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## SCHEDULES

### SCHEDULE 1

Section 11.

#### MAINTENANCE ASSESSMENTS

#### [<sup>F1</sup>PART I

#### CALCULATION OF WEEKLY AMOUNT OF CHILD SUPPORT MAINTENANCE

##### Textual Amendments

- F1** Sch. 1 Pt. 1 substituted (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 1(3), 86(1)(a)(2), [Sch. 1](#) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2(1), Sch. Pt. 1; S.I. 2003/192, art. 3, Sch.

##### *General rule*

- 1 (1) The weekly rate of child support maintenance is the basic rate unless a reduced rate, a flat rate or the nil rate applies.
- (2) Unless the nil rate applies, the amount payable weekly to a person with care is—
- (a) the applicable rate, if paragraph 6 does not apply; or
  - (b) if paragraph 6 does apply, that rate as apportioned between the persons with care in accordance with paragraph 6,
- as adjusted, in either case, by applying the rules about shared care in paragraph 7 or 8.

##### *Basic rate*

- 2 (1) The basic rate is the following percentage of the non-resident parent's net weekly income—
- 15% where he has one qualifying child;
  - 20% where he has two qualifying children;
  - 25% where he has three or more qualifying children.
- (2) If the non-resident parent also has one or more relevant other children, the appropriate percentage referred to in sub-paragraph (1) is to be applied instead to his net weekly income less—
- 15% where he has one relevant other child;
  - 20% where he has two relevant other children;
  - 25% where he has three or more relevant other children.

##### *Reduced rate*

- 3 (1) A reduced rate is payable if—

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- (a) neither a flat rate nor the nil rate applies; and
  - (b) the non-resident parent's net weekly income is less than £200 but more than £100.
- (2) The reduced rate payable shall be prescribed in, or determined in accordance with, regulations.
- (3) The regulations may not prescribe, or result in, a rate of less than £5.

*Flat rate*

- 4 (1) Except in a case falling within sub-paragraph (2), a flat rate of £5 is payable if the nil rate does not apply and—
- (a) the non-resident parent's net weekly income is £100 or less; or
  - (b) he receives any benefit, pension or allowance prescribed for the purposes of this paragraph of this sub-paragraph; or
  - (c) he or his partner (if any) receives any benefit prescribed for the purposes of this paragraph of this sub-paragraph.
- (2) A flat rate of a prescribed amount is payable if the nil rate does not apply and—
- (a) the non-resident parent has a partner who is also a non-resident parent;
  - (b) the partner is a person with respect to whom a maintenance calculation is in force; and
  - (c) the non-resident parent or his partner receives any benefit prescribed under sub-paragraph (1)(c).
- (3) The benefits, pensions and allowances which may be prescribed for the purposes of sub-paragraph (1)(b) include ones paid to the non-resident parent under the law of a place outside the United Kingdom.

*Nil rate*

- 5 The rate payable is nil if the non-resident parent—
- (a) is of a prescribed description; or
  - (b) has a net weekly income of below £5.

*Apportionment*

- 6 (1) If the non-resident parent has more than one qualifying child and in relation to them there is more than one person with care, the amount of child support maintenance payable is (subject to paragraph 7 or 8) to be determined by apportioning the rate between the persons with care.
- (2) The rate of maintenance liability is to be divided by the number of qualifying children, and shared among the persons with care according to the number of qualifying children in relation to whom each is a person with care.

*Shared care—basic and reduced rate*

- 7 (1) This paragraph applies only if the rate of child support maintenance payable is the basic rate or a reduced rate.

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- (2) If the care of a qualifying child is shared between the non-resident parent and the person with care, so that the non-resident parent from time to time has care of the child overnight, the amount of child support maintenance which he would otherwise have been liable to pay the person with care, as calculated in accordance with the preceding paragraphs of this Part of this Schedule, is to be decreased in accordance with this paragraph.
- (3) First, there is to be a decrease according to the number of such nights which the Secretary of State determines there to have been, or expects there to be, or both during a prescribed twelve-month period.
- (4) The amount of that decrease for one child is set out in the following Table—

Number of nights	Fraction to subtract
52 to 103	One-seventh
104 to 155	Two-sevenths
156 to 174	Three-sevenths
175 or more	One-half

- (5) If the person with care is caring for more than one qualifying child of the non-resident parent, the applicable decrease is the sum of the appropriate fractions in the Table divided by the number of such qualifying children.
- (6) If the applicable fraction is one-half in relation to any qualifying child in the care of the person with care, the total amount payable to the person with care is then to be further decreased by £7 for each such child.
- (7) If the application of the preceding provisions of this paragraph would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to the person with care (or all of them) to less than £5, he is instead liable to pay child support maintenance at the rate of £5 a week, apportioned (if appropriate) in accordance with paragraph 6.

*Shared care—flat rate*

- 8 (1) This paragraph applies only if—
  - (a) the rate of child support maintenance payable is a flat rate; and
  - (b) that rate applies because the non-resident parent falls within paragraph 4(1)(b) or (c) or 4(2).
- (2) If the care of a qualifying child is shared as mentioned in paragraph 7(2) for at least 52 nights during a prescribed 12-month period, the amount of child support maintenance payable by the non-resident parent to the person with care of that child is nil.

*Regulations about shared care*

- 9 The Secretary of State may by regulations provide—
  - (a) for which nights are to count for the purposes of shared care under paragraphs 7 and 8, or for how it is to be determined whether a night counts;
  - (b) for what counts, or does not count, as “care” for those purposes; and

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- (c) for paragraph 7(3) or 8(2) to have effect, in prescribed circumstances, as if the period mentioned there were other than 12 months, and in such circumstances for the Table in paragraph 7(4) (or that Table as modified pursuant to regulations made under paragraph 10A(2)(a)), or the period mentioned in paragraph 8(2), to have effect with prescribed adjustments.

*Net weekly income*

- 10 (1) For the purposes of this Schedule, net weekly income is to be determined in such manner as is provided for in regulations.
- (2) The regulations may, in particular, provide for the Secretary of State to estimate any income or make an assumption as to any fact where, in his view, the information at his disposal is unreliable, insufficient, or relates to an atypical period in the life of the non-resident parent.
- (3) Any amount of net weekly income (calculated as above) over £2,000 is to be ignored for the purposes of this Schedule.

*Regulations about rates, figures, etc.*

- 10A (1) The Secretary of State may by regulations provide that—
- (a) paragraph 2 is to have effect as if different percentages were substituted for those set out there;
- (b) paragraph 3(1) or (3), 4(1), 5, 7(7) or 10(3) is to have effect as if different amounts were substituted for those set out there.
- (2) The Secretary of State may by regulations provide that—
- (a) the Table in paragraph 7(4) is to have effect as if different numbers of nights were set out in the first column and different fractions were substituted for those set out in the second column;
- (b) paragraph 7(6) is to have effect as if a different amount were substituted for that mentioned there, or as if the amount were an aggregate amount and not an amount for each qualifying child, or both.

*Regulations about income*

- 10B The Secretary of State may by regulations provide that, in such circumstances and to such extent as may be prescribed—
- (a) where the Secretary of State is satisfied that a person has intentionally deprived himself of a source of income with a view to reducing the amount of his net weekly income, his net weekly income shall be taken to include income from that source of an amount estimated by the Secretary of State;
- (b) a person is to be treated as possessing income which he does not possess;
- (c) income which a person does possess is to be disregarded.

*References to various terms*

- 10C (1) References in this Part of this Schedule to “qualifying children” are to those qualifying children with respect to whom the maintenance calculation falls to be made.
- (2) References in this Part of this Schedule to “relevant other children” are to—

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- (a) children other than qualifying children in respect of whom the non-resident parent or his partner receives child benefit under Part IX of the Social Security Contributions and Benefits Act 1992; and
  - (b) such other description of children as may be prescribed.
- (3) In this Part of this Schedule, a person “receives” a benefit, pension, or allowance for any week if it is paid or due to be paid to him in respect of that week.
- (4) In this Part of this Schedule, a person’s “partner” is—
- (a) if they are a couple, the other member of that couple;
  - (b) if the person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy, another party to the marriage who is of the opposite sex and is a member of the same household.
- (5) In sub-paragraph (4)(a), “couple” means a man and a woman who are—
- (a) married to each other and are members of the same household; or
  - (b) not married to each other but are living together as husband and wife.]

## 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.

#### *Form of assessment*

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

#### *Assessments where amount of child support is nil*

- 13 [F2The Secretary of State] shall not decline to make a maintenance assessment only on the ground that the amount of the assessment is nil.

#### **Textual Amendments**

- F2** Words in [Sch. 1 para. 13](#) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 48\(3\)](#); S.I. 1999/1510, art. 2(g)(v)

#### *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

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- (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.

*Separate assessments for different periods*

- 15 Where [<sup>F3</sup>the Secretary of State] 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.

**Textual Amendments**

- F3** Words in Sch. 1 para. 15 substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 48\(4\)](#); [S.I. 1999/1510, art. 2\(g\)\(v\)](#)

*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;
  - (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 [<sup>F4</sup>the Secretary of State] 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 [<sup>F4</sup>the Secretary of State] 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 [<sup>F4</sup>the Secretary of State] 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.

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- [<sup>F5</sup>(4A) A maintenance assessment may be cancelled by [<sup>F4</sup>the Secretary of State] if he is [<sup>F6</sup>proposing to make a decision under section 16 or 17] and it appears to him—
- (a) that the person with care with respect to whom the maintenance assessment in question was made has failed to provide him with sufficient information to enable him to [<sup>F6</sup>make the decision]; and
  - (b) where the maintenance assessment in question was made in response to an application under section 6, that the person with care with respect to whom the assessment was made has ceased to fall within subsection (1) of that section.]
- (5) Where—
- (a) at any time a maintenance assessment is in force but [<sup>F4</sup>the Secretary of State] 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 [<sup>F4</sup>the Secretary of State] 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 [<sup>F4</sup>the Secretary of State] 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 [<sup>F7</sup>(4A),] (5) or (6) shall have effect from such date as may be determined by [<sup>F8</sup>the Secretary of State].
- (8) Where [<sup>F4</sup>the Secretary of State] 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 <sup>F9</sup>... 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.

#### Textual Amendments

- F4** Words in Sch. 1 para. 16(2)-(6)(8) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 48(5)(a); S.I. 1999/1510, art. 2(g)(v)
- F5** Sch. 1 para. 16(4A) inserted (22.1.1996) by Child Support Act 1995 (c. 34), ss. 14(2), 30(4); S.I. 1995/3262, art. 2, Sch. Pt. 2

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- F6** Words in Sch. 1 para. 16(4A) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 48(5)(b)**; S.I. 1999/1510, art. 2(g)(v)
- F7** Word in Sch. 1 para. 16(7) inserted (22.1.1996) by Child Support Act 1995 (c. 34), **ss. 14(3), 30(4)**; S.I. 1995/3262, art. 2, Sch. Pt. 2
- F8** Words in Sch. 1 para. 16(7) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 48(5)(c)**; S.I. 1999/1510, art. 2(g)(v)
- F9** Words in Sch. 1 para. 16(10) repealed (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 48(5)(d), **Sch. 8**; S.I. 1999/1510, art. 2(f)(iii)(g)(v)

#### Commencement Information

- II** 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

#### *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.
- <sup>F10</sup>1A (1) This paragraph applies to any information which—
- (a) relates to any earnings or other income of an absent parent in respect of a tax year in which he is or was a self-employed earner, and



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- (b) is required by the Secretary of State or the Department of Health and Social Services for Northern Ireland for any purposes of this Act [<sup>F11</sup>or any corresponding Northern Ireland legislation].
- (2) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent any such 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 [<sup>F11</sup>or 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 [<sup>F12</sup>or any corresponding Northern Ireland legislation].
- (5) For the purposes of this paragraph “self-employed earner” and “tax year” have the same meaning as in Parts I to VI of the Social Security Contributions and Benefits Act 1992 [<sup>F13</sup>or, in relation to Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992].]

**Textual Amendments**

- F10** Sch. 2 para. 1A inserted (11.11.1999) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), ss. **80**, 89(4)(d)
- F11** Words in Sch. 2 para. 1A(1)(2) added (N.I.) (1.12.1999) by [The Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147\)](#), arts. 1(4)(e), **71(2)**
- F12** Words in Sch. 2 para. 1A(4) added (N.I.) (1.12.1999) by [The Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147\)](#), arts. 1(4)(e), **71(2)**
- F13** Words in Sch. 2 para. 1A(5) added (N.I.) (1.12.1999) by [The Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147\)](#), arts. 1(4)(e), **71(3)**

*Local authority records*

<sup>F14</sup>2

**Textual Amendments**

- F14** Sch. 2 para. 2 repealed (8.9.1998) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), Sch. 7 para. 49, [Sch. 8](#); S.I. 1998/2209, art. 2, Sch. Pt. 1

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## F15 SCHEDULE 3

Section 21(4).

### Textual Amendments

**F15** Sch. 3 repealed (1.6.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), Sch. 7 para. 50, **Sch. 8**; S.I. 1999/1510, art. 2(f)(iii)(g)(v)

## SCHEDULE 4

Section 22(5).

### CHILD SUPPORT COMMISSIONERS

#### *Tenure of office*

- 1 (1) Every Child Support Commissioner shall vacate his office [F16 on the date on which he reaches the age of 70; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75)].

F17(2) .....

- (3) A Child Support Commissioner may be removed from office by the Lord Chancellor on the ground of misbehaviour or incapacity.

### Textual Amendments

**F16** Words in Sch. 4 para. 1(1) substituted (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#), s. 31(2), **Sch. 6 para. 23(2)(a)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, art. 2

**F17** Sch. 4 para. 1(2) repealed (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#), s. 31(2), Sch. 6 para. 23(2)(b), **Sch. 9** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, art. 2

#### *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.

[F18(3) Sub-paragraph (1), so far as relating to pensions, allowances or gratuities, shall not have effect in relation to any person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

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#### Textual Amendments

- F18** Sch. 4 para. 2(3) added (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#), s. 31(2), [Sch. 8 para. 21\(2\)](#); S.I. 1995/631, art. 2

#### *[<sup>F19</sup>Expenses of other persons*

#### Textual Amendments

- F19** Sch. 4 para. 2A and cross-heading inserted (18.12.1995) by [Child Support Act 1995 \(c. 34\)](#), s. 30(4), [Sch. 3 para. 18\(1\)](#); S.I. 1995/3262, art. 2, Sch. Pt. 1

- 2A [<sup>F20</sup>(1) The Lord Chancellor or, in Scotland, the Secretary of State may pay to any person who attends any proceedings before a Child Support Commissioner such travelling and other allowances as he may determine.]
- (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.]

#### Textual Amendments

- F20** Sch. 4 para. 2A(1) substituted (1.6.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 51](#); S.I. 1999/1510, art. 2(g)(v)

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

- C1** Sch. 4 para. 2A: transfer of functions in relation to Scotland (1.7.1999) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 1999 \(S.I. 1999/1750\)](#), arts. 1(1), 2, [Sch. 1](#) (with art. 7)

#### *Commissioners barred from legal practice*

- 3 Section 75 of the <sup>M1</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

- M1** 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.

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- (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) [<sup>F21</sup>subject to sub-paragraph (2A)] for such period or on such occasions as the Lord Chancellor thinks fit.
- [<sup>F22</sup>(2A) No appointment of a person to be a deputy Child Support Commissioner shall be such as to extend beyond the date on which he reaches the age of 70; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).]
- (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.

#### Textual Amendments

- F21** Words in Sch. 4 para. 4(2)(b) inserted (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\), s. 31\(2\), Sch. 6 para. 23\(3\)](#) (with [Sch. 7 paras. 2\(2\), 3\(2\), 4](#)); [S.I. 1995/631, art. 2](#)
- F22** Sch. 4 para. 4(2A) inserted (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\), s. 31\(2\), Sch. 6 para. 23\(3\)](#) (with [Sch. 7 paras. 2\(2\), 3\(2\), 4](#)); [S.I. 1995/631, art. 2](#)

#### *[<sup>F23</sup>Determination of questions by other officers*

#### Textual Amendments

- F23** [Sch. 4 para. 4A](#) and cross-heading inserted (18.12.1995) by [Child Support Act 1995 \(c. 34\), ss. 17\(1\), 30\(4\)](#); [S.I. 1995/3262, art. 2, Sch. Pt. 1](#)

- 4A (1) The Lord Chancellor may by regulations provide—
- (a) for officers authorised—
    - (i) by the Lord Chancellor; or
    - (ii) in Scotland, by the Secretary of State,
 to determine any question which is determinable by a Child Support Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;
  - (b) for the procedure to be followed by any such officer in determining any such question;
  - (c) for the manner in which determinations of such questions by such officers may be called in question.
- (2) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Child Support Commissioner is not a determination of the appeal, application or reference for the purposes of sub-paragraph (1).]

#### *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) [<sup>F24</sup>that—

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- (a) an application for leave under section 24(6)(b); or
- (b) an appeal,] falling to be heard by one of the Child Support Commissioners involves a question of law of special difficulty, he may direct [<sup>F25</sup>that the application or appeal] be dealt with by a tribunal consisting of any three [<sup>F26</sup>or more] 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 [<sup>F27</sup>; and the presiding Child Support Commissioner shall have a casting vote if the votes are equally divided].
- [<sup>F28</sup>(3) Where a direction is given under sub-paragraph (1)(a), section 24(6)(b) shall have effect as if the reference to a Child Support Commissioner were a reference to such a tribunal as is mentioned in sub-paragraph (1).]

#### Textual Amendments

- F24** Words in Sch. 4 para. 5(1) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 52(1)(a); S.I. 1999/1510, art. 2(g)(v)
- F25** Words in Sch. 4 para. 5(1) substituted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 52(1)(b); S.I. 1999/1510, art. 2(g)(v)
- F26** Words in Sch. 4 para. 5(1) inserted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 52(1)(c); S.I. 1999/1510, art. 2(g)(v)
- F27** Words in Sch. 4 para. 5(2) inserted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 52(2); S.I. 1999/1510, art. 2(g)(v)
- F28** Sch. 4 para. 5(3) inserted (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 52(3); S.I. 1999/1510, art. 2(g)(v)

#### Finality of decisions

- 6 (1) Subject to section 25, the decision of any Child Support Commissioner shall be final.
- [<sup>F29</sup>(2) If and to the extent that regulations so provide, any finding of fact or other determination which is embodied in or necessary to a decision, or on which a decision is based, shall be conclusive for the purposes of any further decision.]

#### Textual Amendments

- F29** Sch. 4 para. 6(2) substituted (4.3.1999 for specified purposes, 1.6.1999 in so far as not already in force) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 52(4); S.I. 1999/528, art. 2(a), Sch.; S.I. 1999/1510, art. 2(g)(v)

#### Consultation with Lord Advocate

- 7 Before exercising any of his powers under [<sup>F30</sup>paragraph 1(3)], [<sup>F31</sup>4(1) or (2)(b) or 4A(1)], the Lord Chancellor shall consult the Lord Advocate.

#### Textual Amendments

- F30** Words in Sch. 4 para. 7 substituted (31.3.1995) by Judicial Pensions and Retirement Act 1993 (c. 8), s. 31(2), Sch. 6 para. 23(4) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, art. 2

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- F31** Words in Sch. 4 para. 7 substituted (18.12.1995) by [Child Support Act 1995 \(c. 34\)](#), **ss. 17(2), 30(4)**; S.I. 1995/3262, art. 2, Sch. Pt. 1

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

- C2** Sch. 4 para. 7: transfer of functions (19.5.1999) by [The Transfer of Functions \(Lord Advocate and Secretary of State\) Order 1999 \(S.I. 1999/678\)](#), arts. 1, 2(1), **Sch.**
- C3** Sch. 4 para. 7 functions treated as exercisable in Scotland (30.6.1999) by [The Scotland Act 1998 \(Functions Exercisable in or as Regards Scotland\) Order 1999 \(S.I. 1999/1748\)](#), arts. 1, 3, **Sch. 1 para. 12**
- C4** Sch. 4 para. 7: transfer of functions in relation to Scotland (1.7.1999) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 1999 \(S.I. 1999/1750\)](#), arts. 1(1), 2, **Sch. 1** (with art. 7)

*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;
  - [<sup>F32</sup>(bb) paragraph 2A 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) [<sup>F33</sup>paragraphs 4A] to 7 were omitted.

**Textual Amendments**

- F32** Sch. 4 para. 8(bb) inserted (18.12.1995) by [Child Support Act 1995 \(c. 34\)](#), s. 30(4), **Sch. 3 para. 18(2)**; S.I. 1995/3262, art. 2, Sch. Pt. 1
- F33** Words in Sch. 4 para. 8(e) substituted (18.12.1995) by [Child Support Act 1995 \(c. 34\)](#), **ss. 17(3), 30(4)**; S.I. 1995/3262, art. 2, Sch. Pt. 1

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## [<sup>F34</sup>SCHEDULE 4A

### APPLICATIONS FOR A VARIATION

#### Textual Amendments

**F34** Sch. 4A substituted (10.11.2000 for specified purposes, 3.3.2003 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 6(1), 86(1)(a)(2), [Sch. 2 Pt. I](#) (with ss. 28, 83(6)); S.I. 2000/2994, art. 2(1), Sch. Pt. 1; S.I. 2003/192, art. 3, Sch.

#### *Interpretation*

1 In this Schedule, “regulations” means regulations made by the Secretary of State.

#### *Applications for a variation*

2 Regulations may make provision—

- (a) as to the procedure to be followed in considering an application for a variation;
- (b) as to the procedure to be followed when an application for a variation is referred to an appeal tribunal under section 28D(1)(b).

#### *Completion of preliminary consideration*

3 Regulations may provide for determining when the preliminary consideration of an application for a variation is to be taken to have been completed.

#### *Information*

4 If any information which is required (by regulations under this Act) to be furnished to the Secretary of State in connection with an application for a variation has not been furnished within such period as may be prescribed, the Secretary of State may nevertheless proceed to consider the application.

#### *Joint consideration of applications for a variation and appeals*

5 (1) Regulations may provide for two or more applications for a variation with respect to the same application for a maintenance calculation to be considered together.

(2) In sub-paragraph (1), the reference to an application for a maintenance calculation includes an application treated as having been made under section 6.

(3) An appeal tribunal considering an application for a variation under section 28D(1)(b) may consider it at the same time as an appeal under section 20 in connection with an interim maintenance decision, if it considers that to be appropriate.]

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## [<sup>F35</sup>SCHEDULE 4B

### APPLICATIONS FOR A VARIATION: THE CASES AND CONTROLS

#### Textual Amendments

**F35** Sch. 4B substituted (10.11.2000 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 6(2), 86(1)(a)(2), **Sch. 2 Pt. II** (with ss. 28, 83(6)); S.I. 2000/2994, art. 2(1), Sch. Pt. 1

### PART I

#### THE CASES

##### *General*

- 1 (1) The cases in which a variation may be agreed are those set out in this Part of this Schedule or in regulations made under this Part.
- (2) In this Schedule “applicant” means the person whose application for a variation is being considered.

##### *Special expenses*

- 2 (1) A variation applied for by a non-resident parent may be agreed with respect to his special expenses.
- (2) In this paragraph “special expenses” means the whole, or any amount above a prescribed amount, or any prescribed part, of expenses which fall within a prescribed description of expenses.
- (3) In prescribing descriptions of expenses for the purposes of this paragraph, the Secretary of State may, in particular, make provision with respect to—
- (a) costs incurred by a non-resident parent in maintaining contact with the child, or with any of the children, with respect to whom the application for a maintenance calculation has been made (or treated as made);
  - (b) costs attributable to a long-term illness or disability of a relevant other child (within the meaning of paragraph 10C(2) of Schedule 1);
  - (c) debts of a prescribed description incurred, before the non-resident parent became a non-resident parent in relation to a child with respect to whom the maintenance calculation has been applied for (or treated as having been applied for)—
    - (i) for the joint benefit of both parents;
    - (ii) for the benefit of any such child; or
    - (iii) for the benefit of any other child falling within a prescribed category;
  - (d) boarding school fees for a child in relation to whom the application for a maintenance calculation has been made (or treated as made);
  - (e) the cost to the non-resident parent of making payments in relation to a mortgage on the home he and the person with care shared, if he no longer has an interest in it, and she and a child in relation to whom the application for a maintenance calculation has been made (or treated as made) still live there.



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- (4) For the purposes of sub-paragraph (3)(b)—
  - (a) “disability” and “illness” have such meaning as may be prescribed; and
  - (b) the question whether an illness or disability is long-term shall be determined in accordance with regulations made by the Secretary of State.
- (5) For the purposes of sub-paragraph (3)(d), the Secretary of State may prescribe—
  - (a) the meaning of “boarding school fees”; and
  - (b) components of such fees (whether or not itemised as such) which are, or are not, to be taken into account,and may provide for estimating any such component.

#### *Property or capital transfers*

- 3 (1) A variation may be agreed in the circumstances set out in sub-paragraph (2) if before 5th April 1993—
  - (a) a court order of a prescribed kind was in force with respect to the non-resident parent and either the person with care with respect to the application for the maintenance calculation or the child, or any of the children, with respect to whom that application was made; or
  - (b) an agreement of a prescribed kind between the non-resident parent and any of those persons was in force.
- (2) The circumstances are that in consequence of one or more transfers of property of a prescribed kind and exceeding (singly or in aggregate) a prescribed minimum value—
  - (a) the amount payable by the non-resident parent by way of maintenance was less than would have been the case had that transfer or those transfers not been made; or
  - (b) no amount was payable by the non-resident parent by way of maintenance.
- (3) For the purposes of sub-paragraph (2), “maintenance” means periodical payments of maintenance made (otherwise than under this Act) with respect to the child, or any of the children, with respect to whom the application for a maintenance calculation has been made.

#### *Additional cases*

- 4 (1) The Secretary of State may by regulations prescribe other cases in which a variation may be agreed.
- (2) Regulations under this paragraph may, for example, make provision with respect to cases where—
  - (a) the non-resident parent has assets which exceed a prescribed value;
  - (b) a person’s lifestyle is inconsistent with his income for the purposes of a calculation made under Part I of Schedule 1;
  - (c) a person has income which is not taken into account in such a calculation;
  - (d) a person has unreasonably reduced the income which is taken into account in such a calculation.

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## PART II

### REGULATORY CONTROLS

- 5 (1) The Secretary of State may by regulations make provision with respect to the variations from the usual rules for calculating maintenance which may be allowed when a variation is agreed.
- (2) No variations may be made other than those which are permitted by the regulations.
- (3) Regulations under this paragraph may, in particular, make provision for a variation to result in—
- (a) a person's being treated as having more, or less, income than would be taken into account without the variation in a calculation under Part I of Schedule 1;
  - (b) a person's being treated as liable to pay a higher, or a lower, amount of child support maintenance than would result without the variation from a calculation under that Part.
- (4) Regulations may provide for the amount of any special expenses to be taken into account in a case falling within paragraph 2, for the purposes of a variation, not to exceed such amount as may be prescribed or as may be determined in accordance with the regulations.
- (5) Any regulations under this paragraph may in particular make different provision with respect to different levels of income.
- 6 The Secretary of State may by regulations provide for the application, in connection with child support maintenance payable following a variation, of paragraph 7(2) to (7) of Schedule 1 (subject to any prescribed modifications).]

[<sup>F36</sup>SCHEDULE 4C

Section 83.

### DECISIONS AND APPEALS: DEPARTURE DIRECTIONS AND REDUCED BENEFIT DIRECTIONS ETC.

#### **Textual Amendments**

**F36** Sch. 4C inserted (4.3.1999 for specified purposes, 1.6.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 54](#); S.I. 1999/528, art. 2(a), Sch.; S.I. 1999/1510, art. 2(g)(v)

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

**C5** Sch. 4C extended by [The Child Support \(Arrears, Interest and Adjustment of Maintenance Assessments\) Regulations 1992 \(S.I. 1992/1816\), reg. 12](#) (as substituted (1.6.1999) by S.I. 1999/1510, arts. 3(1), **28** (with Pt. 18))

#### *Revision of decisions*

- 1 Section 16 shall apply in relation to—
- (a) any decision of the Secretary of State with respect to a departure direction, a reduced benefit direction or a person's liability under section 43;

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- (b) any decision of the Secretary of State under section 17 as extended by paragraph 2; and
- (c) any decision of an appeal tribunal on a referral under section 28D(1)(b), as it applies in relation to any decision of the Secretary of State under section 11, 12 or 17.

*Decisions superseding earlier decisions*

- 2 (1) Section 17 shall apply in relation to—
- (a) any decision of the Secretary of State with respect to a departure direction, a reduced benefit direction or a person's liability under section 43;
  - (b) any decision of the Secretary of State under section 17 as extended by this sub-paragraph; and
  - (c) any decision of an appeal tribunal on a referral under section 28D(1)(b), whether as originally made or as revised under section 16 as extended by paragraph 1, as it applies in relation to any decision of the Secretary of State under section 11, 12 or 17, whether as originally made or as revised under section 16.
- (2) Section 17 shall apply in relation to any decision of an appeal tribunal under section 20 as extended by paragraph 3 as it applies in relation to any decision of an appeal tribunal under section 20.

*Appeals to appeal tribunals*

- 3 (1) Subject to sub-paragraphs (2) and (3), section 20 shall apply—
- (a) in relation to a qualifying person who is aggrieved by any decision of the Secretary of State with respect to a departure direction; and
  - (b) in relation to any person who is aggrieved by a decision of the Secretary of State—
    - (i) with respect to a reduced benefit direction; or
    - (ii) with respect to a person's liability under section 43,
 as it applies in relation to a person whose application for a maintenance assessment is refused or to such a person as is mentioned in subsection (2) of section 20.
- (2) On an appeal under section 20 as extended by sub-paragraph (1)(a), the appeal tribunal shall—
- (a) consider the matter—
    - (i) as if it were exercising the powers of the Secretary of State in relation to the application in question; and
    - (ii) as if it were subject to the duties imposed on him in relation to that application;
  - (b) have regard to any representations made to it by the Secretary of State; and
  - (c) confirm the decision or replace it with such decision as the tribunal considers appropriate.
- (3) No appeal shall lie under section 20 as extended by sub-paragraph (1)(b)(i) unless the amount of the person's benefit is reduced in accordance with the reduced benefit direction; and the time within which such an appeal may be brought shall run from the date of the notification of the reduction.

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- (4) In sub-paragraph (1) “qualifying person” means—
- (a) the person with care, or absent parent, with respect to whom the current assessment was made; or
  - (b) where the application for the current assessment was made under section 7, either of those persons or the child concerned.

*Decisions and appeals dependent on other cases*

- 4 (1) Section 28ZA shall also apply where—
- (a) a decision falls to be made—
    - (i) with respect to a departure direction, a reduced benefit direction or a person’s liability under section 43, by the Secretary of State; or
    - (ii) with respect to a departure direction, by an appeal tribunal on a referral under section 28D(1)(b); and
  - (b) an appeal is pending against a decision given with respect to a different direction by a Child Support Commissioner or a court.
- (2) Section 28ZA as it applies by virtue of sub-paragraph (1) shall have effect as if the reference in subsection (3) to section 16 were a reference to that section as extended by paragraph 1.
- (3) Section 28ZA as it applies by virtue of sub-paragraph (1)(a)(ii) shall have effect as if—
- (a) in subsection (2)—
    - (i) for the words “the Secretary of State” there were substituted the words “the appeal tribunal”; and
    - (ii) for the word “he”, in both places where it occurs, there were substituted the word “it”; and
  - (b) in subsection (3)—
    - (i) for the words “the Secretary of State” there were substituted the words “the appeal tribunal”;
    - (ii) for the word “he” there were substituted the words “the Secretary of State”; and
    - (iii) for the word “his” there were substituted the words “the tribunal’s”.
- 5 (1) Section 28ZB shall also apply where—
- (a) an appeal is made to an appeal tribunal under section 20 as extended by paragraph 3; and
  - (b) an appeal is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) Section 28ZB as it applies by virtue of sub-paragraph (1) shall have effect as if any reference to section 16 or section 17 were a reference to that section as extended by paragraph 1 or, as the case may be, paragraph 2.

*Cases of error*

- 6 (1) Subject to sub-paragraph (2) below, section 28ZC shall also apply where—
- (a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that

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- the adjudicating authority’s decision out of which the appeal arose was erroneous in point of law; and
- (b) after the date of the relevant determination a decision falls to be made by the Secretary of State in accordance with that determination (or would, apart from this paragraph, fall to be so made)—
- (i) in relation to an application for a departure direction (made after the commencement date);
  - (ii) as to whether to revise, under section 16 as extended by paragraph 1, a decision (made after the commencement date) in relation to a departure direction, a reduced benefit direction or a person’s liability under section 43; or
  - (iii) on an application made under section 17 as extended by paragraph 2 before the date of the relevant determination (but after the commencement date) for a decision in relation to a departure direction, a reduced benefit direction or a person’s liability under section 43 to be superseded.
- (2) Section 28ZC shall not apply where the decision of the Secretary of State mentioned in sub-paragraph (1)(b) above—
- (a) is one which, but for section 28ZA(2)(a) as it applies by virtue of paragraph 4(1), would have been made before the date of the relevant determination; or
  - (b) is one made in pursuance of section 28ZB(3) or (5) as it applies by virtue of paragraph 5(1).
- (3) Section 28ZC as it applies by virtue of sub-paragraph (1) shall have effect as if in subsection (4), in the definition of “adjudicating authority”, at the end there were inserted the words “or, in the case of a decision made on a referral under section 28D(1)(b), an appeal tribunal”.
- (4) In this paragraph “adjudicating authority”, “the commencement date” and “the court” have the same meanings as in section 28ZC.]

SCHEDULE 5

Section 58(13).

CONSEQUENTIAL AMENDMENTS

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

F37<sub>1</sub> .....

**Textual Amendments**

F37 Sch. 5 para. 1 repealed (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), s. 18(2), 19(2), [Sch. 4 Pt.I](#)

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

F38<sub>2</sub> .....

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#### Textual Amendments

**F38** Sch. 5 para. 2 repealed (2.12.1999) by Northern Ireland Act 1998 (c. 47), ss. 100(2), 101(3), Sch. 15 (with s. 95, Sch. 14); S.I. 1999/3209, art. 2, Sch.

#### *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 [<sup>F39</sup>of Schedule 1] (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). ”

<sup>F40</sup>(3) .....

#### Textual Amendments

**F39** Words in Sch. 5 para. 3(2) inserted (4.9.1995) by Child Support Act 1995 (c. 34), s. 30(4), Sch. 3 para. 19(1); S.I. 1995/2302, art. 2, Sch. Pt. 1

**F40** Sch. 5 para. 3(3) repealed (1.6.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 8; S.I. 1999/1510, art. 2(f)(iii)

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

- 4 (1) In Part I of [<sup>F41</sup>Schedule 1 to] 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). ”

#### Textual Amendments

**F41** Words in Sch. 5 para. 4(1) inserted (4.9.1995) by Child Support Act 1995 (c. 34), s. 30(4), Sch. 3 para. 19(3); S.I. 1995/2302, art. 2, Sch. Pt. 1

#### *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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*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.”.

*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 ”.

*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 ”.

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- (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.”.
- (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.”.



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