
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULES

SCHEDULE 2

Section 6.

SUBSTITUTED SCHEDULES 4A AND 4B TO THE CHILD SUPPORT ORDER

PART I

SUBSTITUTED SCHEDULE 4A.

“SCHEDULE 4A

APPLICATIONS FOR A VARIATION

Interpretation

1. In this Schedule, “regulations” means regulations made by the Department.

Applications for a variation

2. Regulations may make provision as to the procedure to be followed—
 - (a) in considering an application for a variation;
 - (b) when an application for a variation is referred to an appeal tribunal under Article 28D(1)(b).

Completion of preliminary consideration

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

Information

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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 Article 9.

(3) An appeal tribunal considering an application for a variation under Article 28D(1)(b) may consider it at the same time as an appeal under Article 22 in connection with an interim maintenance decision, if it considers that to be appropriate.”

PART II

SUBSTITUTED SCHEDULE 4B.

“SCHEDULE 4B

APPLICATIONS FOR A VARIATION: THE CASES AND CONTROLS

PART I

THE CASES

General

1.—(1) The cases in which a variation may be agreed are those set out in this Part 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 Department may, in particular, make provision with respect to—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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 the person with care and a child in relation to whom the application for a maintenance calculation has been made (or treated as made) still live there.
- (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 Department.
- (5) For the purposes of sub-paragraph (3)(d), the Department 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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

(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 Order) 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 Department 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.

PART II

REGULATORY CONTROLS

5.—(1) The Department 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 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;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

(b) a person 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 Department 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).”