

SCHEDULE

Article 3

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- C1** Part 1 of the Schedule was revoked (4.9.95) by s. 18(8) of the Child Support Act 1995 (c. 34), but is continued to be reproduced as it remains in force in some circumstances

[^{F1}PART I

PHASED TAKE-ON OF CASES

- F1** Part 1 of Sch. substituted (31.3.93) by S.I. 1993/966, art. 2(1)

1.—(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, or any other benefit prescribed under section 6(1) of the Act (applications by parents receiving benefit);

“parent with care” means a person who, in respect of the same child or children, is both a parent and a person with care; and

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

(2) For the purposes of paragraph 5 below, in England and Wales, an application for a maintenance order is pending before a court if—

- (i) notice of the application has been filed, in accordance with rules of court, before 5th April 1993;
- (ii) in the case of an application contained in a petition for divorce, nullity or judicial separation, or the answer to it, notice of intention to proceed with it was given, in the form required by rules of court, before 5th April 1993.

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 written maintenance agreement (being an agreement made before 5th April 1993) in respect of that qualifying child or those qualifying children and the absent parent; or
- (b) benefit is being paid to a parent with care 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 written maintenance agreement (being an agreement made before 5th April 1993) in respect of that child and the absent parent.

4. 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;

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- (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.

5.—(1) For so long as either—

- (a) 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; or
- (b) an application has been made under section 6 of the Act but no maintenance assessment has yet been made pursuant to that application,

then in relation to that case—

- (i) 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” were omitted;
- (ii) in a case falling within sub-paragraph (a) above, section 9(3) of the Act shall not apply; and
- (iii) section 9(5) of the Act shall be modified so as to have effect as if paragraph (b) were omitted.

(2) In a case where there is, at any time during the transitional period, pending before a court an application for a maintenance order or an application for an order varying a written maintenance agreement, section 8(3) or, as the case may be, section 9(5)(b) of the Act, shall not apply in relation to that case.]

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 [^{F2}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.

F2 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](#).

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

- (a) on 4th April 1993^{F3}, 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
- (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 [^{F4}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.

F3 Words in para. 7(1)(a) of Sch. inserted (31.3.93) by art. 2(2)

F4 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 [^{F5}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.

F5 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.

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10. If, in making a maintenance assessment, [^{F6}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).”.

F6 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 [^{F7}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.

(2) Where the [^{F8}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 [^{F9}Secretary of State] shall, in determining the reviewed formula amount, apply the provisions of regulations [^{F10}21 and] 22 of the Maintenance Assessment Procedure Regulations.

F7 Words in para. 12(1) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(i)

F8 Words in para. 12(2) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(ii)

F9 Words in para. 12(3) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(iii)

F10 Words in para. 12(3) of Sch. substituted (1.6.99) by S.I. 1999/1510, art. 2, 30(c)(iii)

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Changes and effects yet to be applied to :

- Sch. Pt.I revoked by [1995 c. 34 s.18\(8\)](#)
- Sch Pt I substituted by [S.I. 1993/966 art.2\(1\)](#)

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\(2\)\(3\)](#)