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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Child Maintenance and Other Payments Act 2008 (c. 6) (“the 2008 Act”) for the purpose of applying new rules for calculating child support maintenance to certain applications made on or after 29th July 2013 and certain cases linked to those applications.

The 2008 Act amends the statutory scheme for calculation, collection and enforcement of child support maintenance, as originally set out in the Child Support Act 1991 (c. 48) (“the 1991 Act”) and amended by the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”). The amendments made by the 2000 Act were brought into force by the Child Support, Pensions and Social Security Act 2000 (Commencement No.12) Order 2003 (S.I. 2003/192) for new applications after 3rd March 2003 and for existing cases related to such applications. However, the original provisions of the 1991 Act remained in force for a substantial number of cases, effectively resulting in two separate schemes. The 2008 Act makes further amendments to the rules for calculating child support maintenance. These provisions together constitute a third scheme (“the new calculation rules”). The Child Maintenance and Other Payments Act 2008 (Commencement No. 10 and Transitional Provisions) Order 2012 (S.I. 2012/3042) (“the 2012 Order”) brought the majority of the amendments made by the 2008 Act into force for new applications made on or after 10th December 2012 where there were four or more children with the same person with care and non-resident parent and no existing case with the same person with care and non-resident parent and for certain existing cases related to such applications.

Article 2 brings into force the majority of the amendments made to the new calculation rules on 29th July 2013 for the purposes of certain types of cases, which are set out in article 3.

Article 3 provides that the cases to which the new calculation rules will apply are those new applications made on or after 29th July 2013 which relate to two or three qualifying children with both the same person with care and non-resident parent, where there is no existing case with the same person with care and the same non-resident parent. For the purposes of considering whether there is an existing case, article 3(5) makes provision so that any case voluntarily closed in the thirteen weeks preceding the new application will still be considered an existing case and prevent the new calculation rules applying.

The new calculation rules will also apply to any existing case in which the non-resident parent named in the new application is also the non-resident parent and there is a different parent with care (article 3(3)). The new calculation rules will also apply to any existing case in which the non-resident parent is the partner of a non-resident parent named in a new application, and either of those non-resident parents claims a prescribed benefit (article 3(4)).

Article 4 brings into force a repeal relating to pilot schemes on 29th July 2013.

Article 5 makes transitional provision so that the new calculation rules only apply to the existing case from the date the calculation made in response to the new application takes effect.

Article 6 omits a transitional provision in relation to the maintenance calculation from the 2012 Order, with effect from 29th July 2013.

Article 7 makes transitional provision in relation to the maintenance calculation. During the period beginning on 29th July 2013 and ending when the new scheme rules are commenced for all purposes, three provisions of the Child Support Maintenance Calculation Regulations 2012 are to be read as if additional words were inserted. The effect of this is as follows. Article 7(1)(a) allows a non-resident parent’s gross weekly income to be calculated on the basis of current income if the Secretary of

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State is unable to request or obtain information from HMRC. Article 7(1)(b) allows the Secretary of State to estimate income where the Secretary of State is unable to request or obtain information from HMRC and the current income information available is insufficient or unreliable. Article 7(1)(c) allows the Secretary of State, in cases where the Secretary of State is unable to request or obtain information from HMRC, to determine the amount of a non-resident parent's unearned income by reference to the most recent tax year, based, as far as possible, on information that would be required to be provided in a self-assessment tax return.