

SCHEDULE

Modifications etc. (not altering text)

- C1** Part 1 of the Schedule was revoked (4.9.95) by s. 18(8) of the Child Support Act 1995 (c. 34), but is continued to be reproduced as it remains in force in some circumstances

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 [^{F1}by virtue of a revision under section 16 of the Act or a decision under section 17 of the Act superseding an earlier decision];

“the Maintenance Assessment Procedure Regulations” means the Child Support (Maintenance Assessment Procedure) Regulations 1992 ^{M1};

“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.

- F1** Words in para. 6 of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(a)

Marginal Citations

- M1** [S.I. 1992/1813](#).

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

- (a) on 4th April 1993 [^{F2}, and at all times thereafter until the date when a maintenance assessment is made under the Act,] 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 ^{M2} (deductions from pay for maintenance of wife or child) or section 151 of the Air Force Act 1955 ^{M3} (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 ^{M4}; 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

Changes to legislation: The Child Support Act 1991 (Commencement No.3 and Transitional Provisions) Order 1992, PART II is up to date with all changes known to be in force on or before 21 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 [^{F3}a Category A interim maintenance assessment within the meaning of regulation 8(1B) of the Child Support (Maintenance Assessment Procedure) Regulations 1992] made under section 12 of the Act.

- F2** Words in para. 7(1)(a) of Sch. inserted (31.3.93) by art. 2(2)
F3 Words in para. 7(2) of Sch. substituted (31.3.93) by S.I. 1993/966, art. 2(3)

Marginal Citations

- M2** 3 & 4 Eliz 2 c. 18.
M3 3 & 4 Eliz 2 c. 19.
M4 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.

8. In a case to which this Part of this Schedule applies, the amount payable under an original assessment, or any fresh assessment made [^{F4}by virtue of a revision under section 16 of the Act or a decision under section 17 of the Act superseding an earlier decision], 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.

- F4** Words in para. 8 of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(a)

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, [^{F5}the Secretary of State] 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).”

- F5** Words in para. 10 of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(b)

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 [^{F6}a decision is made under section 17 of the Act which supersedes an earlier decision on the ground that there has been a material change of circumstances since the decision took effect] at any time when the amount payable under that assessment is the modified amount.

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(2) Where the [^{F7}Secretary of State determines that, were a fresh assessment to be made by virtue of a decision under section 17 of the Act superseding an earlier decision], 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 [^{F8}Secretary of State] shall, in determining the reviewed formula amount, apply the provisions of regulations [^{F9}21 and] 22 of the Maintenance Assessment Procedure Regulations.

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| F6 | Words in para. 12(1) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(i) |
| F7 | Words in para. 12(2) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(ii) |
| F8 | Words in para. 12(3) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(iii) |
| F9 | Words in para. 12(3) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(iii) |

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. Pt.II para. 12 amended by [S.I. 1999/1610 art.30\(c\)](#)
- Sch. Pt II para 7(1)(a)(2) amended by [S.I. 1993/966 art.2\(2\)\(3\)](#)