



# Child Maintenance and Other Payments Act 2008

## 2008 CHAPTER 6

### PART 3

#### CHILD SUPPORT ETC.

#### *Miscellaneous*

PROSPECTIVE

### **39 Disclosure of information relating to family proceedings**

- (1) After section 49A of the Child Support Act 1991 (inserted by section 34 of this Act), insert—

#### **“49B Disclosure of information relating to family proceedings**

- (1) Where this section applies, a disclosure of information relating to family proceedings made to the [<sup>F1</sup>Secretary of State for the purposes of the Secretary of State's functions relating to child support], or to a person providing services to the [<sup>F2</sup>Secretary of State for those purposes], 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—
- the party is a person with care or non-resident parent in relation to a child,
  - child support maintenance is payable, or an application for a maintenance calculation has been made, in respect of the child, and

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- (c) the party reasonably considers that the information is relevant to the exercise of the [F<sup>3</sup>Secretary of State'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 [F<sup>3</sup>Secretary of State'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.

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

- (1) In section 49B, “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 1985;
  - (f) proceedings relating to an action for aliment within the meaning of section 2 of that Act;

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- (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 49B 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.”

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#### **Textual Amendments**

- F1** Words in s. 39 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 87(2)(a)**
- F2** Words in s. 39 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 87(2)(b)**
- F3** Words in s. 39 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), **Sch. para. 87(3)**

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Child Maintenance and Other Payments Act 2008, Section 39.