

SCHEDULE

Regulation 8(8)

SCHEDULE 3 TO BE ADDED TO THE CHILD SUPPORT
(MAINTENANCE CALCULATION PROCEDURE) REGULATIONS

“SCHEDULE 3

Regulation 30(1B)

MULTIPLE APPLICATIONS—TRANSITIONAL PROVISIONS

No maintenance assessment or calculation in force: more than one application for maintenance by the same person under Article 7 or 9 or under Articles 7 and 9 of the former Order and of the Order

1.—(1) Where an assessment application is made and, before a maintenance assessment under the former Order is made, the applicant makes or is treated as making, as the case may be, a calculation application under Article 7 or 9 of the Order, 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 Article 7 of the former Order; or
- (b) under Article 9(1) of the former Order,

and, before a maintenance assessment under the former Order is made, the person with care –

- (i) in a case falling within head (a), is treated as making a calculation application under Article 9(1) of the Order, or
- (ii) in a case falling within head (b), makes a calculation application under Article 7 of the Order,

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 Article 9(1) of the Order, be treated as a single application under Article 9(1) of the former Order or of the Order, as the case may be, and shall otherwise be treated as a single application under Article 7 of the former Order or of the Order, as the case may be.

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

2.—(1) Where the Department 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, it shall, if no maintenance assessment under the former Order or maintenance calculation under the Order, as the case may be, has been made in relation to any of the applications, determine which application it shall proceed with in accordance with sub-paragraphs (2) to (8).

(2) Where an application by a person with care is made under Article 7 of the former Order or of the Order, or is made under Article 9 of the former Order, or is treated as made under Article 9 of the Order, and an application is made by an absent parent or non-resident parent under Article 7 of the former Order or of the Order, as the case may be, the Department shall proceed with the application of the person with care.

(3) 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 Department shall proceed with both applications, treating them as a single application.

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(4) Where a parent with care is required to authorise the Department to recover child support maintenance under Article 9 of the former Order and there is a calculation application under Article 7 of the Order by another person with care who has parental responsibility for the qualifying child or qualifying children with respect to whom the application was made under Article 9 of the former Order, the Department shall proceed with the assessment application under Article 9 of the former Order by the parent with care.

(5) Where –

- (a) a person with care makes an assessment application under Article 7 of the former Order and a different person with care makes a calculation application under Article 7 of the Order 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 that child or children; and
- (c) under regulation 20 of the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 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 Department 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.

(6) Where, in a case falling within sub-paragraph (5), 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 Department shall apply the provisions of paragraph (7) to determine which application it shall proceed with.

(7) Where –

- (a) a person with care makes an assessment application under Article 7 of the former Order and a different person with care makes a calculation application under Article 7 of the Order 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 that child or children, or
 - (ii) the case falls within sub-paragraph (5)(b) but the Department has not been able to determine which application it is to proceed with under the provisions of sub-paragraph (5),

the Department shall proceed with the application of the principal provider of day to day care, as determined in accordance with sub-paragraph (8).

(8) For the purposes of sub-paragraph (7), 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 Department cannot determine which application it is to proceed with under head (a) or (b), the application of that applicant who in the opinion of the Department is the principal provider of day to day care for the child or children in question.

(9) Subject to sub-paragraph (10), where, in any case falling within sub-paragraphs (2) to (7), the applications are not in respect of identical qualifying children, the application that the Department 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.

(10) Where the Department 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 (9), it shall make separate maintenance assessments under the former Order or maintenance calculations under the Order, as the case may be, in relation to each person with care providing such principal day to day care.

(11) 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

- 3. Where –
 - (a) a maintenance assessment is in force under the former Order;
 - (b) a calculation application is made or treated as made under the Article of the Order which is the same Article as the Article of the former Order 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

4. In this Schedule “absent parent”, “former Order” and “maintenance assessment” have the meanings given in regulation 30(8).”