

*Status: Point in time view as at 09/03/2014. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Child Maintenance and Other Payments Act 2008, SCHEDULE 5. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

Section 19

#### MAINTENANCE CALCULATIONS: TRANSFER OF CASES TO NEW RULES

##### *Power to require a decision about whether to stay in the statutory scheme*

VALID FROM 30/06/2014

- 1 (1) The [<sup>F1</sup>Secretary of State] may require the interested parties in relation to an existing case to choose whether or not to stay in the statutory scheme, so far as future accrual of liability is concerned.
- (2) The reference in sub-paragraph (1) to an existing case is to any of the following—
- (a) a maintenance assessment,
  - (b) an application for a maintenance assessment,
  - (c) a maintenance calculation made under existing rules, and
  - (d) an application for a maintenance calculation which will fall to be made under existing rules.
- (3) For the purposes of this paragraph, a maintenance calculation is made (or will fall to be made) under existing rules if the amount of the periodical payments required to be paid in accordance with it is (or will be) determined otherwise than in accordance with Part 1 of Schedule 1 to the Child Support Act 1991 (c. 48) as amended by this Act.

#### Textual Amendments

**F1** Words in Sch. 5 para. 1(1) 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. 96\(2\)](#)

- 2 (1) The Secretary of State may by regulations make provision about the exercise of the power under paragraph 1(1).
- (2) Regulations under sub-paragraph (1) may, in particular—
- (a) make provision about timing in relation to exercise of the power;
  - (b) make provision for exercise of the power in stages;
  - (c) specify principles for determining the order in which particular cases are to be dealt with under the power;
  - (d) make provision about procedure in relation to exercise of the power;
  - (e) make provision for exercise of the power in accordance with a scheme prepared by the [<sup>F2</sup>Secretary of State]<sup>F3</sup> . . . .

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#### Textual Amendments

- F2** Words in Sch. 5 para. 2(2)(e) 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. 96\(3\)\(a\)](#)
- F3** Words in Sch. 5 para. 2(2)(e) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 3(2), [Sch. para. 96\(3\)\(b\)](#)

#### Commencement Information

- I1** [Sch. 5 para. 2](#) in force at 9.3.2014 for specified purposes by [S.I. 2014/576](#), [art. 2\(b\)](#)

- 3 (1) The Secretary of State shall by regulations make such provision as he thinks fit about exercise of the right to make a choice required under paragraph 1(1).
- (2) Regulations under sub-paragraph (1) shall, in particular—
- (a) make provision about the time within which the choice must be made;
  - (b) make provision for a choice to stay in the statutory scheme to be made by means of an application to the [<sup>F4</sup>Secretary of State] for a maintenance calculation;
  - (c) make provision about the form and content of any application required by provision under paragraph (b).
- [<sup>F5</sup>(3) The Commission may before accepting an application required by provision under sub-paragraph (2)(b) invite the applicant to consider with the Commission whether it is possible to make a maintenance agreement (within the meaning of section 9 of the Child Support Act 1991).]

#### Textual Amendments

- F4** Words in Sch. 5 para. 3(2)(b) 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. 96\(4\)](#)
- F5** [Sch. 5 para. 3\(3\)](#) inserted (25.11.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 136\(2\)](#), 150(3); [S.I. 2013/2947](#), art. 6

#### Commencement Information

- I2** [Sch. 5 para. 3](#) in force at 9.3.2014 for specified purposes by [S.I. 2014/576](#), [art. 2\(b\)](#)

VALID FROM 30/06/2014

- 4 If, in a particular case, any of the interested parties chooses not to stay in the statutory scheme, that person's choice shall be disregarded if any of the other interested parties chooses to stay in the statutory scheme.

#### *Effect on accrual of liability of exercise of power under paragraph 1*

- 5 (1) Where the power under paragraph 1(1) is exercised in relation to a maintenance assessment or maintenance calculation, liability under the assessment or calculation

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shall cease to accrue with effect from such date as may be determined in accordance with regulations made by the Secretary of State.

- (2) Where the power under paragraph 1(1) is exercised in relation to an application for a maintenance assessment or maintenance calculation, liability under any assessment or calculation made in response to the application shall accrue only in respect of the period ending with such date as may be determined in accordance with regulations made by the Secretary of State.

#### Commencement Information

**I3** Sch. 5 para. 5 in force at 9.3.2014 for specified purposes by S.I. 2014/576, art. 2(b)

#### *Additional powers*

- 6 (1) The Secretary of State may by regulations make such provision as appears to the Secretary of State to be necessary or expedient for the purposes of, or in connection with, giving effect to a decision not to leave the statutory scheme.
- (2) Regulations under sub-paragraph (1) may, in particular—
- (a) make provision about procedure in relation to determination of an application made in pursuance of regulations under paragraph 3;
  - (b) make provision about the application of the Child Support Act 1991 (c. 48) in relation to a maintenance calculation made in response to such an application;
  - (c) prescribe circumstances in which liability under such a maintenance calculation is to be subject to a prescribed adjustment.
- (3) The Secretary of State may by regulations make provision enabling the [F6Secretary of State] to treat an application of the kind mentioned in paragraph 1(2)(b) or (d) as withdrawn if none of the interested parties chooses to stay in the statutory scheme.

#### Textual Amendments

**F6** Words in Sch. 5 para. 6(3) 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. 96(4)

#### Commencement Information

**I4** Sch. 5 para. 6 in force at 9.3.2014 for specified purposes by S.I. 2014/576, art. 2(b)

#### *Interpretation*

- 7 In this Schedule—
- “interested parties” has such meaning as may be prescribed;
  - “maintenance assessment” means an assessment of maintenance made under the Child Support Act 1991;
  - “maintenance calculation” means a calculation of maintenance made under that Act;
  - “prescribed” means prescribed by regulations made by the Secretary of State;

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“statutory scheme” means the scheme for child support maintenance under that Act.

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**Commencement Information**

**I5** Sch. 5 para. 7 in force at 9.3.2014 for specified purposes by S.I. 2014/576, art. 2(b)

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