

*Changes to legislation: There are currently no known outstanding effects for the Child Maintenance and Other Payments Act 2008, SCHEDULE 4. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

Section 16

#### CHANGES TO THE CALCULATION OF MAINTENANCE

##### *Introductory*

- 1 Part 1 of Schedule 1 to the Child Support Act 1991 (c. 48) (calculation of weekly amount of child support maintenance) is amended as follows.

##### **Commencement Information**

- I1** Sch. 4 para. 1 in force; Sch. 4 para. 1 not in force at Royal Assent see s. 62; Sch. 4 para. 1 in force for certain purposes at 8.10.2012 by S.I. 2012/2523, art. 2(2)(a); Sch. 4 para. 1 in force for certain further purposes at 10/12/2012 by S.I. 2012/3042, art. 2(a)
- I2** Sch. 4 para. 1 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(a), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I3** Sch. 4 para. 1 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

##### *Calculation by reference to gross weekly income*

- 2 In Part 1 (under which the weekly amount of child support maintenance payable is calculated by reference to the non-resident parent's net weekly income), for “net”, in each place where it occurs, substitute “gross”.

##### **Commencement Information**

- I4** Sch. 4 para. 2 partly in force; Sch. 4 para. 2 not in force at Royal Assent see s. 62; Sch. 4 para. 2 in force for certain purposes at 8.10.2012 by S.I. 2012/2523, art. 2(2)(b); Sch. 4 para. 2 in force for certain further purposes at 10/12/2012 by S.I. 2012/3042, art. 2(b)
- I5** Sch. 4 para. 2 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I6** Sch. 4 para. 2 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

##### *Change to basic rate*

- 3 For paragraph 2 (basic rate) substitute—
- “2 (1) Subject to sub-paragraph (2), the basic rate is the following percentage of the non-resident parent's gross weekly income—
- 12% where the non-resident parent has one qualifying child;
  - 16% where the non-resident parent has two qualifying children;

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19% where the non-resident parent has three or more qualifying children.

(2) If the gross weekly income of the non-resident parent exceeds £800, the basic rate is the aggregate of the amount found by applying sub-paragraph (1) in relation to the first £800 of that income and the following percentage of the remainder—

9% where the non-resident parent has one qualifying child;

12% where the non-resident parent has two qualifying children;

15% where the non-resident parent has three or more qualifying children.

(3) If the non-resident parent also has one or more relevant other children, gross weekly income shall be treated for the purposes of sub-paragraphs (1) and (2) as reduced by the following percentage—

12% where the non-resident parent has one relevant other child;

16% where the non-resident parent has two relevant other children;

19% where the non-resident parent has three or more relevant other children.”

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- I7** Sch. 4 para. 3 partly in force; Sch. 4 para. 3 not in force at Royal Assent see s. 62; Sch. 4 para. 3 in force for certain purposes at 10/12/2012 by S.I. 2012/3042, art. 2(b)
- I8** Sch. 4 para. 3 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I9** Sch. 4 para. 3 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

#### *Increase in flat rate and minimum amounts of liability*

- 4 In the following provisions, for “£5” substitute “ £7 ”
- (a) paragraph 3(3) (minimum amount of liability in the case of reduced rate);
- (b) paragraph 4(1) (amount of flat rate of liability);
- (c) paragraph 7(7) (minimum amount of liability in the case of basic and reduced rates where reduction because of shared care applies).

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- I10** Sch. 4 para. 4 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

#### *Applicable rate where non-resident parent party to other maintenance arrangement*

- 5 (1) In paragraph 1(1) (under which the weekly rate of child support maintenance is the basic rate unless a reduced rate, a flat rate or a nil rate applies), at the beginning insert “ Subject to paragraph 5A, ”.
- (2) After paragraph 5 insert—

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*“Non-resident parent party to other maintenance arrangement*

- 5A (1) This paragraph applies where—
- (a) the non-resident parent is a party to a qualifying maintenance arrangement with respect to a child of his who is not a qualifying child, and
  - (b) the weekly rate of child support maintenance apart from this paragraph would be the basic rate or a reduced rate or calculated following agreement to a variation where the rate would otherwise be a flat rate or the nil rate.
- (2) The weekly rate of child support maintenance is the greater of £7 and the amount found as follows.
- (3) First, calculate the amount which would be payable if the non-resident parent's qualifying children also included every child with respect to whom the non-resident parent is a party to a qualifying maintenance arrangement.
- (4) Second, divide the amount so calculated by the number of children taken into account for the purposes of the calculation.
- (5) Third, multiply the amount so found by the number of children who, for purposes other than the calculation under sub-paragraph (3), are qualifying children of the non-resident parent.
- (6) For the purposes of this paragraph, the non-resident parent is a party to a qualifying maintenance arrangement with respect to a child if the non-resident parent is—
- (a) liable to pay maintenance or aliment for the child under a maintenance order, or
  - (b) a party to an agreement of a prescribed description which provides for the non-resident parent to make payments for the benefit of the child,
- and the child is habitually resident in the United Kingdom.”

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

- C1** Sch. 4 para. 5 partly in force; Sch. 4 para. 5 not in force at Royal Assent see s. 62; Sch. 4 para. 5(2) in force for certain purposes at 8.10.12 by S.I. 2012/2523, art. 2(2)(b); Sch. 4 para. 5 in force for certain further purposes at 10.12.2012 by S.I. 2012/3042, art. 2(b)

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- I11** Sch. 4 para. 5 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I12** Sch. 4 para. 5 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

*Shared care*

- 6 In paragraph 7(2) (circumstances in which decrease for shared care applies in cases where child support maintenance is payable at the basic rate or a reduced rate), for

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“If the care of a qualifying child is shared” substitute “ If the care of a qualifying child is, or is to be, shared ”.

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- I13** Sch. 4 para. 6 partly in force; Sch. 4 para. 6 not in force at Royal Assent see s. 62; Sch. 4 para. 6 in force for certain purposes at 10/12/2012 by S.I. 2012/3042, art. 2(b)
- I14** Sch. 4 para. 6 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I15** Sch. 4 para. 6 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

- 7 In paragraph 8(2) (circumstances in which decrease for shared care applies in cases where child support maintenance payable at a flat rate), for “If the care of a qualifying child is shared” substitute “ If the care of a qualifying child is, or is to be, shared ”.

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- I16** Sch. 4 para. 7 partly in force; Sch. 4 para. 7 not in force at Royal Assent see s. 62; Sch. 4 para. 7 in force for certain purposes at 8.10.12 by S.I. 2012/2523, art. 2(2)(b); Sch. 4 para. 7 in force for certain further purposes at 10.12.2012 by S.I. 2012/3042, art. 2(b)
- I17** Sch. 4 para. 7 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I18** Sch. 4 para. 7 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

- 8 (1) In paragraph 9 (regulations about shared care), the existing provision becomes sub-paragraph (1).
- (2) In that sub-paragraph, before paragraph (a) insert—  
“(za) for how it is to be determined whether the care of a qualifying child is to be shared as mentioned in paragraph 7(2);”.
- (3) In that sub-paragraph, after paragraph (b) insert—  
“(ba) for how it is to be determined how many nights count for those purposes;”.
- (4) After that sub-paragraph insert—  
“(2) Regulations under sub-paragraph (1)(ba) may include provision enabling the [F1Secretary of State] to proceed for a prescribed period on the basis of a prescribed assumption.”

**Textual Amendments**

- F1** Words in Sch. 4 para. 8(4) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 3(2), Sch. para. 95(2)

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- I19** Sch. 4 para. 8 partly in force; Sch. 4 para. 8 not in force at Royal Assent see s. 62(3); Sch. 4 para. 8 in force for certain purposes at 8.10.2012 by S.I. 2012/2523, art. 2(b); Sch. 4 para. 8 in force for certain further purposes at 10.12.2012 by S.I. 2012/3042, art. 2(b) (with art. 5)
- I20** Sch. 4 para. 8 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I21** Sch. 4 para. 8 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

#### Weekly income

- 9 In paragraph 10 (which confers power to make regulations about the manner in which weekly income is to be determined), for sub-paragraph (2) substitute—

“(2) The regulations may, in particular—

- (a) provide for determination in prescribed circumstances by reference to income of a prescribed description in a prescribed past period;
- (b) provide for the [F<sup>2</sup>Secretary of State] to estimate any income or make an assumption as to any fact where, in [F<sup>3</sup>Secretary of State's] view, the information at [F<sup>3</sup>Secretary of State's] disposal is unreliable or insufficient, or relates to an atypical period in the life of the non-resident parent.”

#### Textual Amendments

- F2** Words in Sch. 4 para. 9 substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 3(2), Sch. para. 95(3)
- F3** Words in Sch. 4 para. 9 substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 3(2), Sch. para. 95(3)

#### Commencement Information

- I22** Sch. 4 para. 9 partly in force; Sch. 4 para. 9 not in force at Royal Assent see s. 62(3); Sch. 4 para. 9 in force for certain purposes at 8.10.2012 by S.I. 2012/2523, art. 2(b); Sch. 4 para. 9 in force for certain further purposes at 10.12.2012 by S.I. 2012/3042, art. 2(b) (with art. 5)
- I23** Sch. 4 para. 9 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)
- I24** Sch. 4 para. 9 in force at 25.11.2013 in so far as not already in force by S.I. 2013/2947, art. 2(a) (with arts. 3-5)

- 10 In paragraph 10(3) (under which weekly income over £2,000 is to be ignored for the purposes of Schedule 1), for “£2,000” substitute “£3,000”.

#### Commencement Information

- I25** Sch. 4 para. 10 partly in force; Sch. 4 para. 106 not in force at Royal Assent see s. 62; Sch. 4 para. 10 in force for certain purposes at 10/12/2012 by S.I. 2012/3042, art. 2(b)
- I26** Sch. 4 para. 10 in force at 29.7.2013 for specified purposes by S.I. 2013/1860, arts. 2(b), 3 (with arts. 5, 7) (as amended (24.6.2014) by S.I. 2014/1635, art. 7)

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**I27** [Sch. 4 para. 10](#) in force at 25.11.2013 in so far as not already in force by [S.I. 2013/2947](#), **art. 2(a)** (with arts. 3-5)

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