

SCHEDULES

SCHEDULE 3

AMENDMENT OF ENACTMENTS RELATING TO CHILD SUPPORT

The Child Support Act 1991 (c. 48)

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

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

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

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shall apply equally (with any necessary modifications) to fees payable by virtue of regulations made under this section.”

- (19) In section 51 (supplementary power to make regulations), in subsection (2)—
- (a) for paragraph (a)(ii) and (iii) there shall be substituted—
 - “(ii) the making of decisions under section 11;
 - (iii) the making of decisions under section 16 or 17;”; and
 - (b) for paragraph (b) there shall be substituted—
 - “(b) extending the categories of case to which section 16, 17 or 20 applies;”.
- (20) In section 54 (interpretation)—
- (a) in the definition of “application for a departure direction”, for “departure direction” there shall be substituted “variation”, and after “28A” there shall be inserted “or 28G”;
 - (b) after the definition of “deduction from earnings order” there shall be inserted—

““default maintenance decision” has the meaning given in section 12;”;
 - (c) in the definition of “interim maintenance assessment”, for the word “assessment” there shall be substituted the word “decision”;
 - (d) for the definition of “maintenance assessment” there shall be substituted—

““maintenance calculation” means a calculation of maintenance made under this Act and, except in prescribed circumstances, includes a default maintenance decision and an interim maintenance decision;”;
 - (e) the definitions of “assessable income”, “current assessment”, “departure direction” and “maintenance requirement” shall be omitted; and
 - (f) after the definition of “qualifying child” there shall be inserted—

““voluntary payment” has the meaning given in section 28J.”.
- (21) In section 58 (short title, commencement and extent)—
- (a) in subsection (9), after “35” there shall be inserted “, 40”; and
 - (b) in subsection (10), after “28” there shall be inserted “, 40A”.
- (22) In Schedule 1 (maintenance assessments)—
- (a) paragraph 13 (which relates to assessments under which the amount payable is nil) shall cease to have effect;
 - (b) in paragraph 14 (which provides for consolidated applications and assessments), the existing text shall be sub-paragraph (1) of that paragraph, and after that sub-paragraph there shall be inserted—

“(2) In sub-paragraph (1), the references (however expressed) to applications for maintenance calculations include references to applications treated as made.”; and
 - (c) in paragraph 16 (which is about the termination of assessments)—
 - (i) in sub-paragraph (1), paragraphs (d) and (e) shall cease to have effect,
 - (ii) sub-paragraphs (2) to (9) shall cease to have effect; and

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(iii) in sub-paragraph (10), the words “, or should be cancelled” shall cease to have effect.