Commission” and insert “court”
- 64 Page 19, line 21, leave out “fit” and insert “just”
- 65 Page 19, line 23, leave out “Commission” and insert “court”
- 66 Page 19, line 26, leave out “Commission” and insert “court”
- 67 Page 19, line 28, leave out “order” and insert “application”
- 68 Page 19, line 31, leave out from beginning to end of line 35 on page 21
- 69 Page 21, line 37, leave out “an appeal under section 39E” and insert “making an order under section 39B”
- 70 Page 21, line 38, leave out “under section 39B was” and insert “is”
- 71 Page 21, line 40, leave out from “of” to “the” in line 42
- 72 Page 21, line 45, leave out “the person” and insert “a search under subsection (1)”
- 73 Page 22, leave out lines 1 to 25

- 74 Page 22, line 28, leave out “Commission” and insert “court”
- 75 Page 22, line 29, after first “by” insert “the Commission or”
- 76 Page 22, leave out lines 34 to 37
- 77 Page 22, line 39, leave out “Commission” and insert “court”
- 78 Page 22, line 40, after first “by” insert “the Commission or”
- 79 Page 22, line 41, at end insert –
- “(4) The Commission 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.
- (5) The court may exercise the powers conferred on it by subsection (1) or (3) without the need for an application where money found on a search under section 39F(1) is applied towards payment of the amount specified in the order under section 39B.
- (6) Where a court makes an order under this section, it shall send notice of that fact to the Commission; and the notice shall contain such particulars and be sent in such manner and to such address as the Commission may determine.”
- 80 Page 22, line 43, leave out from “regulations” to beginning of line 20 on page 23 and insert –
- “(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”
- 81 Page 23, line 22, at end insert –

### **“39IA Application of sections 39B and 39I to Scotland**

- (1) In their application to Scotland, sections 39B and 39I have effect with the following modifications.
- (2) In section 39B(4C) for “section 40” substitute “section 40A”.
- (3) For section 39I substitute –

#### **“39I 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 39H 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
- (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).””

**Clause 26**

82 Page 23, line 24, leave out “39I” and insert “39IA”

**Clause 27**

83 Page 30, line 3, leave out “liable person” and insert “person searched”

84 Page 30, line 46, leave out “liable person” and insert “person searched”

**Clause 28**

85 Page 32, line 8, leave out “liable person” and insert “person searched”

**Clause 30**

86 Page 32, line 40, leave out “may” and insert “must”

87 Page 32, line 41, at end insert –

- “(3) The regulations must provide that unless one of the conditions in subsection (4) is satisfied the Commission may not exercise the power under subsection (1) without the appropriate consent.
- (4) The conditions are –
- (a) that the Commission would be entitled to retain the whole of the arrears under section 41(2) if it recovered them;
  - (b) that the Commission would be entitled to retain part of the arrears under section 41(2) if it recovered them, and the part of the arrears that the Commission 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.””

**Clause 32**

88 Page 33, line 25, at end insert –

- “(2A) Regulations under subsection (1) must provide that unless one of the conditions in subsection (2B) is satisfied the Commission may not enter into transfer arrangements in relation to arrears of child support maintenance without the appropriate consent.
- (2B) The conditions are—
- (a) that the Commission would be entitled to retain the whole of the arrears under section 41(2) if it recovered them;
  - (b) that the Commission would be entitled to retain part of the arrears under section 41(2) if it recovered them, and the part of the arrears that the Commission would not be entitled to retain is equal to or less than the transfer payment.
- (2C) In subsection (2B)(b), “transfer payment” means—
- (a) the payment that the Commission would receive from the transferee on the arrangements taking effect, and
  - (b) such other payments under the transfer arrangements as may be prescribed.
- (2D) 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.
- (2E) 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 (2F) applies, the written consent of the person with care of that child.
- (2F) 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.”

89 Page 33, line 32, at end insert—

- “(d) provide that a payment made to the Commission under transfer arrangements may be treated for prescribed purposes as if it were a payment of child support maintenance.”

#### After Clause 36

90 Insert the following new Clause—

#### “Disclosure of information relating to family proceedings

- (1) After section 49A of the Child Support Act 1991 (c. 48) (inserted by section 32 of this Act), insert—

#### “49AA Disclosure of information relating to family proceedings

- (1) Where this section applies, a disclosure of information relating to family proceedings, made to the Commission, or to a person providing services to the Commission, 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 Commission’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 Commission’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.

#### **49AB Meaning of “family proceedings”**

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

#### Clause 37

- 91 Page 35, line 20, leave out “49A” and insert “49AB”
- 92 Page 35, line 20, leave out “32” and insert “(*Disclosure of information relating to family proceedings*)”

#### Clause 50

- 93 Page 40, line 39, at end insert –  
     “( ) No regulations may be made under any provision of section 44 if they are the first regulations to be made under that section, unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

#### Clause 52

- 94 Page 42, line 31, leave out from beginning to “unless” and insert “A statutory instrument containing –  
     (a) regulations under section 6(1) or (4),  
     (b) the first regulations under paragraphs 2(1), 3(1), 5(1) or (2), 6(1) or (3) or 7 of Schedule 5, or  
     (c) an order under section (*Review of the status of the Commission*)(6),  
 shall not be made”
- 95 Page 42, line 32, after “regulations” insert “or order”

#### Clause 56

- 96 Page 43, line 30, after “32G,” insert “32HA,”
- 97 Page 43, line 30, after “49A” insert “, 49AA”
- 98 Page 43, line 34, after “32G,” insert “32HA,”
- 99 Page 43, line 34, leave out “39E” and insert “39B”
- 100 Page 43, line 34, after “40,” insert “40A,”
- 101 Page 43, line 34, leave out “and 40B” and insert “, 40B and 49AA”
- 102 Page 43, line 37, leave out “39E”
- 103 Page 43, line 39, at end insert –  
     “( ) An order may be made under section 32I of the Child Support Act 1991 (c. 48) 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.”

### Clause 59

104 Page 44, line 25, at end insert –

“( ) 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.”

105 Page 44, line 25, at end insert –

“( ) An order under subsection (3) appointing the day on which section (*Disclosure of information relating to family proceedings*) is to come into force in England and Wales may be made only with the consent of the Lord Chancellor.”

### Schedule 1

106 Page 47, line 21, leave out “, who is to be an employee of the Commission”

107 Page 47, line 22, at end insert –

“( ) The chief executive is employed in the civil service of the State.”

108 Page 47, line 26, after “may” insert “, with the approval of the Minister for the Civil Service,”

109 Page 47, line 32, at end insert “and the Minister for the Civil Service”

110 Page 47, line 33, leave out “employees” and insert “staff”

111 Page 47, line 36, after “may” insert “, with the approval of the Minister for the Civil Service,”

112 Page 50, line 31, leave out paragraph 22 and insert –

“22 (1) The functions of the Commission, and of its members, are to be exercised on behalf of the Crown.

(2) For the purposes of any civil proceedings arising out of those functions –

(a) the Crown Proceedings Act 1947 (c. 44) applies to the Commission as if it were a government department, and

(b) the Crown Suits (Scotland) Act 1857 (c. 44) applies to it as if it were a public department.”

113 Page 51, line 6, leave out paragraph 24

114 Page 51, line 36, leave out sub-paragraph (1)

115 Page 52, line 1, leave out from “increase” to end of line 2 and insert “in the sums payable out of money provided by Parliament that is attributable to the provision of relevant pensions”

116 Page 52, line 2, at end insert –

“( ) In sub-paragraph (2), “relevant pensions” means pensions, allowances or gratuities under section 1 of the Superannuation Act 1972 (c. 11)

payable to or in respect of persons who are or have been in the service of the Commission.”

- 117 Page 52, line 24, leave out “employees of the Commission” and insert “staff appointed under paragraph 10”

#### Schedule 6

- 118 Page 69, line 13, after first “tax,” insert “contributions,”

- 119 Page 69, line 21, at end insert –

“( ) In this paragraph, “contributions” means contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4).”

#### Schedule 7

- 120 Page 72, line 28, after ““court”” insert “(except for the purposes of subsection (8)(c))”

- 121 Page 73, line 21, leave out “32D(2)(b),” and insert “32A to 32B, 32D to 32G,”

- 122 Page 73, line 28, leave out “39D(3), 39E(3),”

- 123 Page 73, line 28, after “39I,” insert “39O(4)”

- 124 Page 73, line 39, at end insert –

“( ) 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.”

#### Schedule 8

- 125 Page 80, line 4, at end insert –

“Tribunals, Courts and  
Enforcement Act 2007 (c. 15)

In Schedule 13, paragraphs 96 and 97.”

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LORDS AMENDMENTS TO THE  
CHILD MAINTENANCE AND  
OTHER PAYMENTS BILL

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