

SCHEDULES

SCHEDULE 3

Section 26.

AMENDMENT OF ENACTMENTS RELATING TO CHILD SUPPORT

The Army Act 1955 (3 & 4 Eliz. 2 c.18)

- 1 (1) Section 150A of the Army Act 1955 (enforcement of maintenance assessment by deductions from pay) shall be amended as follows.
- (2) In subsections (1), (2)(a), (3)(a) (twice) and (4), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (3) In subsection (3) (twice), for “the assessment” there shall be substituted “the calculation”.

The Air Force Act 1955 (3 & 4 Eliz. 2 c.19)

- 2 (1) Section 150A of the Air Force Act 1955 (enforcement of maintenance assessment by deductions from pay) shall be amended as follows.
- (2) In subsections (1), (2)(a), (3)(a) (twice) and (4), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (3) In subsection (3) (twice), for “the assessment” there shall be substituted “the calculation”.

The Matrimonial Causes Act 1973 (c. 18)

- 3 (1) The Matrimonial Causes Act 1973 shall be amended as follows.
- (2) In section 29 (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour)—
- (a) in subsections (5)(a), (7) (three times) and (8)(a), for “maintenance assessment” there shall be substituted “maintenance calculation”;
 - (b) in subsections (5)(a) and (b)(ii) and (6)(b), for “current assessment” there shall be substituted “current calculation”;
 - (c) in subsection (6)(b), for “maintenance assessments” there shall be substituted “maintenance calculations”; and
 - (d) in subsection (6)(b), for “those assessments” there shall be substituted “those calculations”.
- (3) In section 31 (variation, discharge, etc, of certain orders for financial relief)—
- (a) in subsections (11)(c) and (12)(a) and (c), for “maintenance assessment” there shall be substituted “maintenance calculation”; and
 - (b) in subsection (11) (twice), for “the assessment” there shall be substituted “the calculation”.

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- (4) In section 52 (interpretation), in subsection (1), for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Domestic Proceedings and Magistrates Courts Act 1978 (c. 22)

- 4 (1) The Domestic Proceedings and Magistrates Courts Act 1978 shall be amended as follows.
- (2) In section 5 (age limit on making orders for financial provision for children and duration of such orders)—
- (a) in subsections (5)(a), (7) (three times) and (8)(a), for “maintenance assessment” there shall be substituted “maintenance calculation”;
 - (b) in subsections (5)(a) and (b)(ii) and (6)(b), for “current assessment” there shall be substituted “current calculation”; and
 - (c) in subsection (6)(b), for “those assessments” there shall be substituted “those calculations”.
- (3) In section 20 (variation, revival and revocation of orders for periodical payments)—
- (a) in subsections (9A)(c) and (9B)(a) and (c), for “maintenance assessment” there shall be substituted “maintenance calculation”; and
 - (b) in subsection (9A) (three times), for “the assessment” there shall be substituted “the calculation”.
- (4) In section 88 (interpretation), in subsection (1), for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Family Law (Scotland) Act 1985 (c. 37)

- 5 (1) The Family Law (Scotland) Act 1985 shall be amended as follows.
- (2) In section 5 (variation and recall of decrees of aliment), in subsection (1A), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (3) In section 7 (agreements about aliment), in subsection (2A), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (4) In section 13 (orders for periodical allowance), in subsection (4A), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (5) In section 16 (agreements about financial provision), in subsection (3)(d), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (6) In section 27 (interpretation), in subsection (1), for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Insolvency Act 1986 (c. 45)

- 6 In section 281 of the Insolvency Act 1986 (effect of discharge on a bankrupt), in subsection (5)(b), for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Debtors (Scotland) Act 1987 (c. 18)

- 7 (1) The Debtors (Scotland) Act 1987 shall be amended as follows.

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- (2) In section 72 (effect of sequestration on diligence against earnings), in subsection (4A), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (3) In section 106 (interpretation), in the definition of “maintenance order”, in paragraph (j), for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Income and Corporation Taxes Act 1988 (c. 1)

- 8 (1) The Income and Corporation Taxes Act 1988 shall be amended as follows.
- (2) In section 347B (qualifying maintenance payments)—
 - (a) in subsections (8) and (9)(a) and (c), for “maintenance assessment” there shall be substituted “maintenance calculation”;
 - (b) in subsection (9)(b) and (c), for “the assessment” there shall be substituted “the calculation”; and
 - (c) for subsection (11) there shall be substituted—

“(11) In this section “maintenance calculation” means a maintenance calculation made under the Child Support Act 1991 or a maintenance assessment made under the Child Support (Northern Ireland) Order 1991.”
- (3) In section 617 (social security benefits and contributions), in subsection (2)(ae), for “section 24 of the Child Support Act 1995 or under any corresponding enactment” there shall be substituted “any enactment corresponding to section 24 of the Child Support Act 1995”.

The Finance Act 1988 (c. 39)

- 9 In the Finance Act 1988, in each of subsection (5A) of section 36 (annual payments) and subsection (8A) of section 38 (maintenance payments under existing obligations: 1989-90 onwards), for “maintenance assessment made” there shall be substituted “maintenance calculation or maintenance assessment made respectively”.

The Children Act 1989 (c. 41)

- 10 (1) Schedule 1 to the Children Act 1989 (financial provision for children) shall be amended as follows.
- (2) In paragraph 3—
 - (a) in sub-paragraph (5)(a), (7) (three times) and (8)(a), for “maintenance assessment” there shall be substituted “maintenance calculation”;
 - (b) in sub-paragraph (5)(a) and (b)(ii) and (6)(b), for “current assessment” there shall be substituted “current calculation”;
 - (c) in sub-paragraph (6)(b), for “maintenance assessments” there shall be substituted “maintenance calculations”; and
 - (d) in sub-paragraph (6)(b), for “those assessments” there shall be substituted “those calculations”.
- (3) In paragraph 6—

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- (a) in sub-paragraph (9) (three times), for “the assessment” there shall be substituted “the calculation”; and
 - (b) in sub-paragraph (9)(c), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (4) In paragraph 16(3), for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Child Support Act 1991 (c. 48)

- 11 (1) The 1991 Act shall be amended as follows.
- (2) For “absent parent” (or any variant of that expression), wherever it occurs, there shall be substituted “non-resident parent” (or the corresponding variant) preceded, where appropriate, by “a” instead of “an”.
- (3) In section 4 (child support maintenance)—
- (a) in subsection (4)(a), after “be” there shall be inserted “identified or”; and
 - (b) in subsection (9), after “an application” there shall be inserted “treated as made”.
- (4) In section 7 (right of a child in Scotland to apply for assessment)—
- (a) in subsection (1), for paragraph (b) there shall be substituted—
 - “(b) no parent has been treated under section 6(3) as having applied for a maintenance calculation with respect to the child.”; and
 - (b) in subsection (10)—
 - (i) after “qualifying child if” there shall be inserted “(a)”;
 - (ii) after “maintenance order” there shall be inserted “made before a prescribed date”; and
 - (iii) at the end there shall be inserted “or
 - (b) a maintenance order made on or after the date prescribed for the purposes of paragraph (a) is in force in respect of them, but has been so for less than the period of one year beginning with the date on which it was made.”.
- (5) In section 8 (role of the courts with respect to maintenance for children)—
- (a) in subsection (1), after “duly made” there shall be inserted “(or treated as made)”;
 - (b) in subsection (3), at the beginning insert “Except as provided in subsection (3A),”;
 - (c) for subsection (3A) there shall be substituted—
 - “(3A) Unless a maintenance calculation has been made with respect to the child concerned, subsection (3) does not prevent a court from varying a maintenance order in relation to that child and the non-resident parent concerned—
 - (a) if the maintenance order was made on or after the date prescribed for the purposes of section 4(10)(a) or 7(10)(a); or

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- (b) where the order was made before then, in any case in which section 4(10) or 7(10) prevents the making of an application for a maintenance calculation with respect to or by that child.”; and
 - (d) in subsection (6), for paragraph (b) there shall be substituted—
 - “(b) the non-resident parent’s net weekly income exceeds the figure referred to in paragraph 10(3) of Schedule 1 (as it has effect from time to time pursuant to regulations made under paragraph 10A(1)(b)); and”.
- (6) In section 9 (agreements about maintenance), in subsection (6), for paragraphs (a) and (b) there shall be substituted—
 - “(a) no parent has been treated under section 6(3) as having applied for a maintenance calculation with respect to the child; or
 - (b) a parent has been so treated but no maintenance calculation has been made.”.
- (7) In section 14 (information required by Secretary of State), in subsection (1), after “any application” there shall be inserted “made or treated as made”.
- (8) In section 26 (disputes about parentage), in subsection (1), after “made” there shall be inserted “or treated as made”.
- (9) In section 27A (recovery of fees for scientific tests)—
 - (a) in subsection (1)(a), after “made” there shall be inserted “or treated as made”; and
 - (b) in subsection (1)(b), after “made” there shall be inserted “or, as the case may be, treated as made”.
- (10) In section 28 (power of the Secretary of State to bring or defend actions of declarator), in subsection (1)(a)—
 - (a) after “made”, where it first occurs, there shall be inserted “or treated as made”; and
 - (b) for “or assessment was made” there shall be substituted “was made or treated as made or the calculation was made”.
- (11) In section 28ZA (decisions involving issues that arise on appeal in other cases), in subsection (1)—
 - (a) in paragraph (a), for the words “in relation to a maintenance assessment” there shall be substituted “or with respect to a reduced benefit decision under section 46”; and
 - (b) for paragraph (b) there shall be substituted—
 - “(b) an appeal is pending against a decision given in relation to a different matter by a Child Support Commissioner or a court.”
- (12) In section 28ZB (appeals involving issues that arise on appeal in other cases)—
 - (a) in subsection (1), for paragraph (a) there shall be substituted—
 - “(a) an appeal (“appeal A”) in relation to a decision or the imposition of a requirement falling within section 20(1) is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner;”; and

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- (b) in subsection (4), for the words “or assessment” there shall be substituted “or the imposition of the requirement”.
- (13) In section 28ZC (restrictions on liability in certain cases of error)—
- (a) in subsection (1)(b)(i), at the end there shall be inserted “or one treated as having been so made, or under section 46 as to the reduction of benefit”;
 - (b) in subsection (1)(b)(ii), for the words from “a decision” to the end there shall be substituted “any decision (made after the commencement date) referred to in section 16(1A)”;
 - (c) in subsection (1)(b)(iii), for the words from “a decision” to the end there shall be substituted “any decision (made after the commencement date) referred to in section 17(1)”;
 - (d) in subsection (3), after “liability” there shall be inserted “or the reduction of a person’s benefit”; and
 - (e) in subsection (6), in the definition of “adjudicating authority”, at the end there shall be inserted “or, in the case of a decision made on a referral under section 28D(1)(b), an appeal tribunal”.
- (14) Sections 28H (departure directions: decisions and appeals) and 28I (transitional provisions relating to departure directions) shall cease to have effect.
- (15) In section 30 (collection and enforcement of certain forms of maintenance), for subsection (2) there shall be substituted—
- “(2) The Secretary of State may, except in prescribed cases, arrange for the collection of any periodical payments, or secured periodical payments, of a prescribed kind which are payable for the benefit of a child even though he is not arranging for the collection of child support maintenance with respect to that child.”.
- (16) In section 32 (regulations about deduction from earnings orders), in subsection (2), after paragraph (b) there shall be inserted—
- “(bb) for the amount or amounts which are to be deducted from the liable person’s earnings not to exceed a prescribed proportion of his earnings (as determined by the employer);”.
- (17) In section 33 (liability orders), after subsection (5) there shall be inserted—
- “(6) Where regulations have been made under section 29(3)(a)—
- (a) the liable person fails to make a payment (for the purposes of subsection (1)(a) of this section); and
 - (b) a payment is not paid (for the purposes of subsection (3)),
- unless the payment is made to, or through, the person specified in or by virtue of those regulations for the case of the liable person in question.”
- (18) In section 47 (fees), after subsection (3) there shall be inserted—
- “(4) The provisions of this Act with respect to—
- (a) the collection of child support maintenance;
 - (b) the enforcement of any obligation to pay child support maintenance,
- shall apply equally (with any necessary modifications) to fees payable by virtue of regulations made under this section.”
- (19) In section 51 (supplementary power to make regulations), in subsection (2)—

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- (a) for paragraph (a)(ii) and (iii) there shall be substituted—
 - “(ii) the making of decisions under section 11;
 - (iii) the making of decisions under section 16 or 17;”;
 - (b) for paragraph (b) there shall be substituted—
 - “(b) extending the categories of case to which section 16, 17 or 20 applies;”.
- (20) In section 54 (interpretation)—
- (a) in the definition of “application for a departure direction”, for “departure direction” there shall be substituted “variation”, and after “28A” there shall be inserted “or 28G”;
 - (b) after the definition of “deduction from earnings order” there shall be inserted—
 - ““default maintenance decision” has the meaning given in section 12;”;
 - (c) in the definition of “interim maintenance assessment”, for the word “assessment” there shall be substituted the word “decision”;
 - (d) for the definition of “maintenance assessment” there shall be substituted—
 - ““maintenance calculation” means a calculation of maintenance made under this Act and, except in prescribed circumstances, includes a default maintenance decision and an interim maintenance decision;”;
 - (e) the definitions of “assessable income”, “current assessment”, “departure direction” and “maintenance requirement” shall be omitted; and
 - (f) after the definition of “qualifying child” there shall be inserted—
 - ““voluntary payment” has the meaning given in section 28J.”.
- (21) In section 58 (short title, commencement and extent)—
- (a) in subsection (9), after “35” there shall be inserted “, 40”; and
 - (b) in subsection (10), after “28” there shall be inserted “, 40A”.
- (22) In Schedule 1 (maintenance assessments)—
- (a) paragraph 13 (which relates to assessments under which the amount payable is nil) shall cease to have effect;
 - (b) in paragraph 14 (which provides for consolidated applications and assessments), the existing text shall be sub-paragraph (1) of that paragraph, and after that sub-paragraph there shall be inserted—
 - “(2) In sub-paragraph (1), the references (however expressed) to applications for maintenance calculations include references to applications treated as made.”;
 - (c) in paragraph 16 (which is about the termination of assessments)—
 - (i) in sub-paragraph (1), paragraphs (d) and (e) shall cease to have effect,
 - (ii) sub-paragraphs (2) to (9) shall cease to have effect; and
 - (iii) in sub-paragraph (10), the words “, or should be cancelled” shall cease to have effect.

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The Social Security Administration Act 1992 (c. 5)

- 12 In section 7A of the Social Security Administration Act 1992 (sharing of functions as regards certain claims and information), in subsection (6)(a)—
- (a) after “application” there shall be inserted “(or an application treated as having been made)”; and
 - (b) for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Child Support Act 1995 (c. 34)

- 13 (1) The Child Support Act 1995 shall be amended as follows.
- (2) In section 18 (deferral of right to apply for maintenance assessment), subsection (5) (which enables the Secretary of State by order to repeal any of the provisions of section 18) shall cease to have effect.
 - (3) Section 24 (which provides for the making of regulations under which compensation could be paid for a reduction in child support maintenance attributable to changes in child support legislation, and which is now spent) shall cease to have effect.

Prisoners' Earnings Act 1996 (c. 33)

- 14 In section 1 of the Prisoners' Earnings Act 1996 (power to make deductions and impose levies), in subsection (4), in paragraph (d) of the definition of “net weekly earnings”, for “maintenance assessment” there shall be substituted “maintenance calculation”.

The Social Security Act 1998 (c. 14)

- 15 (1) The Social Security Act 1998 shall be amended as follows.
- (2) In Schedule 2 (decisions against which no appeal lies), for paragraph 8 and the heading preceding it there shall be substituted—

“Reduction in accordance with reduced benefit decision

- 8 A decision to reduce the amount of a person’s benefit in accordance with a reduced benefit decision (within the meaning of section 46 of the Child Support Act).”.