

SCHEDULES

SCHEDULE 1

MAINTENANCE ASSESSMENTS

PART I

CALCULATION OF CHILD SUPPORT MAINTENANCE

The maintenance requirement

1.—(1) In this Schedule “the maintenance requirement” means the amount, calculated in accordance with the formula set out in sub-paragraph (2), which is to be taken as the minimum amount necessary for the maintenance of the qualifying child or, where there is more than one qualifying child, all of them.

(2) The formula is—

$$MR = AG - CB$$

where—

MR is the amount of the maintenance requirement;

AG is the aggregate of the amounts to be taken into account under sub-paragraph (3); and

CB is the amount payable by way of child benefit (or which would be so payable if the person with care of the qualifying child were an individual) or, where there is more than one qualifying child, the aggregate of the amounts so payable with respect to each of them.

(3) The amounts to be taken into account for the purpose of calculating AG are—

(a) such amount or amounts (if any), with respect to each qualifying child, as may be prescribed;

(b) such amount or amounts (if any), with respect to the person with care of the qualifying child or qualifying children, as may be prescribed; and

(c) such further amount or amounts (if any) as may be prescribed.

(4) For the purposes of calculating CB it shall be assumed that child benefit is payable with respect to any qualifying child at the basic rate.

(5) In sub-paragraph (4) “basic rate” has the meaning for the time being prescribed.

The general rule

2.—(1) In order to determine the amount of any maintenance assessment, first calculate—

$$(A + C) \times P$$

where—

A is the absent parent’s assessable income;

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C is the assessable income of the other parent, where that parent is the person with care, and otherwise has such value (if any) as may be prescribed; and

P is such number greater than zero but less than 1 as may be prescribed.

(2) Where the result of the calculation made under sub-paragraph (1) is an amount which is equal to, or less than, the amount of the maintenance requirement for the qualifying child or qualifying children, the amount of maintenance payable by the absent parent for that child or those children shall be an amount equal to—

$$A \times P$$

where

A and P have the same values as in the calculation made under sub-paragraph (1).

(3) Where the result of the calculation made under sub-paragraph (1) is an amount which exceeds the amount of the maintenance requirement for the qualifying child or qualifying children, the amount of maintenance payable by the absent parent for that child or those children shall consist of—

- (a) a basic element calculated in accordance with the provisions of paragraph 3; and
- (b) an additional element calculated in accordance with the provisions of paragraph 4.

The basic element

3.—(1) The basic element shall be calculated by applying the formula—

$$BE = A \times G \times P$$

where—

BE is the amount of the basic element;

A and P have the same values as in the calculation made under paragraph 2(1); and

G has the value determined under sub-paragraph (2).

(2) The value of G shall be determined by applying the formula—

$$G = \frac{MR}{(A + C) \times P}$$

where—

MR is the amount of the maintenance requirement for the qualifying child or qualifying children; and

A, C and P have the same values as in the calculation made under paragraph 2(1).

The additional element

4.—(1) Subject to sub-paragraph (2), the additional element shall be calculated by applying the formula—

$$AE = (1 - G) \times A \times R$$

where—

AE is the amount of the additional element;

A has the same value as in the calculation made under paragraph 2(1);

G has the value determined under paragraph 3(2); and R

is such number greater than zero but less than 1 as may be prescribed.

(2) Where applying the alternative formula set out in sub-paragraph (3) would result in a lower amount for the additional element, that formula shall be applied in place of the formula set out in sub-paragraph (1).

(3) The alternative formula is—

$$AE = Z \times Q \times \left(\frac{A}{A + C} \right)$$

where—

A and C have the same values as in the calculation made under paragraph 2(1);

Z is such number as may be prescribed; and

Q is the aggregate of—

- (a) any amount taken into account by virtue of paragraph 1(3)(a) in calculating the maintenance requirement; and
- (b) any amount which is both taken into account by virtue of paragraph 1(3)(c) in making that calculation and is an amount prescribed for the purposes of this paragraph.

Assessable income

5.—(1) The assessable income of an absent parent shall be calculated by applying the formula—

$$A = N - E$$

where—

A is the amount of that parent's assessable income;

N is the amount of that parent's net income, calculated or estimated in accordance with regulations made by the Department for the purposes of this sub-paragraph; and

E is the amount of that parent's exempt income, calculated or estimated in accordance with regulations made by the Department for those purposes.

(2) The assessable income of a parent who is a person with care of the qualifying child or children shall be calculated by applying the formula—

$$C = M - F$$

where—

C is the amount of that parent's assessable income;

M is the amount of that parent's net income, calculated or estimated in accordance with regulations made by the Department for the purposes of this sub-paragraph; and

F is the amount of that parent's exempt income, calculated or estimated in accordance with regulations made by the Department for those purposes.

(3) Where the preceding provisions of this paragraph would otherwise result in a person's assessable income being taken to be a negative amount his assessable income shall be taken to be nil.

(4) Where income support or any other benefit of a prescribed kind is paid to or in respect of a parent who is an absent parent or a person with care that parent shall, for the purposes of this Schedule, be taken to have no assessable income.

Protected income

6.—(1) This paragraph applies where—

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- (a) one or more maintenance assessments have been made with respect to an absent parent; and
- (b) payment by him of the amount, or the aggregate of the amounts, so assessed would otherwise reduce his disposable income below his protected income level.

(2) The amount of the assessment, or (as the case may be) of each assessment, shall be adjusted in accordance with such provisions as may be prescribed with a view to securing so far as is reasonably practicable that payment by the absent parent of the amount, or (as the case may be) aggregate of the amounts, so assessed will not reduce his disposable income below his protected income level.

(3) Regulations made under sub-paragraph (2) shall secure that, where the prescribed minimum amount fixed by regulations made under paragraph 7 applies, no maintenance assessment is adjusted so as to provide for the amount payable by an absent parent in accordance with that assessment to be less than that amount.

(4) The amount which is to be taken for the purposes of this paragraph as an absent parent's disposable income shall be calculated, or estimated, in accordance with regulations made by the Department.

(5) Regulations made under sub-paragraph (4) may, in particular, provide that, in such circumstances and to such extent as may be prescribed—

- (a) income of any child who is living in the same household with the absent parent; and
- (b) where the absent parent is living together in the same household with another adult of the opposite sex (regardless of whether or not they are married), income of that other adult,

is to be treated as the absent parent's income for the purposes of calculating his disposable income.

(6) In this paragraph "the protected income level" of a particular absent parent means an amount of income calculated, by reference to the circumstances of that parent, in accordance with regulations made by the Department.

The minimum amount of child support maintenance

7.—(1) The Department may prescribe a minimum amount for the purposes of this paragraph.

(2) Where the amount of child support maintenance which would be fixed by a maintenance assessment but for this paragraph is nil or less than the prescribed minimum amount, the amount to be fixed by the assessment shall be the prescribed minimum amount.

(3) In any case to which Article 40 applies, and in such other cases (if any) as may be prescribed, sub-paragraph (2) shall not apply.

Housing costs

8. Where regulations under this Schedule require a child support officer to take account of the housing costs of any person in calculating, or estimating, his assessable income or disposable income, those regulations may make provision—

- (a) as to the costs which are to be treated as housing costs for the purpose of the regulations;
- (b) for the apportionment of housing costs; and
- (c) for the amount of housing costs to be taken into account for prescribed purposes not to exceed such amount (if any) as may be prescribed by, or determined in accordance with, the regulations.

Regulations about income and capital

9. The Department may by regulations provide that, in such circumstances and to such extent as may be prescribed—

- (a) income of a child shall be treated as income of a parent of his;
- (b) where the child support officer concerned is satisfied that a person has intentionally deprived himself of a source of income with a view to reducing the amount of his assessable income, his net income shall be taken to include income from that source of an amount estimated by the child support officer;
- (c) a person is to be treated as possessing capital or income which he does not possess;
- (d) capital or income which a person does possess is to be disregarded;
- (e) income is to be treated as capital;
- (f) capital is to be treated as income.

References to qualifying children

10. References in this Part to “qualifying children” are to those qualifying children with respect to whom the maintenance assessment falls to be made.