

## SCHEDULES

### SCHEDULE 1

Section 11.

#### MAINTENANCE ASSESSMENTS

#### PART I

#### CALCULATION OF CHILD SUPPORT MAINTENANCE

##### *The maintenance requirement*

- 1 (1) In this Schedule “the maintenance requirement” means the amount, calculated in accordance with the formula set out in sub-paragraph (2), which is to be taken as the minimum amount necessary for the maintenance of the qualifying child or, where there is more than one qualifying child, all of them.

- (2) The formula is—

$$\mathbf{MR = AG - CB}$$

where—

MR is the amount of the maintenance requirement;

AG is the aggregate of the amounts to be taken into account under sub-paragraph (3); and

CB is the amount payable by way of child benefit (or which would be so payable if the person with care of the qualifying child were an individual) or, where there is more than one qualifying child, the aggregate of the amounts so payable with respect to each of them.

- (3) The amounts to be taken into account for the purpose of calculating AG are—
- (a) such amount or amounts (if any), with respect to each qualifying child, as may be prescribed;
  - (b) such amount or amounts (if any), with respect to the person with care of the qualifying child or qualifying children, as may be prescribed; and
  - (c) such further amount or amounts (if any) as may be prescribed.
- (4) For the purposes of calculating CB it shall be assumed that child benefit is payable with respect to any qualifying child at the basic rate.
- (5) In sub-paragraph (4) “basic rate” has the meaning for the time being prescribed.

##### *The general rule*

- 2 (1) In order to determine the amount of any maintenance assessment, first calculate—

$$\mathbf{(A + C) \times P}$$

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where—

A is the absent parent's assessable income;

C is the assessable income of the other parent, where that parent is the person with care, and otherwise has such value (if any) as may be prescribed; and

P is such number greater than zero but less than 1 as may be prescribed.

- (2) Where the result of the calculation made under sub-paragraph (1) is an amount which is equal to, or less than, the amount of the maintenance requirement for the qualifying child or qualifying children, the amount of maintenance payable by the absent parent for that child or those children shall be an amount equal to—

$$A \times P$$

where A and P have the same values as in the calculation made under sub-paragraph (1).

- (3) Where the result of the calculation made under sub-paragraph (1) is an amount which exceeds the amount of the maintenance requirement for the qualifying child or qualifying children, the amount of maintenance payable by the absent parent for that child or those children shall consist of—

- (a) a basic element calculated in accordance with the provisions of paragraph 3; and
- (b) an additional element calculated in accordance with the provisions of paragraph 4.

#### *The basic element*

- 3 (1) The basic element shall be calculated by applying the formula—

$$BE = A \times G \times P$$

where—

BE is the amount of the basic element;

A and P have the same values as in the calculation made under paragraph 2(1); and

G has the value determined under sub-paragraph (2).

- (2) The value of G shall be determined by applying the formula—

$$G = \frac{MR}{(A + C) \times P}$$

where—

MR is the amount of the maintenance requirement for the qualifying child or qualifying children; and

A, C and P have the same values as in the calculation made under paragraph 2(1).

#### *The additional element*

- 4 (1) Subject to sub-paragraph (2), the additional element shall be calculated by applying the formula—

$$AE = (1 - G) \times A \times R$$

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where—

- AE is the amount of the additional element;
- A has the same value as in the calculation made under paragraph 2(1);
- G has the value determined under paragraph 3(2); and
- R is such number greater than zero but less than 1 as may be prescribed.

- (2) Where applying the alternative formula set out in sub-paragraph (3) would result in a lower amount for the additional element, that formula shall be applied in place of the formula set out in sub-paragraph (1).

- (3) The alternative formula is—

$$AE = Z \times Q \times \left( \frac{A}{A + C} \right)$$

where—

- A and C have the same values as in the calculation made under paragraph 2(1);
- Z is such number as may be prescribed; and
- Q is the aggregate of—

- (a) any amount taken into account by virtue of paragraph 1(3)(a) in calculating the maintenance requirement; and
- (b) any amount which is both taken into account by virtue of paragraph 1(3)(c) in making that calculation and is an amount prescribed for the purposes of this paragraph.

#### *Assessable income*

- 5 (1) The assessable income of an absent parent shall be calculated by applying the formula—

$$A = N - E$$

where—

- A is the amount of that parent's assessable income;
- N is the amount of that parent's net income, calculated or estimated in accordance with regulations made by the Secretary of State for the purposes of this sub-paragraph; and
- E is the amount of that parent's exempt income, calculated or estimated in accordance with regulations made by the Secretary of State for those purposes.

- (2) The assessable income of a parent who is a person with care of the qualifying child or children shall be calculated by applying the formula—

$$C = M - F$$

where—

- C is the amount of that parent's assessable income;
- M is the amount of that parent's net income, calculated or estimated in accordance with regulations made by the Secretary of State for the purposes of this sub-paragraph; and
- F is the amount of that parent's exempt income, calculated or estimated in accordance with regulations made by the Secretary of State for those purposes.

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- (3) Where the preceding provisions of this paragraph would otherwise result in a person's assessable income being taken to be a negative amount his assessable income shall be taken to be nil.
- (4) Where income support or any other benefit of a prescribed kind is paid to or in respect of a parent who is an absent parent or a person with care that parent shall, for the purposes of this Schedule, be taken to have no assessable income.

*Protected income*

- 6 (1) This paragraph applies where—
  - (a) one or more maintenance assessments have been made with respect to an absent parent; and
  - (b) payment by him of the amount, or the aggregate of the amounts, so assessed would otherwise reduce his disposable income below his protected income level.
- (2) The amount of the assessment, or (as the case may be) of each assessment, shall be adjusted in accordance with such provisions as may be prescribed with a view to securing so far as is reasonably practicable that payment by the absent parent of the amount, or (as the case may be) aggregate of the amounts, so assessed will not reduce his disposable income below his protected income level.
- (3) Regulations made under sub-paragraph (2) shall secure that, where the prescribed minimum amount fixed by regulations made under paragraph 7 applies, no maintenance assessment is adjusted so as to provide for the amount payable by an absent parent in accordance with that assessment to be less than that amount.
- (4) The amount which is to be taken for the purposes of this paragraph as an absent parent's disposable income shall be calculated, or estimated, in accordance with regulations made by the Secretary of State.
- (5) Regulations made under sub-paragraph (4) may, in particular, provide that, in such circumstances and to such extent as may be prescribed—
  - (a) income of any child who is living in the same household with the absent parent; and
  - (b) where the absent parent is living together in the same household with another adult of the opposite sex (regardless of whether or not they are married), income of that other adult,
 is to be treated as the absent parent's income for the purposes of calculating his disposable income.
- (6) In this paragraph the "protected income level" of a particular absent parent means an amount of income calculated, by reference to the circumstances of that parent, in accordance with regulations made by the Secretary of State.

*The minimum amount of child support maintenance*

- 7 (1) The Secretary of State may prescribe a minimum amount for the purposes of this paragraph.
- (2) Where the amount of child support maintenance which would be fixed by a maintenance assessment but for this paragraph is nil, or less than the prescribed

minimum amount, the amount to be fixed by the assessment shall be the prescribed minimum amount.

- (3) In any case to which section 43 applies, and in such other cases (if any) as may be prescribed, sub-paragraph (2) shall not apply.

#### *Housing costs*

- 8 Where regulations under this Schedule require a child support officer to take account of the housing costs of any person in calculating, or estimating, his assessable income or disposable income, those regulations may make provision—
- (a) as to the costs which are to be treated as housing costs for the purpose of the regulations;
  - (b) for the apportionment of housing costs; and
  - (c) for the amount of housing costs to be taken into account for prescribed purposes not to exceed such amount (if any) as may be prescribed by, or determined in accordance with, the regulations.

#### *Regulations about income and capital*

- 9 The Secretary of State may by regulations provide that, in such circumstances and to such extent as may be prescribed—
- (a) income of a child shall be treated as income of a parent of his;
  - (b) where the child support officer concerned is satisfied that a person has intentionally deprived himself of a source of income with a view to reducing the amount of his assessable income, his net income shall be taken to include income from that source of an amount estimated by the child support officer;
  - (c) a person is to be treated as possessing capital or income which he does not possess;
  - (d) capital or income which a person does possess is to be disregarded;
  - (e) income is to be treated as capital;
  - (f) capital is to be treated as income.

#### *References to qualifying children*

- 10 References in this Part of this Schedule to “qualifying children” are to those qualifying children with respect to whom the maintenance assessment falls to be made.

## **PART II**

### **GENERAL PROVISIONS ABOUT MAINTENANCE ASSESSMENTS**

#### *Effective date of assessment*

- 11 (1) A maintenance assessment shall take effect on such date as may be determined in accordance with regulations made by the Secretary of State.
- (2) That date may be earlier than the date on which the assessment is made.

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*Form of assessment*

- 12 Every maintenance assessment shall be made in such form and contain such information as the Secretary of State may direct.

*Assessments where amount of child support is nil*

- 13 A child support officer shall not decline to make a maintenance assessment only on the ground that the amount of the assessment is nil.

*Consolidated applications and assessments*

- 14 The Secretary of State may by regulations provide—
- (a) for two or more applications for maintenance assessments to be treated, in prescribed circumstances, as a single application; and
  - (b) for the replacement, in prescribed circumstances, of a maintenance assessment made on the application of one person by a later maintenance assessment made on the application of that or any other person.

*Separate assessments for different periods*

- 15 Where a child support officer is satisfied that the circumstances of a case require different amounts of child support maintenance to be assessed in respect of different periods, he may make separate maintenance assessments each expressed to have effect in relation to a different specified period.

*Termination of assessments*

- 16 (1) A maintenance assessment shall cease to have effect—
- (a) on the death of the absent parent, or of the person with care, with respect to whom it was made;
  - (b) on there no longer being any qualifying child with respect to whom it would have effect;
  - (c) on the absent parent with respect to whom it was made ceasing to be a parent of—
    - (i) the qualifying child with respect to whom it was made; or
    - (ii) where it was made with respect to more than one qualifying child, all of the qualifying children with respect to whom it was made;
  - (d) where the absent parent and the person with care with respect to whom it was made have been living together for a continuous period of six months;
  - (e) where a new maintenance assessment is made with respect to any qualifying child with respect to whom the assessment in question was in force immediately before the making of the new assessment.
- (2) A maintenance assessment made in response to an application under section 4 or 7 shall be cancelled by a child support officer if the person on whose application the assessment was made asks him to do so.
- (3) A maintenance assessment made in response to an application under section 6 shall be cancelled by a child support officer if—
- (a) the person on whose application the assessment was made (“the applicant”) asks him to do so; and

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- (b) he is satisfied that the applicant has ceased to fall within subsection (1) of that section.
- (4) Where a child support officer is satisfied that the person with care with respect to whom a maintenance assessment was made has ceased to be a person with care in relation to the qualifying child, or any of the qualifying children, with respect to whom the assessment was made, he may cancel the assessment with effect from the date on which, in his opinion, the change of circumstances took place.
- (5) Where—
  - (a) at any time a maintenance assessment is in force but a child support officer would no longer have jurisdiction to make it if it were to be applied for at that time; and
  - (b) the assessment has not been cancelled, or has not ceased to have effect, under or by virtue of any other provision made by or under this Act,it shall be taken to have continuing effect unless cancelled by a child support officer in accordance with such prescribed provision (including provision as to the effective date of cancellation) as the Secretary of State considers it appropriate to make.
- (6) Where both the absent parent and the person with care with respect to whom a maintenance assessment was made request a child support officer to cancel the assessment, he may do so if he is satisfied that they are living together.
- (7) Any cancellation of a maintenance assessment under sub-paragraph (5) or (6) shall have effect from such date as may be determined by the child support officer.
- (8) Where a child support officer cancels a maintenance assessment, he shall immediately notify the absent parent and person with care, so far as that is reasonably practicable.
- (9) Any notice under sub-paragraph (8) shall specify the date with effect from which the cancellation took effect.
- (10) A person with care with respect to whom a maintenance assessment is in force shall provide the Secretary of State with such information, in such circumstances, as may be prescribed, with a view to assisting the Secretary of State or a child support officer in determining whether the assessment has ceased to have effect, or should be cancelled.
- (11) The Secretary of State may by regulations make such supplemental, incidental or transitional provision as he thinks necessary or expedient in consequence of the provisions of this paragraph.