

SCHEDULE

Article 3

PART I

PHASED TAKE-ON OF CASES

1. In this Part of this Schedule—

“the Act” means the Child Support Act 1991;

“benefit” means income support, family credit, or disability working allowance under Part VII of the Social Security Contributions and Benefits Act 1992⁽¹⁾, or any other benefit prescribed under section 6(1) of the Act (applications by persons receiving benefit); and

“transitional period” means the period beginning with 5th April 1993 and ending with 6th April 1997.

2. Subject to paragraph 4 below, during the transitional period no application under section 4 of the Act (applications for child support maintenance) in relation to a qualifying child or any qualifying children may be made at any time when—

- (a) there is in force a maintenance order or maintenance agreement in respect of that qualifying child or those qualifying children and the absent parent, or there is pending before any court an application for such a maintenance order; or
- (b) benefit is being paid to a parent of that child or those children.

3. Subject to paragraph 4 below, during the transitional period no application under section 7 of the Act (right of child in Scotland to apply for assessment) may be made by a qualifying child at any time when there is in force a maintenance order or maintenance agreement in respect of that child and the absent parent, or there is pending before any court an application for such a maintenance order.

4.—(1) Paragraphs 2 and 3 above do not apply to an application made—

- (a) in that part of the transitional period beginning with 8th April 1996, if the surname of the person with care begins with any of the letters A to D inclusive;
- (b) in that part of the transitional period beginning with 1st July 1996, if the surname of the person with care begins with any of the letters E to K inclusive;
- (c) in that part of the transitional period beginning with 7th October 1996, if the surname of the person with care begins with any of the letters L to R inclusive; and
- (d) in that part of the transitional period beginning with 6th January 1997, if the surname of the person with care begins with any of the letters S to Z inclusive.

(2) Where paragraph 2 or 3 applies to a case because there is pending before a court an application for a maintenance order, and that application was made before 5th April 1993, those paragraphs shall not prevent the making of an application for a maintenance assessment under section 4 or, as the case may be, section 7 of the Act; but in such a case section 8(3) of the Act shall not have effect until such an application is actually made.

5. For so long as paragraph 2 or 3 above operates in a case so as to prevent an application being made under section 4 of the Act or, as the case may be, section 7 of the Act, and no application has been made under section 6 of the Act, then in relation to that case section 8(3) of the Act (role of the courts with respect to maintenance orders) shall be modified so as to have effect as if the word “vary” was omitted.

(1) 1992 c. 4. Disability working allowance is prescribed for the purposes of section 6(1) of the Child Support Act by regulation 34 of S.I.1992/1813.

PART II

MODIFICATION OF MAINTENANCE ASSESSMENT IN CERTAIN CASES

6. In this Part of this Schedule—

“the Act” means the Child Support Act 1991;

“formula amount” means the amount of child support maintenance that would, but for the provisions of this Part of this Schedule, be payable under an original assessment, or any fresh assessment made during the period specified in paragraph 8 consequent on a review under section 17, 18 or 19 of the Act;

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992(2);

“modified amount” means an amount which is £20 greater than the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in paragraph 7(1) (a) below; and

“original assessment” means a maintenance assessment made in respect of a qualifying child where no previous such assessment has been made or, where the assessment is made in respect of more than one child, where no previous such assessment has been made in respect of any of those children.

7.—(1) Subject to sub-paragraph (2), the provisions of this Part of this Schedule apply to cases where—

(a) on 4th April 1993 there is in force, in respect of all the qualifying children in respect of whom an application for a maintenance assessment is made under the Act and the absent parent concerned, one or more—

(i) maintenance orders;

(ii) orders under section 151 of the Army Act 1955(3) (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act 1955(4) (deductions from pay for maintenance of wife or child) or arrangements corresponding to such an order and made under Article 1(b) or 3 of the Naval and Marine Pay and Pensions (Deductions for Maintenance) Order 1959(5); or

(iii) maintenance agreements (being agreements which are made or evidenced in writing); and

(b) the absent parent is responsible for maintaining a child or children residing with him other than the child or children in respect of whom the application is made; and

(c) the formula amount is not more than £60; and

(d) the formula amount exceeds the aggregate weekly amount which was payable under the orders, agreements or arrangements mentioned in sub-paragraph (a) above by more than £20 a week.

(2) Nothing in this Part of this Schedule applies to an interim maintenance assessment made under section 12 of the Act.

8. In a case to which this Part of this Schedule applies, the amount payable under an original assessment, or any fresh assessment made consequent on a review under section 17, 18 or 19 of the

(2) S.I. 1992/1813.

(3) 3 & 4 Eliz 2 c. 18.

(4) 3 & 4 Eliz 2 c. 19.

(5) This Order in Council is not a statutory instrument but copies may be obtained from the Ministry of Defence, Naval Pay (Pensions and Conditions of Service) Branch, Old Admiralty Building, Spring Gardens, London, SW1A 2BE.

Act, during the period of one year beginning with the date on which the original assessment takes effect or, if shorter, until any of the conditions specified in paragraph 7(1) is no longer satisfied, shall, instead of being the formula amount, be the modified amount.

9. For the purpose of determining the aggregate weekly amount payable under the orders, agreements or arrangements mentioned in paragraph 7(1)(a) above any payments in kind and any payments made to a third party on behalf of or for the benefit of the qualifying child or qualifying children or the person with care shall be disregarded.

10. If, in making a maintenance assessment, a child support officer has applied the provisions of this Part of this Schedule, regulation 10(2) of the Maintenance Assessment Procedure Regulations shall have effect as if there was added at the end—

“(g) the aggregate weekly amount which was payable under the orders, agreements or arrangements specified in paragraph 7(1)(a) of the Schedule to the Child Support Act 1991 (Commencement No.3 and Transitional Provisions) Order 1992 (modification of maintenance assessment in certain cases).”.

11. The first review of an original assessment under section 16 of the Act (periodical reviews) shall be conducted on the basis that the amount payable under the assessment immediately before the review takes place was the formula amount.

12.—(1) The provisions of the following sub-paragraphs shall apply where there is a review of a previous assessment under section 17 of the Act (reviews on change of circumstances) at any time when the amount payable under that assessment is the modified amount.

(2) Where the child support officer determines that, were a fresh assessment to be made as a result of the review, the amount payable under it (disregarding the provisions of this Part of this Schedule) (in this paragraph called “the reviewed formula amount”) would be—

- (a) more than the formula amount, the amount of child support maintenance payable shall be the modified amount plus the difference between the formula amount and the reviewed formula amount;
- (b) less than the formula amount but more than the modified amount, the amount of child support maintenance payable shall be the modified amount;
- (c) less than the modified amount, the amount of child support maintenance payable shall be the reviewed formula amount.

(3) The child support officer shall, in determining the reviewed formula amount, apply the provisions of regulations 20 to 22 of the Maintenance Assessment Procedure Regulations.