

SCHEDULES

SCHEDULE 3

Section 13

TRANSFER OF CHILD SUPPORT FUNCTIONS

PART 1

CONSEQUENTIAL AMENDMENTS

Child Support Act 1991 (c. 48)

- 1 The Child Support Act 1991 (c. 48) is amended as follows.
- 2 In section 2 (welfare of children: the general principle)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”;
 - (c) for “his” substitute “its”.
- 3 (1) Section 4 (child support maintenance) is amended as follows.
 - (2) In subsection (1), for “Secretary of State” substitute “Commission”.
 - (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.
 - (4) In subsection (3)—
 - (a) for “Secretary of State” (in both places where it occurs) substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (5) In subsection (4), for “Secretary of State” (in the first and third places where it occurs) substitute “Commission”.
 - (6) In subsection (5)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.
 - (7) In subsections (6) and (7), for “Secretary of State” substitute “Commission”.
- 4 (1) Section 6 (applications by those claiming or receiving benefit) is amended as follows.
 - (2) After subsection (2) insert—

“(2A) The Secretary of State must notify the Commission of circumstances giving rise to the application of this section.”
 - (3) In subsections (3) and (4), for “Secretary of State” substitute “Commission”.

Status: This is the original version (as it was originally enacted).

- (4) In subsection (5)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.
- (5) In subsection (7), for “Secretary of State's” substitute “Commission's”.
- (6) In subsection (8), for “Secretary of State” substitute “Commission”.
- (7) In subsection (9)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
- (8) In subsection (10), for “Secretary of State” substitute “Commission”.
- (9) In subsection (11), for “he” (in the second place where it occurs) substitute “the Commission”.
- (10) In subsection (12), for “Secretary of State's” substitute “Commission's”.
- 5 (1) Section 7 (right of child in Scotland to apply for calculation) is amended as follows.
 - (2) In subsections (1) and (2), for “Secretary of State” substitute “Commission”.
 - (3) In subsection (3)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.
 - (4) In subsection (4)—
 - (a) for “Secretary of State” (in both places where it occurs) substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (5) In subsection (5), for “Secretary of State” (in the first and third places where it occurs) substitute “Commission”.
 - (6) In subsections (6) and (7), for “Secretary of State” substitute “Commission”.
 - (7) In subsection (8)(b), for “Secretary of State” substitute “Commission”.
- 6 In section 8 (role of the courts with respect to maintenance for children), in subsections (1) and (2), for “Secretary of State” substitute “Commission”.
- 7 (1) Section 10 (relationship between maintenance calculations and certain court orders etc.) is amended as follows.
 - (2) In subsection (4)—
 - (a) for “Secretary of State” (in the second and third places where it occurs) substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (3) In subsection (5), for “Secretary of State” substitute “Commission”.
- 8 (1) Section 11 (maintenance calculations) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (4) In subsection (3)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “the Commission”.
 - (5) In subsection (4)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “the Commission”;
 - (c) for “him” substitute “the Commission”.
 - (6) In subsection (5)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “the Commission”.
 - (7) In subsection (7)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
- 9 (1) Section 12 (default and interim maintenance decisions) is amended as follows.
- (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him”, in the first place where it occurs, substitute “the Commission” and, in the second place where it occurs, substitute “it”;
 - (c) for “he” (in both places where it occurs) substitute “it”.
 - (3) In subsection (2), for “Secretary of State” substitute “Commission”.
- 10 (1) Section 14 (information required by Secretary of State) is amended as follows.
- (2) In the title, for “Secretary of State” substitute “Commission”.
 - (3) In subsection (3), for “him” (in both places where it occurs) substitute “the Commission”.
 - (4) In subsection (4), for “Secretary of State” substitute “Commission”.
- 11 (1) Section 15 (powers of inspectors) is amended as follows.
- (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (3) In subsection (2), for “Secretary of State” substitute “Commission”.
- 12 In section 16 (revision of decisions)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “his” (in each place where it occurs) substitute “its”;
 - (c) for “he” (in each place where it occurs) substitute “it”;
 - (d) for “him” substitute “it”.

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- 13 In section 17 (decisions superseding earlier decisions)—
- (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “his” (in each place where it occurs) substitute “its”;
 - (c) for “him” substitute “it”.
- 14 (1) Section 20 (appeals to appeal tribunals) is amended as follows.
- (2) In subsections (1)(a) and (b), (2)(a)(i), (7)(b) and (8)(b), for “Secretary of State” substitute “Commission”.
- 15 In section 23A (redetermination of appeals), in subsection (4), before paragraph (a) insert—
- “(za) the Commission;”.
- 16 (1) Section 24 (appeal to Child Support Commissioner) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Each of the following may appeal to a Child Support Commissioner on a question of law—
- (a) the Commission,
 - (b) the Secretary of State, and
 - (c) any person who is aggrieved by the decision of an appeal tribunal.”
- (3) In subsection (3)(c) and (d), before “the Secretary of State” insert “the Commission or”.
- (4) In subsection (4)—
- (a) before “the Secretary of State” insert “the Commission or”;
 - (b) for “to an officer of his, or a person providing him with services,” substitute “to an officer of, or a person providing services to, the Commission or the Secretary of State,”.
- (5) In subsection (8), before “the Secretary of State” (in both places where it occurs) insert “the Commission or”.
- 17 In section 25 (appeal from Child Support Commissioner on question of law), in subsection (3), after paragraph (a) insert—
- “(aa) the Commission;”.
- 18 In section 26 (disputes about parentage), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 19 In section 27 (applications for declaration of parentage) for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 20 In section 27A (recovery of fees for scientific tests)—
- (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “him” (in each place where it occurs) substitute “it”.
- 21 In section 28 (power to initiate or defend actions of declarator), for “Secretary of State” (in each place where it occurs, including the title) substitute “Commission”.
- 22 In section 28ZA (decisions involving issues that arise on appeal in other cases)—

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- (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” (in each place where it occurs) substitute “it”;
 - (c) for “his” substitute “its”.
- 23 In section 28ZB (appeals involving issues that arise on appeal in other cases)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” (in both places where it occurs) substitute “the Commission”;
 - (c) for “him” substitute “the Commission”;
 - (d) for “his” substitute “its”.
- 24 In section 28ZC (restrictions on liability in certain cases of error), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 25 In section 28A (application for variation of usual rules for calculating maintenance), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 26 (1) Section 28B (preliminary consideration of applications) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (3) In subsection (2)—
 - (a) for “he” (in the first place where it occurs) substitute “the Commission”;
 - (b) for “he” (in each other place where it occurs) substitute “it”;
 - (c) for “his” (in both places where it occurs) substitute “its”;
 - (d) for “him” substitute “the Commission”.
- 27 In section 28C (imposition of regular payments condition), in subsections (1) and (3) to (7)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” (in each place where it occurs) substitute “it”;
 - (c) for “his” (in each place where it occurs) substitute “its”.
- 28 In section 28D (determination of applications)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” substitute “it”.
- 29 In section 28E (matters to be taken into account)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “him” substitute “it”.
- 30 In section 28F (agreement to variation)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” (in each place where it occurs) substitute “it”;
 - (c) for “his” (in each place where it occurs) substitute “its”.
- 31 In section 28J (voluntary payments), in subsections (1), (2) and (4)—

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- (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” (in each place where it occurs) substitute “it”.
- 32 (1) Section 29 (collection of child support maintenance) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “Secretary of State” (in both places where it occurs) substitute “Commission”;
 - (b) in paragraph (b), for “him” substitute “it”.
 - (3) In subsection (3), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 33 (1) Section 30 (collection and enforcement of other forms of maintenance) is amended as follows.
 - (2) In subsections (1), (2) and (3)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) for “he” (in each place where it occurs) substitute “it”.
 - (3) In subsection (4)—
 - (a) for “him” substitute “the Commission”;
 - (b) for “he” (in the second place where it occurs) substitute “it”.
 - (4) In subsection (5)—
 - (a) for “him” (in both places where it occurs) substitute “the Commission”;
 - (b) for “he” (in the first place where it occurs) substitute “it”.
- 34 In section 31 (deduction from earnings orders)—
 - (a) for “Secretary of State” (in each place where it occurs) substitute “Commission”;
 - (b) in subsection (6), for “he” substitute “it”.
- 35 In section 32 (regulations about deduction from earnings orders), in subsections (2) and (3), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 36 In section 33 (liability orders), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- 37 In section 34 (regulations about liability orders), in subsections (1)(a) and (c) and (2), for “Secretary of State” substitute “Commission”.
- 38 (1) Section 35 (enforcement of liability orders by distress) is amended as follows.
 - (2) In subsection (1), for “Secretary of State” substitute “Commission”.
 - (3) In subsection (3)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “his” substitute “its”.
- 39 In section 37 (regulations about liability orders), in subsection (2), for “Secretary of State” (in the second place where it occurs) substitute “Commission”.

- 40 In section 38 (enforcement of liability orders by diligence), subsection (1) is amended as follows—
- (a) in paragraph (a), for “Secretary of State” substitute “Commission”;
 - (b) in paragraph (aa) (inserted by paragraph 18(a)(i) of schedule 5 to the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)), for “Secretary of State” substitute “Commission”;
 - (c) in the words at the end, the reference to the Secretary of State (in effect repealed by paragraph 18(a)(ii) of that schedule) has effect until the coming into force of that paragraph as a reference to the Commission.
- 41 In section 39A (commitment to prison and disqualification from driving)—
- (a) for “Secretary of State” (in both places where it occurs) substitute “Commission”;
 - (b) in subsections (1) and (4), for “he” substitute “it”.
- 42 (1) Section 40B (disqualification from driving) is amended as follows.
- (2) In subsections (5) to (8), for “Secretary of State” (in each place where it occurs) substitute “Commission”.
- (3) In subsection (9)—
- (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
- 43 (1) Section 41 (arrears of child support maintenance) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “Commission”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” (in both places where it occurs) substitute “it”.
- (4) In subsection (6)—
- (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.
- 44 (1) Section 41A (penalty payments) is amended as follows.
- (2) In subsection (1), for “him” substitute “the Commission”.
- (3) In subsections (2) and (4), for “Secretary of State” substitute “Commission”.
- (4) In subsection (6)—
- (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
- 45 (1) Section 41B (repayment of overpaid child support maintenance) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “Commission”.
- (3) In subsection (1A)—
- (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.

Status: This is the original version (as it was originally enacted).

- (4) In subsection (2), for “Secretary of State” (in both places where it occurs) substitute “Commission”.
- (5) In subsection (3)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”;
 - (c) for “him” substitute “it”.
- (6) In subsections (4), (5) and (6)(a), for “Secretary of State” substitute “Commission”.
- (7) In subsection (9)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “him” substitute “it”.
- 46 In section 44 (jurisdiction), in subsection (1), for “Secretary of State” substitute “Commission”.
- 47 In section 46 (reduced benefit decisions), in subsection (3)(a), for “Secretary of State” substitute “Commission”.
- 48 In section 46A (finality of decisions), in subsection (1), after “decision of” insert “the Commission,”.
- 49 In section 46B (matters arising as respects decisions), in subsection (1)(a), for “Secretary of State” substitute “Commission”.
- 50 In section 48 (right of audience), in subsection (1), for “Secretary of State” (in both places where it occurs) substitute “Commission”.
- 51 After section 50 insert—

“50A Use of computers

Any decision falling to be made under or by virtue of this Act by the Commission may be made, not only by a person authorised to exercise the Commission’s decision-making function, but also by a computer for whose operation such a person is responsible.”

- 52 (1) Schedule 1 (maintenance calculations) is amended as follows.
 - (2) In paragraph 7(3), for “Secretary of State” substitute “Commission”.
 - (3) In paragraph 10(2)—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “his” substitute “its”.
 - (4) In paragraph 10B(a), for “Secretary of State” (in both places where it occurs) substitute “Commission”.
 - (5) In paragraphs 12 and 13, for “Secretary of State” substitute “Commission”.
 - (6) In paragraph 15—
 - (a) for “Secretary of State” substitute “Commission”;
 - (b) for “he” substitute “it”.
 - (7) In paragraph 16(10), for “Secretary of State” (in both places where it occurs) substitute “Commission”.

- 53 In paragraph 4 of Schedule 4A, for “Secretary of State” (in both places where it occurs) substitute “Commission”.

Social Security Act 1998 (c. 14)

- 54 In paragraph 10 of Schedule 1 to the Social Security Act 1998 (c. 14) (report on the standards achieved in the making of decisions against which an appeal lies to an appeal tribunal), after “Secretary of State” (in the first and second places where it occurs) insert “and the Child Maintenance and Enforcement Commission”.

PART 2

TRANSITIONAL PROVISION AND SAVINGS

- 55 (1) Anything which—
- (a) relates to any function transferred to the Commission by virtue of section 13, and
 - (b) immediately before commencement, is in the process of being done by or in relation to the Secretary of State,
- may be continued by or in relation to the Commission.
- (2) Anything done (or having effect as if done) by or in relation to the Secretary of State before commencement for the purpose of, or in connection with, any function transferred by virtue of section 13 shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Commission.
- (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 section 13, as if any reference to the Secretary of State were a reference to the Commission.
- (4) Nothing in section 13, this Schedule or Schedule 2 shall—
- (a) affect the validity of anything done by or in relation to the Secretary of State before commencement;
 - (b) affect the responsibility of the Secretary of State for anything done or omitted before commencement;
 - (c) enable legal proceedings relating to anything done or omitted before commencement to be brought, or continued, against the Commission.
- (5) In this paragraph, “commencement” means the coming into force of section 13.