

SCHEDULE

Regulation 7(8)

SCHEDULE 3 TO BE ADDED TO THE MAINTENANCE
CALCULATION PROCEDURE REGULATIONS

“SCHEDULE 3

Regulation 31(1B)

MULTIPLE APPLICATIONS—TRANSITIONAL PROVISIONS

No maintenance assessment or calculation in force: more than one application for maintenance by the same person under section 4 or 6, or under sections 4 and 6, of the former Act and of the Act.

1.—(1) Where an assessment application is made and, before a maintenance assessment under the former Act is made, the applicant makes or is treated as making, as the case may be, a calculation application under section 4 or 6 of the Act, with respect to the same person with care or with respect to a non-resident parent who is the absent parent with respect to the assessment application, as the case may be, those applications shall be treated as a single application.

(2) Where an assessment application is made by a person with care—

- (a) under section 4 of the former Act; or
- (b) under section 6(1) of the former Act,

and, before a maintenance assessment under the former Act is made, the person with care—

- (i) in a case falling within head (a), is treated as making a calculation application under section 6(1) of the Act; or
- (ii) in a case falling within head (b), makes a calculation application under section 4 of the Act,

with respect to a non-resident parent who is the absent parent with respect to the assessment application, those applications shall, if the person with care does not cease to fall within section 6(1) of the Act, be treated as a single application under section 6(1) of the former Act or of the Act, as the case may be, and shall otherwise be treated as a single application under section 4 of the former Act or of the Act, as the case may be.

No maintenance assessment or calculation in force: more than one application for maintenance by a child under section 7 of the former Act and of the Act

2. Where a child makes an assessment application under section 7 of the former Act and, before a maintenance assessment under the former Act is made, makes a calculation application under section 7 of the Act with respect to the same person with care and a non-resident parent who is the absent parent with respect to the assessment application, both applications shall be treated as a single application.

No maintenance assessment or calculation in force: applications by different persons for maintenance

3.—(1) Where the Secretary of State receives more than one application for maintenance with respect to the same person with care and absent parent or non-resident parent, as the case may be, he shall, if no maintenance assessment under the former Act or maintenance calculation under the Act, as the case may be, has been made in relation to any of the applications, determine which application he shall proceed with in accordance with subparagraphs (2) to (11).

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(2) Where an application by a person with care is made under section 4 of the former Act or of the Act, or is made under section 6 of the former Act, or is treated as made under section 6 of the Act, and an application is made by an absent parent or non-resident parent under section 4 of the former Act or of the Act, as the case may be, the Secretary of State shall proceed with the application of the person with care.

(3) Where there is an assessment application by a qualifying child under section 7 of the former Act and a calculation application is made with respect to that child by a person who is, with respect to that child, a person with care or a non-resident parent, the Secretary of State shall proceed with the application of that person with care or non-resident parent, as the case may be.

(4) Where, in a case falling within sub-paragraph (3), there is made more than one subsequent application, the Secretary of State shall apply the provisions of sub-paragraphs (2), (7), (8) or (10), as appropriate in the circumstances of the case, to determine which application he shall proceed with.

(5) Where there is an assessment application and a calculation application by more than one qualifying child under section 7 of the former Act or of the Act, in relation to the same person with care and absent parent or non-resident parent, as the case may be, the Secretary of State shall proceed with the application of the elder or, as the case may be, eldest of the qualifying children.

(6) Where there is one absent parent and one non-resident parent in respect of the same qualifying child and an assessment application and a calculation application is received from each such person respectively, the Secretary of State shall proceed with both applications, treating them as a single application.

(7) Where a parent with care is required to authorise the Secretary of State to recover child support maintenance under section 6 of the former Act and there is a calculation application under section 4 of the Act by another person with care who has parental responsibility for (or, in Scotland, parental rights over) the qualifying child or qualifying children with respect to whom the application was made under section 6 of the former Act, the Secretary of State shall proceed with the assessment application under section 6 of the former Act by the parent with care.

(8) Where—

- (a) a person with care makes an assessment application under section 4 of the former Act and a different person with care makes a calculation application under section 4 of the Act and those applications are in respect of the same qualifying child or qualifying children (whether or not any of those applications is also in respect of other qualifying children);
- (b) each such person has parental responsibility for (or, in Scotland, parental rights over) that child or children; and
- (c) under regulation 20 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (“the Maintenance Assessments and Special Cases Regulations”) one of those persons is to be treated as an absent parent or under the provisions of regulation 8 of the Maintenance Calculations and Special Cases Regulations one of those persons is to be treated as a non-resident parent, as the case may be,

the Secretary of State shall proceed with the application of the person who does not fall to be treated as an absent parent under regulation 20 of the Maintenance Assessments and Special Cases Regulations, or as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations, as the case may be.

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(9) Where, in a case falling within sub-paragraph (8), there is more than one person who does not fall to be treated as an absent parent under regulation 20 of the Maintenance Assessments and Special Cases Regulations or as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations, as the case may be, the Secretary of State shall apply the provisions of paragraph (10) to determine which application he shall proceed with.

(10) Where—

(a) a person with care makes an assessment application under section 4 of the former Act and a different person with care makes a calculation application under section 4 of the Act and those applications are in respect of the same qualifying child or qualifying children (whether or not any of those applications is also in respect of other qualifying children); and

(b) either—

(i) none of those persons has parental responsibility for (or, in Scotland, parental rights over) that child or children; or

(ii) the case falls within sub-paragraph (8)(b) but the Secretary of State has not been able to determine which application he is to proceed with under the provisions of sub-paragraph (8),

the Secretary of State shall proceed with the application of the principal provider of day to day care, as determined in accordance with sub-paragraph (11).

(11) For the purposes of sub-paragraph (10), the application of the principal provider is, where—

(a) the applications are in respect of one qualifying child, the application of that person with care to whom child benefit is paid in respect of that child;

(b) the applications are in respect of more than one qualifying child, the application of that person with care to whom child benefit is paid in respect of those children;

(c) the Secretary of State cannot determine which application he is to proceed with under head (a) or (b), the application of that applicant who in the opinion of the Secretary of State is the principal provider of day to day care for the child or children in question.

(12) Subject to sub-paragraph (13), where, in any case falling within sub-paragraphs (2) to (10), the applications are not in respect of identical qualifying children, the application that the Secretary of State is to proceed with as determined by those sub-paragraphs shall be treated as an application with respect to all of the qualifying children with respect to whom the applications were made.

(13) Where the Secretary of State is satisfied that the same person with care does not provide the principal day to day care for all of the qualifying children with respect to whom an application would but for the provisions of this paragraph be made under sub-paragraph (12), he shall make separate maintenance assessments under the former Act or maintenance calculations under the Act, as the case may be, in relation to each person with care providing such principal day to day care.

(14) For the purposes of this paragraph “day to day care” has the same meaning as in the Maintenance Assessments and Special Cases Regulations or the Maintenance Calculations and Special Cases Regulations, as the case may be.

Maintenance assessment in force: subsequent application with respect to the same persons

4. Where—

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- (a) a maintenance assessment is in force under the former Act;
- (b) a calculation application is made or treated as made under the section of the Act which is the same section as the section of the former Act under which the assessment application was made; and
- (c) the calculation application relates to—
 - (i) the same person with care and qualifying child or qualifying children as the maintenance assessment; and
 - (ii) a non-resident parent who is the absent parent with respect to the maintenance assessment,the calculation application shall not be proceeded with.

Interpretation

5. In this Schedule, “absent parent”, “former Act” and “maintenance assessment” have the meanings given in regulation 31(8)(a).”