Child Maintenance and Other Payments Act 2008

2008 CHAPTER 6

PART 3

CHILD SUPPORT ETC.

Collection and enforcement

24 Orders preventing avoidance

After section 32K of the Child Support Act 1991 (inserted by section 23 of this Act) insert—

"**32L 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 24 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."