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SCHEDULES

SCHEDULE 1

Section 1(3).

SUBSTITUTED PART I OF SCHEDULE 1 TO THE CHILD SUPPORT ORDER

“PART I

CALCULATION OF WEEKLY AMOUNT OF CHILD SUPPORT MAINTENANCE

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 per cent. where he has one qualifying child;
- 20 per cent. where he has two qualifying children;
- 25 per cent. 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 per cent. where he has one relevant other child;
- 20 per cent. where he has two relevant other children;
- 25 per cent. where he has three or more relevant other children.

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Reduced rate

- 3.—(1) A reduced rate is payable if—
- (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 head; or
 - (c) he or his partner (if any) receives any benefit prescribed for the purposes of this head.
- (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 those 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

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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.

(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, 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 Department 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.

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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 twelve-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 Department may by regulations provide for—
- (a) which nights are to count for the purposes of shared care under paragraphs 7 and 8, or for how it shall be determined whether a night counts;
 - (b) what counts, or does not count, as “care” for those purposes; and
 - (c) paragraph 7(3) or 8(2) to have effect, in prescribed circumstances, as if the period mentioned there were other than twelve 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 shall be determined in such manner as is provided for by regulations.
- (2) The regulations may, in particular, provide for the Department to estimate any income or make an assumption as to any fact where, in the Department’s view, the information at its 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 Department 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.

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- (2) The Department 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 set out 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 Department may by regulations provide that, in such circumstances and to such extent as may be prescribed—
- (a) where the Department 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 Department;
 - (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 to “qualifying children” are to those qualifying children with respect to whom the maintenance calculation falls to be made.
- (2) References in this Part to “relevant other children” are to—
- (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 (Northern Ireland) Act 1992; and
 - (b) such other description of children as may be prescribed.
- (3) In this Part, 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, 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.”.