

*Status: Point in time view as at 01/09/1992.*

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## SCHEDULES

### SCHEDULE 1

Section 11.

#### MAINTENANCE ASSESSMENTS

##### Modifications etc. (not altering text)

**C1** Sch. 1 modified (5.4.1993) by S.I. 1992/1815, reg. 21(2).

#### 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—
- $$\mathbf{MR = AG - CB}$$
- 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—
- such amount or amounts (if any), with respect to each qualifying child, as may be prescribed;
  - 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
  - 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.

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### Commencement Information

- II** Sch. 1 para. 1 wholly in force; para. 1 not in force at Royal Assent see s. 58(2); para. 1(3)(5) in force at 17.6.1992 by [S.I. 1992/1431](#), [art. 2](#), [Sch.](#); para. 1 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644](#), [art. 2](#)

### *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;

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.

### Modifications etc. (not altering text)

- C2** Sch. 1 para. 2(1) modified (5.4.1993) by [S.I. 1992/1815](#), [reg. 23\(4\)](#)

### Commencement Information

- I2** Sch. 1 para. 2 wholly in force; para. 2 not in force at Royal Assent see s. 58(2); para. 2(1) in force at 17.6.1992 by [S.I. 1992/1431](#), [art. 2](#), [Sch.](#); para. 2 in force in so far as not already in force at 5.4.1993 by [S.I. 1992/2644](#), [art. 2](#).

VALID FROM 05/04/1993

### *The basic element*

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

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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—

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.

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**Commencement Information**

- I3** Sch. 1 para. 4 wholly in force; para. 4 not in force at Royal Assent see s. 58(2); para. 4(1)(3) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; para. 4 in force in so far as not already in force at 5.4.1993 by S.I. 1992/2644, art. 2

*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 Secretary of State 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 Secretary of State 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 Secretary of State 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 Secretary of State 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.

**Commencement Information**

- I4** Sch. 1 para. 5 wholly in force; para. 5 not in force at Royal Assent see s. 58(2); para. 5(1)(2)(4) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; para. 5 in force in so far as not already in force at 5.4.1993 by S.I. 1992/2644, art. 2

*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 Secretary of State.
- (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 Secretary of State.

#### Commencement Information

**I5** Sch. 1 para. 6 wholly in force; para. 6 not in force at Royal Assent see s. 58(2); para. 6(2)-(6) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; para. 6 in force in so far as not already in force at 5.4.1993 by S.I. 1992/2644, art. 2

#### *The minimum amount of child support maintenance*

- 7
- (1) The Secretary of State 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 section 43 applies, and in such other cases (if any) as may be prescribed, sub-paragraph (2) shall not apply.

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### *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 Secretary of State 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.

VALID FROM 05/04/1993

### *References to qualifying children*

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

## PART II

### GENERAL PROVISIONS ABOUT MAINTENANCE ASSESSMENTS

#### *Effective date of assessment*

- 11 (1) A maintenance assessment shall take effect on such date as may be determined in accordance with regulations made by the Secretary of State.
- (2) That date may be earlier than the date on which the assessment is made.

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VALID FROM 05/04/1993

*Form of assessment*

- 12 Every maintenance assessment shall be made in such form and contain such information as the Secretary of State may direct.

VALID FROM 05/04/1993

*Assessments where amount of child support is nil*

- 13 A child support officer shall not decline to make a maintenance assessment only on the ground that the amount of the assessment is nil.

*Consolidated applications and assessments*

- 14 The Secretary of State may by regulations provide—
- (a) for two or more applications for maintenance assessments to be treated, in prescribed circumstances, as a single application; and
  - (b) for the replacement, in prescribed circumstances, of a maintenance assessment made on the application of one person by a later maintenance assessment made on the application of that or any other person.

VALID FROM 05/04/1993

*Separate assessments for different periods*

- 15 Where a child support officer is satisfied that the circumstances of a case require different amounts of child support maintenance to be assessed in respect of different periods, he may make separate maintenance assessments each expressed to have effect in relation to a different specified period.

*Termination of assessments*

- 16 (1) A maintenance assessment shall cease to have effect—
- (a) on the death of the absent parent, or of the person with care, with respect to whom it was made;
  - (b) on there no longer being any qualifying child with respect to whom it would have effect;
  - (c) on the absent parent with respect to whom it was made ceasing to be a parent of—
    - (i) the qualifying child with respect to whom it was made; or
    - (ii) where it was made with respect to more than one qualifying child, all of the qualifying children with respect to whom it was made;
  - (d) where the absent parent and the person with care with respect to whom it was made have been living together for a continuous period of six months;

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- (e) where a new maintenance assessment is made with respect to any qualifying child with respect to whom the assessment in question was in force immediately before the making of the new assessment.
- (2) A maintenance assessment made in response to an application under section 4 or 7 shall be cancelled by a child support officer if the person on whose application the assessment was made asks him to do so.
- (3) A maintenance assessment made in response to an application under section 6 shall be cancelled by a child support officer if—
  - (a) the person on whose application the assessment was made (“the applicant”) asks him to do so; and
  - (b) he is satisfied that the applicant has ceased to fall within subsection (1) of that section.
- (4) Where a child support officer is satisfied that the person with care with respect to whom a maintenance assessment was made has ceased to be a person with care in relation to the qualifying child, or any of the qualifying children, with respect to whom the assessment was made, he may cancel the assessment with effect from the date on which, in his opinion, the change of circumstances took place.
- (5) Where—
  - (a) at any time a maintenance assessment is in force but a child support officer would no longer have jurisdiction to make it if it were to be applied for at that time; and
  - (b) the assessment has not been cancelled, or has not ceased to have effect, under or by virtue of any other provision made by or under this Act,it shall be taken to have continuing effect unless cancelled by a child support officer in accordance with such prescribed provision (including provision as to the effective date of cancellation) as the Secretary of State considers it appropriate to make.
- (6) Where both the absent parent and the person with care with respect to whom a maintenance assessment was made request a child support officer to cancel the assessment, he may do so if he is satisfied that they are living together.
- (7) Any cancellation of a maintenance assessment under sub-paragraph (5) or (6) shall have effect from such date as may be determined by the child support officer.
- (8) Where a child support officer cancels a maintenance assessment, he shall immediately notify the absent parent and person with care, so far as that is reasonably practicable.
- (9) Any notice under sub-paragraph (8) shall specify the date with effect from which the cancellation took effect.
- (10) A person with care with respect to whom a maintenance assessment is in force shall provide the Secretary of State with such information, in such circumstances, as may be prescribed, with a view to assisting the Secretary of State or a child support officer in determining whether the assessment has ceased to have effect, or should be cancelled.
- (11) The Secretary of State may by regulations make such supplemental, incidental or transitional provision as he thinks necessary or expedient in consequence of the provisions of this paragraph.



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#### Commencement Information

- 16** Sch. 1 para. 16 wholly in force; para. 16 not in force at Royal Assent see s. 58(2); para. 16(5)(10)(11) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; para. 16 in force in so far as not already in force at 5.4.1993 by S.I. 1992/2644, art. 2

## SCHEDULE 2

Section 14(4).

### PROVISION OF INFORMATION TO SECRETARY OF STATE

VALID FROM 05/04/1993

#### *Inland Revenue records*

- 1 (1) This paragraph applies where the Secretary of State or the Department of Health and Social Services for Northern Ireland requires information for the purpose of tracing—
- (a) the current address of an absent parent; or
  - (b) the current employer of an absent parent.
- (2) In such a case, no obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent any information obtained or held in connection with the assessment or collection of income tax from being disclosed to —
- (a) the Secretary of State;
  - (b) the Department of Health and Social Services for Northern Ireland; or
  - (c) an officer of either of them authorised to receive such information in connection with the operation of this Act or of any corresponding Northern Ireland legislation.
- (3) This paragraph extends only to disclosure by or under the authority of the Commissioners of Inland Revenue.
- (4) Information which is the subject of disclosure to any person by virtue of this paragraph shall not be further disclosed to any person except where the further disclosure is made—
- (a) to a person to whom disclosure could be made by virtue of sub-paragraph (2); or
  - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of this Act or of any corresponding Northern Ireland legislation.

#### *Local authority records*

- 2 (1) This paragraph applies where—

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- (a) the Secretary of State requires relevant information in connection with the discharge by him, or by any child support officer, of functions under this Act; or
  - (b) the Department of Health and Social Services for Northern Ireland requires relevant information in connection with the discharge of any functions under any corresponding Northern Ireland legislation.
- (2) The Secretary of State may give a direction to the appropriate authority requiring them to give him such relevant information in connection with any housing benefit or community charge benefit to which an absent parent or person with care is entitled as the Secretary of State considers necessary in connection with his determination of—
- (a) that person’s income of any kind;
  - (b) the amount of housing costs to be taken into account in determining that person’s income of any kind; or
  - (c) the amount of that person’s protected income.
- (3) The Secretary of State may give a similar direction for the purposes of enabling the Department of Health and Social Services for Northern Ireland to obtain such information for the purposes of any corresponding Northern Ireland legislation.
- (4) In this paragraph—
- “appropriate authority” means—
  - (a) in relation to housing benefit, the housing or local authority concerned; and
  - (b) in relation to community charge benefit, the charging authority or, in Scotland, the levying authority; and

“relevant information” means information of such a description as may be prescribed.

#### **Commencement Information**

**I7** Sch. 2 para. 2 wholly in force; para. 2 not in force at Royal Assent see s. 58(2); para. 2(4) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; para. 2 in force in so far as not already in force at 5.4.1993 by S.I. 1992/2644, art. 2

## SCHEDULE 3

Section 21(4).

### CHILD SUPPORT APPEAL TRIBUNALS

#### *The President*

- 1
- (1) The person appointed <sup>F1</sup> . . . as President of the social security appeal tribunals, medical appeal tribunals and disability appeal tribunals shall, by virtue of that appointment, also be President of the child support appeal tribunals.
  - (2) It shall be the duty of the President to arrange such meetings of the chairmen and members of child support appeal tribunals, and such training for them, as he considers appropriate.
  - (3) The President may, with the consent of the Secretary of State as to numbers, remuneration and other terms and conditions of service, appoint such officers and

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staff as he thinks fit for the child support appeal tribunals and their full-time chairmen.

#### Textual Amendments

- F1** Words in Sch. 3 para. 1(1) repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3(1), 7(2), Sch.1 (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), s. 118(5)(7) (with s. 118(1)(2)(4))).

#### *Membership of child support appeal tribunals*

- 2 (1) A child support appeal tribunal shall consist of a chairman and two other persons.
- (2) The chairman and the other members of the tribunal must not all be of the same sex.
- (3) Sub-paragraph (2) shall not apply to any proceedings before a child support appeal tribunal if the chairman of the tribunal rules that it is not reasonably practicable to comply with that sub-paragraph in those proceedings.

#### *The chairmen*

- 3 (1) The chairman of a child support appeal tribunal shall be nominated by the President.
- (2) The President may nominate himself or a person drawn—
- (a) from the appropriate panel appointed by the Lord Chancellor, or (as the case may be) the Lord President of the Court of Session, under section 7 of the <sup>M1</sup>Tribunals and Inquiries Act 1971;
  - (b) from among those appointed under paragraph 4; or
  - (c) from among those appointed <sup>F2</sup>. . . to act as full-time chairmen of social security appeal tribunals.
- (3) Subject to any regulations made by the Lord Chancellor, no person shall be nominated as a chairman of a child support appeal tribunal by virtue of sub-paragraph (2)(a) unless he has a 5 year general qualification or is an advocate or solicitor in Scotland of 5 years' standing.

#### Textual Amendments

- F2** Words in Sch. 3 para. 3(2)(c) repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3(1), 7(2), Sch.1 (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), s. 118(5)(7) (with s. 118(1)(2)(4))).

#### Commencement Information

- I8** Sch. 3 para. 3 wholly in force; para. 3 not in force at Royal Assent see s. 58(2); para. 3(3) in force at 17.6.1992 by S.I. 1992/1431, art. 2, Sch.; para. 3 in force in so far as not already in force at 1.9.1992 by S.I. 1992/1938, art. 2

#### Marginal Citations

- M1** 1971 c. 62.

- 4 (1) The Lord Chancellor may appoint regional and other full-time chairmen for child support appeal tribunals.

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- (2) A person is qualified to be appointed as a full-time chairman if he has a 7 year general qualification or is an advocate or solicitor in Scotland of 7 years' standing.
- (3) A person appointed to act as a full-time chairman shall hold and vacate office in accordance with the terms of his appointment, except that he must vacate his office at the end of the completed year of service in which he reaches the age of 72 unless his appointment is continued under sub-paragraph (4).
- (4) Where the Lord Chancellor considers it desirable in the public interest to retain a full-time chairman in office after the end of the completed year of service in which he reaches the age of 72, he may from time to time authorise the continuance of that person in office until any date not later than that on which that person reaches the age of 75.
- (5) A person appointed as a full-time chairman may be removed from office by the Lord Chancellor, on the ground of misbehaviour or incapacity.
- (6) Section 75 of the <sup>M2</sup>Courts and Legal Services Act 1990 (judges etc. barred from legal practice) shall apply to any person appointed as a full-time chairman under this Schedule as it applies to any person holding as a full-time appointment any of the offices listed in Schedule 11 to that Act.
- (7) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of persons appointed as full-time chairmen under this paragraph as, with the consent of the Treasury, he may determine.

**Marginal Citations**

**M2** 1990 c. 41.

*Other members of child support appeal tribunals*

- 5 (1) The members of a child support appeal tribunal other than the chairman shall be drawn from the appropriate panel constituted under this paragraph.
- (2) The panels shall be constituted by the President for the whole of Great Britain, and shall—
  - (a) act for such areas; and
  - (b) be composed of such persons,
 as the President thinks fit.
- (3) The panel for an area shall be composed of persons appearing to the President to have knowledge or experience of conditions in the area and to be representative of persons living or working in the area.
- (4) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (5) The members of the panels shall hold office for such period as the President may direct.
- (6) The President may at any time terminate the appointment of any member of a panel.

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#### *Clerks of tribunals*

- 6 (1) Each child support appeal tribunal shall be serviced by a clerk appointed by the President.
- (2) The duty of summoning members of a panel to serve on a child support appeal tribunal shall be performed by the clerk to the tribunal.

#### *Expenses of tribunal members and others*

- 7 (1) The Secretary of State may pay—
- (a) to any member of a child support appeal tribunal, such remuneration and travelling and other allowances as the Secretary of State may determine with the consent of the Treasury;
  - (b) to any person required to attend at any proceedings before a child support appeal tribunal, such travelling and other allowances as may be so determined; and
  - (c) such other expenses in connection with the work of any child support appeal tribunal as may be so determined.
- (2) In sub-paragraph (1), references to travelling and other allowances include references to compensation for loss of remunerative time.
- (3) No compensation for loss of remunerative time shall be paid to any person under this paragraph in respect of any time during which he is in receipt of other remuneration so paid.

#### *Consultation with Lord Advocate*

- 8 Before exercising any of his powers under paragraph 3(3) or 4(1), (4) or (5), the Lord Chancellor shall consult the Lord Advocate.

### SCHEDULE 4

Section 22(5).

#### CHILD SUPPORT COMMISSIONERS

#### *Tenure of office*

- 1 (1) Every Child Support Commissioner shall vacate his office at the end of the completed year of service in which he reaches the age of 72.
- (2) Where the Lord Chancellor considers it desirable in the public interest to retain a Child Support Commissioner in office after the end of the completed year of service in which he reaches the age of 72, he may from time to time authorise the continuance of that Commissioner in office until any date not later than that on which he reaches the age of 75.
- (3) A Child Support Commissioner may be removed from office by the Lord Chancellor on the ground of misbehaviour or incapacity.

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### *Commissioners' remuneration and their pensions*

- 2 (1) The Lord Chancellor may pay, or make such payments towards the provision of such remuneration, pensions, allowances or gratuities to or in respect of persons appointed as Child Support Commissioners as, with the consent of the Treasury, he may determine.
- (2) The Lord Chancellor shall pay to a Child Support Commissioner such expenses incurred in connection with his work as such a Commissioner as may be determined by the Treasury.

### *Commissioners barred from legal practice*

- 3 Section 75 of the <sup>M3</sup>Courts and Legal Services Act 1990 (judges etc. barred from legal practice) shall apply to any person appointed as a Child Support Commissioner as it applies to any person holding as a full-time appointment any of the offices listed in Schedule 11 to that Act.

#### **Marginal Citations**

**M3** 1990 c. 41.

### *Deputy Child Support Commissioners*

- 4 (1) The Lord Chancellor may appoint persons to act as Child Support Commissioners (but to be known as deputy Child Support Commissioners) in order to facilitate the disposal of the business of Child Support Commissioners.
- (2) A deputy Child Support Commissioner shall be appointed—
- (a) from among persons who have a 10 year general qualification or are advocates or solicitors in Scotland of 10 years' standing; and
  - (b) for such period or on such occasions as the Lord Chancellor thinks fit.
- (3) Paragraph 2 applies to deputy Child Support Commissioners as if the reference to pensions were omitted and paragraph 3 does not apply to them.

### *Tribunals of Commissioners*

- 5 (1) If it appears to the Chief Child Support Commissioner (or, in the case of his inability to act, to such other of the Child Support Commissioners as he may have nominated to act for the purpose) that an appeal falling to be heard by one of the Child Support Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with by a tribunal consisting of any three of the Child Support Commissioners.
- (2) If the decision of such a tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal.

### *Finality of decisions*

- 6 (1) Subject to section 25, the decision of any Child Support Commissioner shall be final.

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- (2) Sub-paragraph (1) shall not be taken to make any finding of fact or other determination embodied in, or necessary to, a decision, or on which it is based, conclusive for the purposes of any further decision.

*Consultation with Lord Advocate*

- 7 Before exercising any of his powers under paragraph 1(2) or (3), or 4(1) or (2)(b), the Lord Chancellor shall consult the Lord Advocate.

*Northern Ireland*

- 8 In its application to Northern Ireland this Schedule shall have effect as if—
- (a) for any reference to a Child Support Commissioner (however expressed) there were substituted a corresponding reference to a Child Support Commissioner for Northern Ireland;
  - (b) in paragraph 2(1), the word “pensions” were omitted;
  - (c) for paragraph 3, there were substituted—

“3 A Child Support Commissioner for Northern Ireland, so long as he holds office as such, shall not practise as a barrister or act for any remuneration to himself as arbitrator or referee or be directly or indirectly concerned in any matter as a conveyancer, notary public or solicitor.”;
  - (d) in paragraph 4—
    - (i) for paragraph (a) of sub-paragraph (2) there were substituted—

“(a) from among persons who are barristers or solicitors of not less than 10 years’ standing; and”;
    - (ii) for sub-paragraph (3) there were substituted—

“(3) Paragraph 2 applies to deputy Child Support Commissioners for Northern Ireland, but paragraph 3 does not apply to them.”; and
  - (e) paragraphs 5 to 7 were omitted.

SCHEDULE 5

Section 58(13).

CONSEQUENTIAL AMENDMENTS

*The Tribunals and Inquiries Act 1971 (c.62)*

- 1 (1) In section 7(3) of the Tribunals and Inquiries Act 1971 (chairmen of certain tribunals to be drawn from panels) after “paragraph” there shall be inserted “4A ”.
- (2) In Schedule 1 to that Act (tribunals under the general supervision of the Council on Tribunals) the following entry shall be inserted at the appropriate place—

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### **Child support maintenance**

- “4A            (a) The child support appeal tribunals established under section 21 of the Child Support Act 1991.
- (b) A Child Support Commissioner appointed under section 22 of the Child Support Act 1991 and any tribunal presided over by such a Commissioner.”

#### *The Northern Ireland Constitution Act 1973 (c. 36)*

- 2            In paragraph 9 of Schedule 2 to the Northern Ireland Constitution Act 1973 (certain judicial appointments to be an excepted matter), after the words “for Northern Ireland”, where they first occur, there shall be inserted “ the Chief and other Child Support Commissioners for Northern Ireland ”.

#### *The House of Commons Disqualification Act 1975 (c.24)*

- 3            (1) The House of Commons Disqualification Act 1975 shall be amended as follows.
- (2) In Part I (disqualifying judicial offices), the following entries shall be inserted at the appropriate places— “ Chief or other Child Support Commissioner (excluding a person appointed under paragraph 4 of Schedule 4 to the Child Support Act 1991). ” “ Chief or other Child Support Commissioner for Northern Ireland (excluding a person appointed under paragraph 4 of Schedule 4 to the Child Support Act 1991). ”
- (3) In Part III (other disqualifying offices), the following entry shall be inserted at the appropriate place— “ Regional or other full-time chairman of a child support appeal tribunal established under section 21 of the Child Support Act 1991 ”.

#### *The Northern Ireland Assembly Disqualification Act 1975 (c.25)*

- 4            (1) In Part I of the Northern Ireland Assembly Disqualification Act 1975 (disqualifying judicial offices), the following entries shall be inserted at the appropriate places— “ Chief or other Child Support Commissioner (excluding a person appointed under paragraph 4 of Schedule 4 to the Child Support Act 1991). ” “ Chief or other Child Support Commissioner for Northern Ireland (excluding a person appointed under paragraph 4 of Schedule 4 to the Child Support Act 1991). ”

VALID FROM 05/04/1993

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

- 5            In section 4 (amount of aliment) of the Family Law (Scotland) Act 1985, at the end there shall be added—
- “(4) Where a court makes an award of aliment in an action brought by or on behalf of a child under the age of 16 years, it may include in that award such provision as it considers to be in all the circumstances reasonable in respect of the expenses incurred wholly or partly by the person having care of the child for the purpose of caring for the child.”



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VALID FROM 05/04/1993

*Bankruptcy (Scotland) Act 1985 (c.66)*

- 6 (1) The Bankruptcy (Scotland) Act 1985 shall be amended as follows.
- (2) In section 32 (vesting of estate and dealings of debtor after sequestration)—
- (a) in subsection (3)—
- (i) after paragraph (b) there shall be inserted—
- “(c) any obligation of his to pay child support maintenance under the Child Support Act 1991,”;
- (ii) after “relevant obligations” where second occurring there shall be inserted “referred to in paragraphs (a) and (b) above”;
- (b) in subsection (5) after “Diligence” there shall be inserted “ (which, for the purposes of this section, includes the making of a deduction from earnings order under the Child Support Act 1991) ”.
- (3) In section 37 (effect of sequestration on diligence), in subsection (5A) for “or a conjoined arrestment order” there is substituted “, a conjoined arrestment order or a deduction from earnings order under the Child Support Act 1991 ”.
- (4) In section 55 (effect of discharge under section 54), in subsection (2)(d)—
- (a) after “being” there shall be inserted “ (i) ”;
- (b) at the end there shall be inserted—
- “or
- (ii) child support maintenance within the meaning of the Child Support Act 1991 which was unpaid in respect of any period before the date of sequestration of—
- (aa) any person by whom it was due to be paid;  
or
- (bb) any employer by whom it was, or was due to be, deducted under section 31(5) of that Act.”.

VALID FROM 05/04/1993

*The Insolvency Act 1986 (c.45)*

- 7 In section 281(5)(b) of the Insolvency Act 1986 (effect of discharge of bankrupt), after “family proceedings” there shall be inserted “ or under a maintenance assessment made under the Child Support Act 1991 ”.

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VALID FROM 05/04/1993

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

- 8 (1) The Debtors (Scotland) Act 1987 shall be amended as follows.
- (2) In section 1(5) (time to pay directions not competent in certain cases) after paragraph (c) there shall be inserted—
- “(cc) in connection with a liability order within the meaning of the Child Support Act 1991;”.
- (3) In section 15(3) (interpretation of Part I), in the definition of “decree or other document”, after “maintenance order” there shall be inserted “, a liability order within the meaning of the Child Support Act 1991 ”.
- (4) In section 54(1) (maintenance arrestment to be preceded by default) in paragraph (c) for “the aggregate of 3 instalments” there shall be substituted “ one instalment ”.
- (5) In section 72 (effect of sequestration on diligence against earnings)—
- (a) in subsection (2) after “order” there shall be inserted “ or deduction from earnings order under the Child Support Act 1991 ”;
- (b) after subsection (3) there shall be inserted—
- “(3A) Any sum deducted by the employer under such a deduction from earnings order made before the date of sequestration shall be paid to the Secretary of State, notwithstanding that the date of payment will be after the date of sequestration.”;
- (c) after subsection (4) there shall be inserted—
- “(4A) A deduction from earnings order under the said Act shall not be competent after the date of sequestration to secure the payment of any amount due by the debtor under a maintenance assessment within the meaning of that Act in respect of which a claim could be made in the sequestration.”.
- (6) In section 73(1) (interpretation of Part III), in the definition of “net earnings”,
- (a) in paragraph (c) for “within the meaning of the Wages Councils Act 1979” there shall be substituted “, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sums—
- (i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or
- (ii) to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise,
- whether with or without any further or other benefit; ”; and
- (b) at the end there shall be added—
- “(d) any amount deductible by virtue of a deduction from earnings order which, in terms of regulations made under section 32(4)(c) of the Child Support Act 1991, is to have priority over diligences against earnings.”

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- (7) In section 106 (interpretation) in the definition of “maintenance order”—
- (a) the word “or” where it appears after paragraph (g), shall be omitted; and
  - (b) at the end there shall be inserted “or
    - (j) a maintenance assessment within the meaning of the Child Support Act 1991.”.

**Status:**

Point in time view as at 01/09/1992.

**Changes to legislation:**

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