



The Child Support Maintenance Calculation Regulations 2012

A technical consultation on the draft regulations



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Ministerial foreword

Supporting families to prevent relationship breakdown is central to the Coalition Government's vision for strengthening families and delivering the best outcomes for children. However where relationships do break down, we want to enable parents to take responsibility in making their own choices to establish enduring post-separation agreements that place the welfare of their children at their heart.

In January 2011 we published a Green Paper "Strengthening families, promoting parental responsibility: the future of child maintenance"¹. The Green Paper outlined a radical reshaping of the child maintenance system to move away from the current model in which the adversarial statutory scheme is seen as the default option for separating parents, to one in which families are encouraged and supported to come to their own collaborative arrangements. Central to this will be the provision of a more integrated network of support for families which will help parents address the multiple emotional and practical issues facing them at separation.

For parents who are not able to come to their own child maintenance arrangements, we set out in the Green Paper how the existing Child Support Agency schemes would be replaced with a new, efficient scheme using income information from HMRC. The Child Support Maintenance Calculation Regulations 2012 will complement existing primary legislation in establishing the amended statutory framework within which the new scheme will operate. These regulations will enable enactment of these policy improvements to deliver a simpler, more efficient and transparent service.

On 12 July 2011, the Coalition Government published its response to the consultation on the Green Paper². This reaffirmed the Government's commitment to providing better access to expert support to help parents make their own family-based arrangements while continuing to provide a heavily-subsidised and accessible statutory service for those who need it.

This consultation document seeks views on the draft Regulations for the new scheme. The consultation is primarily aimed at parents who live apart, organisations who represent parents who live apart or their children, organisations who work with families, representatives of the legal profession, and members of the general public who have an interest in child maintenance issues. A list of stakeholders to whom we have sent this consultation document is at **Annex A**.

We believe that the re-shaping of the statutory child maintenance scheme forms an important part of our proposals to better support families who live apart or are going through separation. I encourage your views and contributions.

Maria Miller MP

Minister for Disabled People

¹ <http://www.dwp.gov.uk/docs/strengthening-families.pdf>

² <http://www.dwp.gov.uk/consultations/2012/strengthening-families.shtml>

Scope of the consultation and consultation arrangements

Subject of the consultation

1. The draft Child Support Maintenance Calculation Regulations 2012 (“the Calculation Regulations”) set out all the regulations relating to the calculation of maintenance for the purposes of the new statutory child maintenance scheme. They set out the rules relating to the calculation of maintenance, including how income is determined, and the circumstances in which those rules may be varied. They also include provisions about applications for a maintenance calculation and decision making in relation to the making and adjusting of the calculation.
2. Alongside these regulations we are also publishing the draft Child Support (New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012 (“the Consequential and Miscellaneous Amendment Regulations”). These accompany the main calculation regulations and deal with other legislative changes that will take effect from the launch of the new scheme. The main changes implement provisions of the Welfare Reform Act 2009 and are as follows:-
 - 2.1. An amendment to the Child Support Information Regulations 2008, setting out a new requirement for non-resident parents to report increases in current income.
 - 2.2. An amendment to the Child Support (Collection and Enforcement) Regulations 1992 providing a new reference period for scheduling payments. This regulation allows payments of child support maintenance to be scheduled as equal payments over an annual period.

Purpose of the Regulations

3. The Calculation Regulations re-write and consolidate, with substantial changes, four existing sets of regulations. The approach to the re-write of those regulations has been to retain the basic principles where appropriate but to simplify and streamline these as far as possible.
4. The existing sets of Regulations being replaced are:-
 - 4.1. The Child Support (Maintenance Calculation and Special Cases) Regulations 2000.
 - 4.2. The Child Support (Maintenance Calculation Procedure) Regulations 2000.
 - 4.3. The Child Support (Variations) Regulations 2000.
 - 4.4. The Social Security and Child Support (Decisions and Appeals) Regulations 1999 (in so far as they relate to child support).
5. The Calculation Regulations and the Consequential and Miscellaneous Amendment Regulations will apply to applications to the statutory scheme

received after the launch of the new scheme. The regulations which they replace will continue to apply to existing CSA cases until those cases are closed and parents are invited to choose whether to apply to the new scheme under transitional arrangements. Those arrangements will be set out in separate Regulations.

6. The Regulations will be made by Ministers of the Department for Work and Pensions.

Impact Assessments

7. The impact assessment and the equality impact assessment for the Regulations can be found at:
<http://www.childmaintenance.org/en/publications/consultations.html>
We would be grateful for any views on the assumptions set out in these.

Scope of Consultation

8. This consultation applies to Great Britain. The consultation does not cover the principles behind the changes to primary legislation set out in the Child Maintenance and Other Payments Act 2008 as these were widely debated at the time and followed a period of consultation on the White Paper 'A new system of child maintenance' published in December 2006³. Consequently, the consultation is concerned with the implementation of those principles.

Duration of the Consultation

9. The consultation period will run from 01 December 2011 until 23 February 2012. Please ensure your response reaches us by 23 February 2012.

How you can respond to this consultation

10. To facilitate the consultation process we ask questions throughout this document. We would be grateful if you would respond to these questions and, in addition, we would be pleased to hear your views on any aspect of our proposals for the Child Support [Maintenance Calculation] Regulations 2012.
11. Please send your consultation responses:

Via the internet	www.childmaintenance.org (click on 'contact us' then 'contact the Commission')
By post	New Scheme Policy Team Child Maintenance and Enforcement Commission PO Box 61791 London SW1P 9NT
By email	caxtonhouse.consultation@childmaintenance.gsi.gov.uk

³ <http://www.dwp.gov.uk/docs/csa-report.pdf>

12. When responding, please tell us whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

Queries about the content of this document

13. Any queries about the subject matter of this consultation should be made to:

Via the internet	www.childmaintenance.org (click on 'contact us' then 'contact the Commission')
By post	New Scheme Policy Team Child Maintenance and Enforcement Commission PO Box 61791 London SW1P 9NT
By email	caxtonhouse.consultation@childmaintenance.gsi.gov.uk

Gathering additional views in this consultation

14. We want to ensure that we get views from as broad a range of people as possible about these proposals. We have sent this consultation document to a number of people and organisations who have an interest in child maintenance. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

Freedom of information

15. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000.
16. By providing personal information for the purpose of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely.
17. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.
18. If you want to find out more about the general principles of freedom of information and how it is applied within the Commission, please contact:

Freedom of Information Focal Point
 The Child Maintenance and Enforcement Commission
 PO Box 61791
 London
 SW1P 9NT
foi.focalpoint@childmaintenance.gsi.gov.uk

19. Please note that the Freedom of Information Focal Point can only advise on freedom of information issues, and not the content of this consultation document.

More information about the Freedom of Information Act can be found on the website of the Ministry of Justice www.justice.gov.uk

Feedback on this consultation

20. We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Name	Robin Van den Hende - Stakeholder Groups Manager
Address	Policy and Legislation team Child Maintenance and Enforcement Commission PO Box 61791 London SW1P 9NT
By email	Robin.Van-xxxxxxxx@xxxxxxxxxxxxxxxxxxx.xxx.xx

21. In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria in the Government Code of Practice on Consultation or if you wish to make any suggestions as to how the process of consultation could be improved further. The Government Code of Practice on Consultation is at **Annex B**.
22. Copies of this publication can be made available in alternative formats if required.
23. We will aim to publish a summary of responses received on the Commission’s website within three months of the end of the consultation. We will consider all responses when finalising the draft Regulations. We will indicate what actions we intend to take and also give reasons where comments have not been taken into account, in the consultation response summary.

Some words and phrases used in this consultation and what they mean

Qualifying Child	A child for whom a maintenance calculation has been made under the statutory scheme.
Relevant Other Child	A child for whom the non-resident parent or their partner receives child benefit.
Child in Scotland	A qualifying child of 12 or over who lives in Scotland. A child in Scotland can apply for child maintenance and a variation in their own right.
Non-resident parent	A parent liable to make maintenance payments calculated under the statutory scheme.
Parent with care	A person who provides a home and day to day care for a qualifying child. This covers persons who are not parents but who are the main day-to-day carer of the children. For example, this could be a grandparent or a guardian.
Statutory system and statutory service	The statutory system is an umbrella term for the calculation, collection and enforcement of child maintenance, covering the scheme rules for the calculation of maintenance and the supporting IT and processes all of which together provide the service to clients.
Statutory scheme	The rules for the calculation, collection and enforcement of child maintenance.
The Commission	The Child Maintenance and Enforcement Commission.
HMRC	Her Majesty's Revenue and Customs.
2006 White Paper 'A new system of child maintenance'	This document set out proposals for the delivery of a new child maintenance system.
The 1991 Act	The Child Support Act 1991.
The 2008 Act	The Child Maintenance and Other Payments Act 2008.

Policy summary

Background to the changes

24. The primary legislation which provides the legal framework for the new scheme is the Child Maintenance and Other Payments Act 2008 (“the 2008 Act”). This Act complements or replaces provisions in the legislation which set out the original statutory child support scheme, namely the Child Support Act 1991. The 2008 Act set out the broad framework for the new scheme. The focus of the scheme is to produce a faster, more accurate and transparent process for assessing child maintenance payments. This will be supported by a new and efficient computer system.
25. The 2008 Act also established a Child Maintenance and Enforcement Commission (“the Commission”), with its main objective of maximising the number of children living apart from one or both of their parents for whom effective maintenance arrangements are in place.
26. The Coalition Government published a Green Paper, ‘Strengthening families, promoting parental responsibility: the future of child maintenance’ on 13 January 2012. The paper outlined the problems with the 2003 scheme, as well as the fact that fewer than half of children in separated families benefit from effective child maintenance arrangements.
27. The Green Paper set out a vision for a radical re-shaping of the child maintenance system to provide more integrated support for families going through separation, recognising the range and complexity of the issues that parents face during this difficult time, and to enable them to make their own collaborative family-based arrangements which are in the best interest of their children.
28. The Green Paper also stated that the Government would continue to provide an accessible statutory service for those who need it, with specific provisions for the most vulnerable. It restated its commitment to launching the new scheme from 2012, which over time would replace the existing schemes operated by the Child Support Agency (CSA).
29. A consultation on the Green Paper ran until 7 April 2011 and the Government published its response on 12 July. In its response, the Government reaffirmed its commitment to working with experts in the voluntary sector to improve the support provided to separated and separating parents. It again stated its commitment to providing a new, heavily subsidised statutory service.
30. The Government is committed to improving the child maintenance system to benefit families and children, while delivering value for money for the taxpayer. These Regulations are part of several strands of legislation being taken forward to underpin those changes.

31. In October 2010, the Government announced that the Commission would cease to exist as a separate legal body and that it, and its functions would be transferred to the Department for Work and Pensions. Provision for this change is contained within the Public Bodies Bill, which is currently passing through Parliament. Consequently this document will refer to tasks relating to the new scheme being undertaken by the Commission, reflecting both the existing legal authority and the content of these Regulations.

The statutory child maintenance calculation

32. The 2008 Act provided the enabling powers for a new set of simpler and more transparent scheme rules, while retaining the existing broad framework.
33. Maintenance calculations will continue only to take account of the income of the non-resident parent;
34. The existing liability rates are broadly retained:
- basic rate for those with weekly income of £200 or more;
 - reduced rate for those with weekly income of £100 to £200;
 - a flat rate of £7 for those with weekly income of less than £100 or receiving a social security benefit. The Government are, however, consulting on whether this should be increased;
 - a nil rate for those with weekly income of less than £7 or in certain special categories.
35. The calculation amounts can be reduced where non-resident parents share the care of a child or have children for whom they or their partners receive child benefit.
36. A variations scheme allows the calculation to be altered on certain grounds specified in regulations.
37. The changes made to this broad structure will greatly contribute towards the objective of delivering a simple and transparent calculation scheme. Some of the key changes are highlighted below:-
- 37.1. Maintenance calculations will take account of a child supported by a non-resident parent outside of the statutory scheme. These are recognised as family-based arrangements (whether under a court order or more informal agreement). A child supported in this way will be treated as if they were a qualifying child. For example, a non-resident parent with one qualifying child and a child supported under a family-based arrangement will be treated as if they were liable to pay for two qualifying children. A resulting calculation will be apportioned between an amount for the qualifying child for whom the non-resident parent will be liable to pay and a notional amount for the child supported under the family-based arrangement. The effect is that the non-resident parent would have a lower statutory liability than if the other child had not been taken into account. It also means that the family-based arrangements can carry on unaffected.

- 37.2. While calculations will continue to be based on the relevant income of the non-resident parent, income information would initially be sought from HM Revenue and Customs (HMRC) rather than the non-resident parent, thereby reducing the possibility of delay, the supply of inaccurate information and the burden on employers to supply this information.
- 37.3. To add a second level within the basic rate for those non-resident parents with weekly income in excess of £800.
- 37.4. To increase the flat rate amount from £5 to £7. The Government are however consulting on whether this should be increased further.
- 37.5. To undertake annual reviews of the maintenance calculation by using updated income information supplied by HMRC.
- 37.6. To avoid the need to adjust calculations for small changes in income.
- 38. The changes proposed will be underpinned by new computer systems, including an interface with HMRC systems for the supply of income information.
- 39. The remainder of this summary sets out the most significant changes within these Regulations and **Annex A** gives a more detailed explanation of the rules and policy in the more complex areas.

The Child Support Maintenance Calculations Regulations 2012

Applications for statutory child maintenance

40. The Regulations continue to make the application process straightforward for parents. Applications can be made in writing or by phone, either personally or by an approved representative.
41. The main changes in this area relate to cases where more than one application for maintenance is received by the Commission for the same qualifying child. The Regulations provide simpler rules for deciding which application to deal with. Generally speaking, the application received first is the one that will proceed.
42. Once the Commission has decided that an application can proceed, it will inform the non-resident parent in writing of this. This notice will set the date from which child maintenance will start to be payable.

Making the calculation

Gross weekly income

43. Gross weekly income will consist of two types:-
 - 43.1. Historic income, provided by HMRC to the Commission.
 - 43.2. Current income, where information will usually come from parents or employers.
44. The definition of weekly income was changed under the 2008 Act from “net” to “gross”, reflecting the form in which income information is held by HMRC and will be supplied on request to the Commission. This means income before deductions for Income Tax and National Insurance Contributions. Having a definition of gross weekly income means the caseworkers can use HMRC figures with less adjustment. The figures will also be more meaningful to many non-resident parents. Going to HMRC for income details will avoid many of the delays that currently arise as a result of relying on non-resident parents or their employers for this information.
45. The only adjustment that will be made to historic or current income (in addition to converting it to a weekly amount) will be to deduct amounts paid as contributions to an approved occupational or personal pension scheme. We considered whether to have a limit on the level of contributions that should be offset but a single limit may not fairly reflect the range of circumstances that parents may be in. For example, it may be more reasonable for non-resident parents with fewer remaining working years in which to add to their pension pot to pay more contributions than someone who is much younger. Also, on a

practical note, where the contributions have been offset against earnings by an employer, the information the Commission receives from HMRC will not include any details of those contributions. Our preference is to retain the provision within the variations scheme for a parent with care who considers the non-resident parent's contributions to be excessive.

Historic income

46. The information supplied by HMRC comes from two sources:-
 - 46.1. Pay As You Earn end of tax year returns, completed by employers for their employees.
 - 46.2. Annual self-assessment returns completed by individual taxpayers.
47. HMRC will supply the Commission with income details for the latest tax year for which it has received all the required information. For most cases, this will be the most recent tax year; where there is no information for that year, HMRC can supply equivalent information from earlier tax years.
48. Historic income is defined in a way that broadly captures the income types which, under HMRC legislation, would be subject to Income Tax. There are differences, since some income types which would be captured under self-assessment, but not under Pay As You Earn, are excluded because it would result in different treatment between non-resident parents arising from the source of the income details. Pay As You Earn returns focus on taxable earnings. Consequently, taxable unearned income such as property income, savings income and dividends, amounts for which are only shown on self-assessment returns, are among the exclusions. There is a provision within the variations scheme to take account of these.
49. The taxable income that will be included in historic income for the purposes of the maintenance calculation comprises:-
 - 49.1. Employment income.
 - 49.2. Trading income.
 - 49.3. Payments from occupational or personal pensions schemes.
 - 49.4. Taxable social security benefits - Incapacity Benefit, contributory Employment and Support Allowance and Jobseeker's Allowance.
50. One consequence of using HMRC income will be that the taxable payments received by non-resident parents in certain occupations will no longer be ignored in maintenance calculations. Therefore taxable income from the list of occupations below will be included in the maintenance liability. This will provide consistent treatment of non-resident parents who have taxable payments from work. The child support scheme introduced in 2003 disregarded payments made to non-resident parents engaged as any of the following:-
 - 50.1. Auxiliary coastguards.
 - 50.2. Part-time fire-fighters.
 - 50.3. Part-time lifeboat crew members.

- 50.4. Reserve or territorial force members.
- 50.5. Local authority councillors.

Current income - the alternative source of income used in the maintenance calculation

- 51. Many people's incomes do not change greatly from year to year and therefore historic income is in most cases close enough to a non-resident parent's current circumstances. A calculation may be based upon a non-resident parent's current income if either parent can show that it is at least 25 per cent different to the historic income figure. It will also apply where HMRC is unable to supply a positive income figure and the non-resident parent is not in circumstances where the flat rate or nil rate would apply.
- 52. The definition of current income is also based on income types as described in HMRC legislation. This enables a realistic comparison for the test of whether current income is at least 25 per cent different. However, taxable social security benefits are not included, since receipt of one of these by the non-resident parent would mean that the flat-rate liability would apply.
- 53. The 25 per cent threshold has been chosen in order to reduce the disruption to maintenance liabilities that can currently arise where frequent and small changes of income have to be considered. To support this, the objective will be to arrive at a current income figure which is reasonable to use for the foreseeable future.
- 54. Consequently, where non-resident parents are employees and their earnings fluctuate (for example, because of shift or overtime patterns), evidence of their earnings will be requested covering a period which allows a fair weekly average to be obtained. Some taxable amounts are paid at different intervals from regular pay; these include bonuses, commission payments and benefits in kind. The Commission will look to obtain information about these for the last 52 weeks. They will then be converted to a weekly equivalent amount.
- 55. The definition of current income for self-employed people will, as for historic income, be taxable profits from the trade over an accounting period usually running for one year. It is in the nature of many businesses to have peaks and troughs of activity and a number of business accounting decisions, such as what to claim for depreciation or capital allowances, will only be made at the end of the year. Trying to establish current income at any single point within the trading year may not fairly reflect the wider financial position.
- 56. For this reason, the current income of an established self-employed non-resident parent will only usually be accepted if it relates to an annual period equal to that covered by most self-assessment returns. The evidence of such current income should be in a form which contains the same information as on a self-assessment return. However, there is provision for current income to be considered over a shorter period where the business is a new one.

57. If the non-resident parent supplies satisfactory evidence that the business has permanently ceased trading, the current income from self-employment will be taken to be nil.
58. Where there is no positive figure available from HMRC, the Commission will be reliant on the non-resident parent or, in some cases, the employer, to supply details of current income. If the Commission is unable to obtain such information, it will be able to make an estimate of current income. This will usually be based either on information already held on the case about the non-resident parent's income or from published Government information such as the Annual Survey of Hours and Earnings (which gives average earnings information for occupations and regions).

The reduced rate

59. The main purpose of the reduced rate, which applies to non-resident parents with weekly income of more than £100 but less than £200, is to act as a bridge between the flat and basic rate, so that child maintenance liability increases smoothly across that income range and does not have a perverse impact on work incentives.
60. The Regulations retain the same reduced rate structure as under the scheme introduced in 2003. This is an amount equal to the flat rate for the first £100 of weekly income, plus a percentage of the remaining income. The percentage to be applied will still depend on the number of qualifying and relevant other children.
61. The Regulations contain an amended set of percentages which are purely a consequence of changes made to the flat rate amount and basic rate percentages as set out in the 2008 Act. This ensures there are no large changes in liabilities as a non-resident parent crosses from one rate to another.

The nil rate and non-resident parents who are students

62. Statutory child maintenance is based on the general principle that all parents should support their children. So even non-resident parents on more modest incomes, such as a social security benefit, are usually required to pay a flat-rate amount. Consequently, a parent should only be exempt from paying child maintenance in limited circumstances. The Regulations therefore retain a small list of categories where a nil rate will apply, including where the non-resident parent is a child or a prisoner.
63. The Regulations no longer include students within the nil rate category. Research has indicated that a significant proportion of students work whilst studying and in many cases their earnings can be relatively substantial. We have reached the conclusion that there is no compelling reason why students should be treated differently from other non-resident parents with earnings. The child maintenance liability of students will therefore be based on their gross weekly income.

64. **Question One: Do you agree with the proposal to remove students from the nil rate cases and calculate the liability on their gross weekly income?**

Shared care

65. The new scheme will continue to take account of shared care, so that a non-resident parent who is involved with the care of their child will usually pay less maintenance. The Regulations will allow the Commission to make an assumption about the amount of shared care in cases where there is no agreement between the parents, no court order that sets the amount of contact or where there is insufficient evidence of any established pattern of such care. The absence of firm evidence often causes difficulties for caseworkers. In such situations, the Commission will assume an amount of shared care equivalent to one night a week, resulting for most cases in a reduction of one-seventh in the maintenance due.
66. **Question Two: Is making an assumption about shared care the right approach to avoid some of the current practical difficulties regarding shared care calculations?**
67. The assumption will continue until the parents reach agreement or, if they are involved in family proceedings, an order is made by a court.
68. Where both parents share the care of a qualifying child, current rules require one of them to be regarded as a non-resident parent and to be liable to pay child maintenance. This has presented difficulties, particularly in cases where the care of a child is shared equally.
69. The Regulations provide that where each parent could be viewed as a parent with care, the parent who provides less care will be treated as the non-resident parent. There will be a presumption in the first instance, that this is the parent who does not receive child benefit. That parent will be able to reverse the presumption if the evidence supplied of the overall care arrangements gives a different picture. In a small minority of cases, where overall care is found to be shared exactly equally, there will be no statutory maintenance liability. This reflects our view that parents who have made an agreement about sharing care equally will often be more able to make their own family-based arrangement.

Family-based arrangements

70. In recognition of the importance and value of supporting parents who want to make their own maintenance arrangements, the 2008 Act provided rules to take account of a child supported in this way in the statutory maintenance calculation. A child supported in this way will be treated as if they were a qualifying child. For example, a non-resident parent with one qualifying child and a child supported under a family-based arrangement will be treated as if they were liable to pay for two qualifying children. A resulting calculation will be apportioned between an amount for the qualifying child for whom the non-resident parent will be liable to pay and a notional amount for the child supported under the family-based arrangement. The effect is that the non-

resident parent would have a lower statutory liability than if the other child had not been taken into account. It also means that the family-based arrangements can carry on unaffected.

71. The intention is that, as far as possible, both formal arrangements, such as a maintenance order, and more informal ones should be recognised in this way. The Regulations provide a wide interpretation of what can count as an informal arrangement, stating that it need not be in writing but that it must provide for the non-resident parent to make regular payments for the benefit of a child habitually resident in the UK. These payments may be made direct to the child's carer or to a third party.
72. The Commission will expect to have evidence of a non-resident parent's family arrangement. This could be a written agreement; however, evidence of less informal agreements will be accepted.
73. The same treatment also applies to a child living outside the UK, but only where the non-resident parent is formally liable to support them under a court order or maintenance system of another country. This is an existing provision.

Changing a calculation

74. The intention is that once a maintenance calculation has been made it will remain in place for a reasonable period. This ensures stability in payment arrangements and offers greater certainty to parents in what they should expect to pay or receive. This is why, except in specified circumstances, such as the death of a qualifying child, parents are not required to routinely report changes in their circumstances, although they can choose to do so.
75. In some cases, however, changing a calculation may be desirable. In such cases the Regulations provide for a revision of the calculation, so that the change is backdated to that calculation's start date (the Regulations describe this date as the "effective date"). Existing examples of revision which have been carried forward include:-
 - 75.1. Where a parent queries a calculation, for example by presenting additional relevant evidence, within 30 days of a decision being issued.
 - 75.2. Where the calculation contains an official error.
 - 75.3. Where a DNA test shows the alleged non-resident parent is not the parent.
76. One additional ground for revision, introduced for the new scheme, is where the Commission becomes aware that a historic income figure supplied to it by HMRC has changed. This may arise because HMRC has spotted an error, or because a taxpayer amends information previously given on a self-assessment return.
77. The Welfare Reform Bill currently before Parliament contains a provision in Schedule 11 for requiring people to ask for a revision of a decision on their maintenance calculation before appealing to a tribunal. The government plans

to consult separately on Regulations giving effect to this requirement both for child maintenance and social security benefits.

78. Other adjustments to the calculation, taking account of changes of circumstances, or new information going forward, are known as supersessions. These differ from a revision in that a change to the existing calculation will not usually be backdated to that calculation's start date. A supersession may be made following an application by a party to the calculation, but also on the Commission's own initiative, for example, because it has received information from a third party.
79. The new scheme will have a much simpler set of rules for deciding the effective date of a supersession. The following rules will determine when an amended liability starts to take effect:-
 - 79.1. The date when the change occurred, for example, where a change concerns any child in the calculation (for example, a qualifying child no longer living with the parent with care), a party to the calculation dies or ceases to be habitually resident in the UK, or a non-resident parent starts or stops receiving benefit.
 - 79.2. The date the change was reported, for example, a change in income of at least 25 per cent and the parent was not legally required to report the change.
 - 79.3. The date the decision was made, for example, where the Commission makes a supersession on its own initiative following a periodic current income check as mentioned in paragraph 83.
80. A feature of the new scheme will be an annual update of the non-resident parent's gross weekly income. This will usually take place 12 months after the initial effective date of each case, and each year after that. HMRC will supply the Commission on request with new historic income information as details for the most recent tax year become available. This will mean that more calculations will be based on the most up to date income information. In the existing CSA schemes, the same income details can be used in a calculation for a number of years.
81. Where the existing calculation is based on historic income, the new figure supplied by HMRC will be used to make a new calculation no matter how small the difference. If a parent wishes the new calculation to be based on current income, that figure will have to differ from the new historic income amount by at least 25 per cent.
82. Where the existing calculation is based on current income, the new figure supplied by HMRC will be compared to that amount. If the difference is still 25 per cent or more, the current income figure will continue to apply. But if the difference is less than 25 per cent, then the new historic income figure will be used.

83. Another form of review will take place if a calculation has been based on the same current income figure for 12 months. The Regulations describe this as a “periodic current income check”. This will require non-resident parents to provide evidence showing whether their most recent current income is still at least 25 per cent different from the most recent historic income figure supplied by HMRC. If they can, the new current income will still be used to make a new calculation. If they cannot, the calculation will be superseded, using the historic figure from HMRC. This supports the objective that calculations based on current income should be in the minority.
84. **Question Three: Do you think the periodic income check adds value to the review process?**

Variations

85. The new scheme will continue to have a provision to allow the parties to apply for the calculation rules to be varied on grounds prescribed in regulations.

Special expenses

86. The Regulations set out the circumstances in which an expense incurred by a non-resident parent can, on application to the Commission, result in a reduction in child maintenance by being offset against the gross weekly income. Most of the expenses currently recognised, for example contact costs, debts from a prior relationship, boarding school fees and illness or disability of a relevant child will continue to be. The main changes made by these Regulations are as follows:-
- 86.1. The current variation ground for cases where Property or Capital transfers were made before April 1993 will no longer apply since by the time the new scheme starts there will not be any qualifying children remaining in respect of whom that ground could apply.
- 86.2. It will now be possible for a non-resident parent to have a variation for the expenses incurred in maintaining contact with the qualifying child during a period when they also have a reduction in their maintenance calculation for shared care. The 2003 scheme precludes a variation in these circumstances.
- 86.3. All expenses (excluding those relating to the illness or disability of a relevant other child) will be subject to a £10 threshold. This means that for each ground a variation will not be allowed if the cost is less than £10 per week but will be allowed in full if it meets or exceeds that amount. This replaces the current thresholds of £10 if the non-resident parent’s weekly income is between £100-£200 and £15 if weekly income is more than £200 per week and is given only on the balance above the threshold.

Additional income cases

87. A parent with care can apply for a variation in cases where they consider the non-resident parent has income which the main calculation has not taken into account. Where such income is identified it will be added to the existing gross weekly income and used to set a new liability.
88. Information on taxable income such as savings and investment income, dividends and property income is collected by HMRC from those taxpayers who are required to complete self-assessment returns. The Regulations describe these income types as 'Unearned Income'. This information will be available to the Commission on request, but only following an application for a variation. Where unearned income information supplied by HMRC has been used to apply a variation, the Commission will look to obtain updated information from HMRC as part of the annual review process.
89. The link with HMRC provides the Commission with access to a much wider range of income types. This means the new variations scheme will have a greater emphasis on trying to obtain actual unearned income figures rather than carrying forward the current practice of applying notional amounts based upon a non-resident parent's assets and lifestyle. As a result of this, the lifestyle inconsistent with declared income and assets grounds will not be carried forward.
90. **Question Four: What do you think of the proposal to remove assets and lifestyle inconsistent with declared income grounds given the new approach to unearned income?**
91. The additional income grounds that will feature in the new scheme are as follows:-
- 91.1. Non-resident parent with unearned income – where the non-resident parent has unearned income of £2,500 or more a year. In cases where such information is not held by HMRC, or where it is not from the most recent tax year, non-resident parents will have the option of producing evidence of current income.
- 91.2. Non-resident parent with gross weekly income – where the non-resident parent receives a benefit resulting in a flat rate or nil rate liability but has additional taxable income from employment or self-employment or income from pension schemes, of at least £100 a week. This is essentially the same as under the 2003 scheme, however, we have simplified the rules for deciding how to take account of the additional income. In the new scheme the additional liability relating to the additional income will be assessed using the standard calculation rules; this will be added to the flat-rate liability the non-resident parent already has by virtue of receiving a benefit.
- 91.3. Diversion of Income – where the non-resident parent has unreasonably diverted income that would otherwise be taken into account in the main calculation. This is effectively the same as under the 2003 scheme, and so

includes consideration of whether a non-resident parent has diverted income by paying an excessive amount of contributions into a pension scheme.

92. **Question Five: What are your views on the new grounds which aim to make the scheme easier to navigate, understand and administer and to ensure that where the non-resident parent has significant unearned income that this can be taken into account??**
93. One further change proposed is that a variation application will no longer be automatically rejected because the non-resident parent or their partner is currently receiving Working Tax Credit.
94. The link with HMRC also means that the Commission will no longer rely on the parent with care to provide evidence of the non-resident parent's circumstances. Instead the Commission will use available information sources such as HMRC to support these applications.

Other matters to note

Definition of child

95. The definition of child applies to all children in the scheme: a qualifying child, a relevant other child, a child supported under a family-based arrangement and a non-resident parent who is a child.
96. The definition of child should be the same as used by Child Benefit for those aged up to their 20th birthday. The 2008 Act provided an increase in the age limit of a child from 19 to 20, mirroring a Child Benefit change made in 2006.
97. The Regulations provide a definition of child which cross-refers to that used by HMRC in Child Benefit legislation. This covers situations where a child aged 16-19 in specified circumstances, for example, undertaking full-time non-advanced education, continues to be eligible for Child Benefit.
98. The link to Child Benefit offers a simple test for the Commission in deciding whether a child is within scope of the scheme.

Split care

99. The White Paper 'a new system of child maintenance' discussed the situation where a couple has more than one child together and at least one is living with each parent. It considered whether to carry forward the existing rules of having separate calculations and payment schedules for each parent, or whether the amounts should be offset against each other.
100. In the new scheme, it is proposed that each parent will still have their own calculation but the amounts due will be offset at the payment stage. This means that the parent with the higher calculation makes a balancing payment, while the other parent will not pay anything.

101. Since calculations will be made in the usual way, these Regulations do not contain any offsetting provisions. These rules will appear in other regulations relating to the collection of child maintenance.

Relevant other children

102. Under the 2003 scheme, non-resident parents pay less child maintenance if they have children living with them in their current family and they or their partners receive Child Benefit for them. Child maintenance law describes these as 'relevant other children'.
103. In this situation, we make a deduction from the non-resident parent's income for the relevant children before calculating maintenance for the qualifying children. In the 2003 scheme, the same percentage rate deduction applies to both, i.e. 15 per cent for one child, 20 per cent for two children and 25 per cent for three or more children. This means that the calculation for qualifying children is from an already reduced income and reflects the fact that non-resident parents with these additional responsibilities will have less income from which to support their children living elsewhere.
104. Under the new scheme the percentage rates have been lowered to reflect the move from using net income to the (higher) gross income with the intention of producing broadly similar liabilities to those under the current 2003 scheme. These are 12 per cent for one child, 16 per cent for two children and 19 per cent for three or more children. These percentages are set out in the Child Maintenance and Other Payments Act 2008.
105. The Coalition Government is clear that all children affected by the maintenance assessment should be included when calculating the non-resident parent's maintenance liability. But it is essential that the scheme should be seen to treat all children supported by a non-resident parent fairly. The current rules have on occasion been criticised for not doing that. This is because they result in a greater reduction in income for the relevant other child than the amount of the liability for a qualifying child. The Government has listened to views and is proposing to lower the percentage income deductions applied for relevant other children to get closer to equalising the position between children in first and second families.
106. The following Table compares the treatment under 2003 scheme rules, using the 2008 Act percentages and applying an illustrative example of the proposed reductions using 11 per cent for one relevant other child.

Scenario – John earns £400 gross weekly income (£317 net) – has one qualifying child (Louise) and one relevant other child (Peter)

	2003 Scheme	2008 Act	Proposed
Income	£317	£400	£400
1.Reduction from income for Peter	15%	12%	11%
2.Amount of reduction from income for Peter	£47.55	£48	£44
3.Income carried forward	£269.45	£352	£356
Child maintenance calculation			
4.Available income	£269.45	£352	£356
5.Maintenance percentage	15%	12%	12%
6.Amount payable for Louise	£40.41	£42.24	£42.72
Difference in amounts between 2 and 6	£7.14	£5.76	£1.28

107. **Question Six: Do you agree that the percentage rates applied for relevant other children should be reduced to produce a more equal treatment of children in first and second families?**

Increasing the flat rate

108. The flat rate of £5 was introduced in the 2003 scheme to underpin the principle that all non-resident parents on low incomes should pay something towards the maintenance of their children whilst recognising they have more limited means to do so. The previous administration provided in the 2008 Act for this to be increased to £7 for the new scheme.
109. The Government is considering increasing the flat rate from £7. This is to emphasise the principle that all parents should support their children where they have the means to do so, and that the amounts paid are seen to be meaningful.
110. The flat rate applies to non-resident parents in two specific circumstances: (i) where they are on one of a list of prescribed benefits (both means-tested and

non-means tested) which may have different awards; and (ii) where they are not on one of these benefits but have weekly income in the £7 to £100 range.

111. The flat rate is a set amount based on the above circumstances, whereas a non-resident parent not on the flat rate is assessed by applying a percentage to their actual income. This means that non-resident parents in low-paid work could actually be paying a significantly higher proportion of their disposable income after housing costs than non-resident parents on the flat rate. Raising the flat rate would reduce this gap.

Example

Scenario - Non-resident parent with one qualifying child

Case one

- Non-resident parent on Job Seekers Allowance of £67.50 per week.
- Flat rate liability of £7 per week = 10.4% of their net disposable income after housing costs (assuming housing benefit).

Case two

- Non-resident parent working 36 hours per week on the national minimum wage of £213; net income after housing costs is £116.
- Basic rate liability of £26 = 22% of their net disposable income.

112. The Government also believes that an increased liability while on benefit could help to ease the transition into work by reducing the gap between out of work and in work liabilities.

113. **Question Seven: Do you agree with the proposal to increase the flat rate?**

The Child Support (New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012

114. These draft Regulations mainly contain minor technical changes which are consequential to the Calculation Regulations. The following two provisions are more substantial.

Duty to notify increase in current income

115. This provision in Regulation 3 imposes a requirement on a non-resident parent who has a maintenance liability based on current income to report increases in income of 25 per cent or more. It is intended to prevent short term, temporary or seasonal changes in employment leading to longer term reductions in child maintenance.
116. A non-resident parent who fails to comply with this requirement may be prosecuted. An amendment to section 14A of the 1991 Act (made by section 55 of the Welfare Reform Act 2009) added to the offences under that section – ‘the failure to comply with regulations requiring a person liable to make maintenance payments to notify a change of circumstances’. For this reason, the duty on non-resident parents who have a calculation based on current income will be clearly communicated and they will be warned of the consequences of the failure to comply.
117. Non-resident parents on current income, who begin a new job, receive a pay rise or a change in working hours that results in a 25 per cent increase in income, should notify the Commission within seven days. Non-resident parents should also notify the Commission if they receive a number of consecutive payments which are ‘individually’ 25 per cent or more than the current income figure in place.
118. **Question Eight: Do you agree with the Commission’s proposal to compel non-resident parents who have a maintenance liability based on current income to report further upward changes?**
119. This provision does not apply to self-employed non-resident parents or those who receive infrequent bonuses or commission payments. This is because self-employed parents do not have a clear idea of their income until they reach the end of a tax year or accounting period. The exception also applies to non-resident parents whose maintenance calculation contains an element of unearned income.
120. **Question Nine: What do you think of the proposal only to make this compulsion apply to employed non-resident parents (i.e. not parents who are self-employed or who have an element of unearned income)?**
121. It is proposed to allow non-resident parents seven days to report these changes and, regardless of when the change is reported, it will be backdated to the date on which it occurred. This is an incentive for non-resident parents to comply

with the duty and to report their changes in a timely manner. Previous experience has demonstrated that non-resident parents are less likely to report increases in income than decreases. The requirement to report such changes will seek to address this imbalance so that this aspect of the new scheme operates more fairly for both parents.

Scheduling of Maintenance Payments

122. This provision allows the Commission to specify the intervals at which payments of child maintenance are to be made, having regard to the circumstances and preferences indicated by the non-resident parent. Many non-resident parents prefer to pay by calendar month, in line with when they receive earnings. Precisely matching payments to weekly liabilities may not be straightforward and may be unclear to parents,
123. This provision will enable the notification of the maintenance calculation issued to each parent, to show an annual rather than weekly amount. Where the payment interval is to be monthly, the schedule of payments due will show twelve equal monthly amounts. It will therefore be much easier for the non-resident parent to see what payments are due to be made, on what date, and how they relate to the maintenance liability. This will also facilitate the making of payments by regular direct debit because the amounts will be the same each month. Annual amounts will be adjusted if a relevant change in circumstances occurs during the year, requiring a new weekly liability to be calculated.

Your comments and where we would value them

124. The Regulations reflect the fact that the legislative structure of the new child maintenance scheme is a combination both of new provisions as set out in the Child Maintenance and Other Payments Act 2008 and retained legislation within the Child Support Act 1991. This package of regulations therefore includes both new rules complementing provisions or powers set out in the 2008 Act and existing rules imported with little or no change from regulations for the existing schemes. It is these rules and the policy underpinning them that we are consulting upon in this exercise and on which we would appreciate your comments.
125. We would value your comments on the changes outlined in the summary and the specific questions on the Regulations and the policy that underpins them. The areas for comment and questions are listed below. You may find that some of the questions relate to detailed explanation contained in Annex A and that you will need to consult that section to be able to comment fully.

Questions

Making the calculation	
Question One	Do you agree with the proposal to remove students from the nil rate cases and calculate liability on their gross weekly income?
Question Two	Is making an assumption about shared care the right approach to avoid some of the current practical difficulties regarding shared care calculations?
Changing a calculation	
Question Three	Do you think the periodic income check adds value to the review process?
Variations	
Question Four	What do you think of the proposal to remove assets and lifestyle inconsistent with declared income grounds given the new approach to unearned income?
Question Five	What are your views on the new grounds which aim to make the scheme easier to navigate, understand and administer and to ensure that where the non-resident parent has significant unearned income that this can be taken into account?
Other matters to note	
Question Six	Do you agree that the percentage rates applied for relevant other children should be reduced to produce a more equal treatment of children in first and second families?
Question Seven	Do you agree with the proposal to increase the flat rate?
Question Eight	Do you agree with the proposal to compel non-resident parents who have a maintenance liability based on current income to report further upward changes?
Question Nine	What do you think of the proposal only to make this compulsion apply to employed non-resident parents (i.e. not parents who are self-employed or who have an element of unearned income)?
Annex C	

Question Ten	Do you think that the amounts a Default Maintenance Decision awards should be increased with inflation?
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Structure of the Maintenance Calculation Regulations

Part 1: General

126. This Part deals with commencement, interpretation and general principles relating to procedure and to how maintenance is calculated.
127. Many of the expressions defined in this Part are derived from income tax legislation. This is because the gross weekly income by reference to which maintenance is to be calculated in the new scheme is largely based on information obtained from HMRC. The definition of “latest available tax year” in Regulation 4 determines the tax year from which HMRC will take information upon request from the Commission. This will be the latest tax year, out of the last six, for which HMRC have a complete record of the non-resident parent’s income, whether from a self assessment return or from PAYE data.
128. Other Regulations in Part 1 are intended to reflect, in simpler form, principles found in the existing regulations. For example, the information relevant to a “calculation decision” (which is the original decision under section 11 of the 1991 Act or a revision or supersession decision) must be the information applicable at the date from which the decision takes effect. This replaces the concept of the “relevant week”.

Part 2: Application for a Maintenance Calculation

129. This Part deals with the applications for a maintenance calculation and replaces provisions in Part II of the Maintenance Calculation Procedure Regulations 2000.

Part 3: Decision Making

130. This Part covers a range of matters relating to decisions that affect the amount of the maintenance liability and the appeals from those decisions. They include provisions about the making of the first maintenance calculation decision under section 11 of the 1991 Act and revision and supersession decisions under sections 16 and 17 of that Act. They also include requirements regarding the notification of those decisions.
131. This Part replaces Parts VI and VII of the Child Support (Maintenance Calculation Procedure) Regulations 2000 and the Social Security and Child Support (Decisions and Appeals) Regulations 1999 in so far as they relate to child support. The provisions in Chapter 4 relate to the updating of the income figure used in the maintenance calculation and are entirely new. Decisions that relate to the effect of a variation on the maintenance liability are also covered in this Part (and also in Part 5).

Part 4: The Maintenance Calculation Rules

132. This Part supplements the rules for the calculation of maintenance set out in Schedule 1 to the 1991 Act. It includes provision for special cases and the rates for default maintenance decisions.
133. This Part replaces the Child Support (Maintenance Calculation and Special Cases Regulations) 2000. Some provisions are new and some replicate existing provisions. The content of Chapter 1, dealing with the calculation of gross weekly income, replaces the schedule to those regulations and is entirely new.

Part 5: Variations

134. This Part sets out provisions relating to the variation of the rules for calculating maintenance. It replaces the Child Support (Variations) Regulations 2000. Much of the content of those regulations, including procedure and the effect of the variation on the maintenance calculation has been retained, although restructured and simplified. The variation grounds relating to non-resident parents' special expenses have largely been reproduced. However the variations relating to non-resident parents with additional income have been substantially changed.

Part 6: Meaning of Terms in the 1991 Act

135. This Part deals with some general definitions of terms used in the 1991 Act. They replace provisions in the Child Support (Maintenance Calculation Procedure) and the Child Support (Maintenance Calculation and Special Cases) Regulations 2000.

Schedule

136. The Schedule contains some procedural provisions relating to appeals to the First-Tier Tribunal. These replace provisions in the Social Security and Child Support (Decisions and Appeals) Regulations 1999.

Annex A – List of stakeholders

- 4Children
- Action for Children
- Association of Director's of Children's Services
- Barnardo's
- The Centre for Separated Families
- The Centre for Social Justice
- Children Need Families
- The Child Poverty Action Group
- The Children's Society
- Children's Workforce Development Council
- Citizen's Advice
- Citizen's Advice Scotland
- CIVITAS
- Demos
- Family and Parenting Institute
- Family Links
- Family Lives
- Families Need Fathers
- Families Need Fathers Scotland
- The Fatherhood Institute
- Federation of Small Businesses
- Fife Gingerbread
- Lindsays
- Gingerbread
- Grandparents Plus
- The Institute of Payroll Professionals
- The Law Society
- The Law Society of Scotland
- The Low Income Tax Reform Group
- ManKind
- MATCH
- Moneywatchers
- MumsNet
- NACSA
- National Family Mediation
- NetMums
- One Parent Families Scotland
- One Plus One
- Parenting UK
- Parentline Plus
- Payroll Alliance
- Policy Exchange
- Relate
- Relationships Scotland
- Refuge

- Resolution
- Rights of Women
- Save the Children
- Scoop Aid
- The Tavistock Centre for Couple Relationships
- Women's Aid
- Women's Health and Equality Consortium

Annex B – Code of practice on consultation

1. The consultation is being conducted in line with the Government Code of Practice on Consultation – [Government Code of Practice on Consultation](#) (BIS). The seven consultation criteria are:
 - 1.1. **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
 - 1.2. **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
 - 1.3. **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
 - 1.4. **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
 - 1.5. **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
 - 1.6. **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
 - 1.7. **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

Annex C- Detailed explanation of more complex areas

Applications for statutory child maintenance

1. In the new scheme, applications made by a parent with care must contain enough information for the Commission to identify a non-resident parent⁴. Once the Commission has all the information it needs from the applicant, the next steps are for the other parent to be notified of the application and for the case to proceed to calculation – except where there is a multiple application.
2. A multiple application is one in which more than one person applies to the Commission for statutory maintenance in respect of the same qualifying child. In such situations, the Commission is required to proceed with only one application (although it may use information from more than one application if doing that helps it to make the maintenance calculation).
3. Existing CSA schemes have a series of complicated rules for determining which application is taken forward reflecting a range of situations that can arise. In keeping with the aim of making the scheme simpler to understand and to operate, the new scheme will have a stripped-down set of rules to decide which application takes priority and will be dealt with by the Commission.
4. We are continuing with the rule set out in the Child Support Act 1991 which provides that the application of a person with parental responsibility for a qualifying child has priority over an application from one who does not. But for other cases, priority rules will operate as follows:-
 - 4.1. Where a child aged 12 or over is in Scotland, they are entitled to make their own application for statutory maintenance. An application by a parent or a parent with care does however take priority over an application by such a child⁵.
 - 4.2. In any other case, an earlier application takes priority over a later one⁶.
5. Once the Commission has decided to progress an application and has notified the non-resident parent, it will then make a calculation that will result in a maintenance liability. The date by which that calculation is effective from is known as the initial effective date.
6. Under the current child maintenance scheme there are a number of different ways of determining the initial effective date depending upon the specific circumstances of the case. It is proposed to significantly reduce the number of ways of determining effective dates in order to make the process simpler and easier to understand. In the new scheme, the initial effective date of a

⁴ Regulation 9(1) of the Child Support Maintenance Calculation Regulations 2012

⁵ Regulation 10(2)(a) of the Child Support Maintenance Calculation Regulations 2012

⁶ Regulation 10(2)(b) of the Child Support Maintenance Calculation Regulations 2012

maintenance liability will be the date on which the non-resident parent is given written notice of the application⁷.

Making the calculation

Gross weekly income

7. HMRC holds income data as gross income. The Child Maintenance and Other Payments Act 2008⁸ reflected this by providing that child maintenance calculations would be based on gross weekly income and that regulations would set out the detail of what was included in gross weekly income. Furthermore, the figure provided will be an annual figure. This will be converted to a weekly amount in order to enable a weekly liability to be calculated, as required by the Child Support Act 1991⁹.

How HMRC collects income information and decides when to pass it on to the Commission

8. Although income information comes to HMRC from a variety of sources, the most comprehensive sources are:-
 - 8.1. Pay As You Earn (PAYE) returns, completed annually by employers on behalf of their individual employees.
 - 8.2. Self-assessment returns, completed each year by certain taxpayers, including the self-employed, company directors and many of those with more complex financial affairs.
9. These returns provide HMRC with details of an individual's income in a particular tax year and enable HMRC to ensure that the correct amount of tax due on that income has been paid. It has been agreed that HMRC will pass on income information to the Commission derived only from these two sources.
10. HMRC rules have different deadlines for different returns to be filed with them. HMRC has agreed it will only pass on information in response to a request by the Commission once it is reasonably satisfied it has a complete record for the individual for the tax year in question¹⁰. This will usually mean that information for a tax year ending 5 April from a self-assessment return will become available to the Commission by the following February or March or earlier in the case of income information from PAYE data.

What income information will be used by the Commission to set child maintenance?

⁷ Regulation 12 of the Child Support Maintenance Calculation Regulations 2012

⁸ Paragraph 10(1) of Schedule 1 to the Child Support Act 1991, as amended by Paragraph 2 of Schedule 4 of the Child Maintenance and Other Payments Act 2008

⁹ Schedule 1 to the Child Support Act 1991

¹⁰ Regulation 4(1) of the Child Support Maintenance Calculation Regulations 2012

11. The Commission will only be given income information by HMRC where it asks for it on a case by case basis and that information may be necessary to make or update a maintenance calculation. For each case, HMRC will provide a single figure of the relevant taxable income for the latest of the last six tax years for which it holds complete information at the time of the Commission's request. This is described as historic income¹¹. The Commission will be able to obtain a breakdown of that figure where it is necessary to help resolve a parent's enquiry about a maintenance calculation. To meet data protection principles, that breakdown will not be passed on to the parent with care.
12. A key principle surrounding the use of HMRC income information is that it should result in equal treatment between those who are self-assessed and those who are dealt with through the PAYE system. The need to achieve this led the Government to conclude that not all the elements of taxable income as held by HMRC should be taken into account in the calculation of child maintenance.
13. The potential make up of the taxable income figure for a tax year obtained from returns could consist of a broad range of income, including:-
 - 13.1. An employee's earnings (including overtime and bonus payments).
 - 13.2. An employee's taxable expenses payments and benefits in kind.
 - 13.3. A self-employed person's trading income.
 - 13.4. Payments from Occupational and personal pension schemes.
 - 13.5. Taxable social security benefits.
 - 13.6. Investment income – such as bank account interest and dividend payments.
 - 13.7. Income from land or property.
14. Some of these elements could be net amounts. For example, where an employee makes contributions to his employer's pension scheme which is eligible for tax relief, the employer will offset these contributions against the employee's full taxable pay and include the net figure on the PAYE return.
15. A far smaller proportion of taxpayers' complete self-assessment returns than are the subject of PAYE returns. HMRC does not generally require a taxpayer to complete a return if their finances are relatively straightforward or modest or if any income tax due on their income is likely to have been collected at source. But where an individual has completed a self-assessment return, this will contain more comprehensive information about taxable income than a PAYE return, with the latter's focus on taxable earnings. Therefore, HMRC has agreed that where it has received both types of return for a non-resident parent for the same tax year, the income figure supplied to the Commission will be taken from the self-assessment return¹².
16. Some taxpayers may have taxable income but will have not completed a self-assessment return. For example, HMRC rules do not require an individual to

¹¹ Regulation 35 of the Child Support Maintenance Calculation Regulations 2012

¹² Regulation 36(5) of the Child Support Maintenance Calculation Regulations 2012

complete a self-assessment return if their taxed savings income in a year is less than £10,000.

17. For example, one non-resident parent may have total taxable income of £35,000, made up of £20,000 earnings and £15,000 from savings. In this case the entire £35,000 would have been captured via a self-assessment return. But a second non-resident parent's income may also be £35,000, but this is made up of £30,000 earnings and £5,000 savings income. That NRP had not been required to fill in a self-assessment return, therefore the only return completed would be the employer's PAYE return and this would show a figure of £30,000.
18. The advantages of using income amounts that have been agreed by HMRC (and will be recognised by non-resident parents) must be considered against the unfairness that some parent's will face. Particularly where the use of HMRC information results in significant differences between cases. It is our view that the latter is the more important one. Consequently, to allow for more equal treatment across cases, a non-resident parent's gross weekly income used under the main calculation should comprise only those elements of taxable income most closely corresponding to earnings¹³. These are:-
 - 18.1. Taxable earnings and benefits for employees.
 - 18.2. Taxable trading income for the self-employed.
 - 18.3. Taxable social security benefits; that is Incapacity Benefit, contributory Employment and Support Allowance and Jobseeker's Allowance. Support.,
 - 18.4. Payments from occupational or personal pensions scheme payments.
19. Other differences occur as a result of the different information captured by PAYE and self-assessment returns. For example, information on taxable social security benefits should be entered on self-assessment returns. For some of these benefits, for example, taxable Jobseeker's Allowance, an annual PAYE return has to be sent to HMRC by the benefit-paying authority, while for others, such as State Retirement Pension, no such requirement exists. Similarly, some allowances which employees can claim against taxable earnings on a self-assessment return are not offset by the employer under PAYE arrangements.
20. The Regulations include provisions to exclude these elements from the definition of gross weekly income¹⁴. While we accept that the effect of this for some cases will be to use an income amount to set child maintenance which does not mirror the HMRC figure and may result in a lower amount of child maintenance being payable, we believe once again that the greater priority is to provide calculation rules which maximise the possibility of consistency across all cases. The additional income variation will allow the Commission to take unearned income into account where it is significant.

¹³ Regulation 36(1) of the Child Support Maintenance Calculation Regulations 2012

¹⁴ Regulation 36(1)(c) and 36(2)(b) of the Child Support Maintenance Calculation Regulations 2012

Current income – the alternative source of income used in the maintenance calculation

21. The Coalition Government supports the proposal put forward by the previous administration in the 2006 White Paper that a child support calculation could be based on a non-resident parent's current income where it differed from historic income by at least 25 per cent. This was held to provide sufficient flexibility within the scheme for dealing with significant changes in income. But it would seek to avoid repeating the difficulties experienced within existing schemes of having to take account of income changes as small as 5 per cent. These could be disruptive, both in terms of risking the interruption of payments of maintenance as well as adding to administrative workloads, resulting with little change in the amounts payable.
22. The Regulations reflect the view that only significant changes should result in current income being used to work out child maintenance¹⁵. We also propose to base liabilities on current income in cases where the non-resident parent is not currently on benefit and either HMRC holds no historic income information or the historic income figure for the last complete tax year is nil¹⁶. In our view, it would not be right for that parent to have a nil calculation when it is possible that they are now in work.
23. The broad structure of current income as set out in the Regulations reflects a number of key principles. First, to provide a more accurate assessment of whether current income is at least 25 per cent different, the definition of current income should, as far as possible, exactly mirror that of historic income. Consequently, the broad make up of current income will be taxable; employment income, trading income from self-employment and payments from occupational or personal pension schemes¹⁷. One important difference is that the definition of current income does not include taxable benefits: where non-resident parents are currently receiving one of them, they will usually have been assessed to pay the flat-rate.
24. This means that for employees, current income will be broadly based on taxable elements of their earnings, such as; basic pay, overtime and shift payments¹⁸. We appreciate that many parents may not be familiar with detailed aspects of income tax. To assist such parents, we will provide clear guidance to show what information the Commission will be including or leaving out in working out current income.
25. A further principle, reflecting the fact that HMRC will supply the Commission with annual income amounts, is that current income should be defined in such a way that allows for an element of stability in setting new amounts of child maintenance. It is of no benefit to anyone if frequent changes to calculations have to be made.

¹⁵ Regulation 34(2) of the Child Support Maintenance Calculation Regulations 2012

¹⁶ Regulation 34(2)(b) of the Child Support Maintenance Calculation Regulations 2012

¹⁷ Regulation 37 of the Child Support Maintenance Calculation Regulations 2012

¹⁸ Regulation 38(1) of the Child Support Maintenance Calculation Regulations 2012

26. Where a non-resident parent's current income is liable to change from one period to the next, the Commission will look to set a fair weekly average of these payments. If the non-resident parent receives payments at less frequent intervals from regular earnings, for example a bonus or commission, the Commission will work out the total of such payments received over the last year and convert it to a weekly equivalent¹⁹. The aim is to reduce the impact of temporary distortions in calculations and increase the probability that both the maintenance calculation and the payment arrangements relating to that calculation can remain in place until the case is next reviewed.
27. Current income in relation to self-employment provides a particular problem derived from the fact that historic income is based on the taxable profits of a business and not business receipts or what the non-resident parent takes out of the business on an ongoing basis. Taxable profits are typically worked out at the end of the individual's accounting period, and after having made certain end of year decisions, such as the amounts to be classed as bad debts or amounts claimed for depreciation or in capital allowances. A further factor is that it is a feature of many businesses to have peaks and troughs in activity across the accounting period. Some individuals may take time off from their business during the year or may spend periods engaged in business activities that are not directly remunerative.
28. This all means that profits may not be earned evenly across the year. For a self-employed non-resident parent to provide a "snapshot" of current finances may not truly reflect the longer-term annual position. For all these reasons, we propose that for self-employed non-resident parents, their current income from a business should be assessed on the same basis and for the same duration as for historic income, that is, taxable profits for an annual period²⁰. Where the non-resident parent can demonstrate to the Commission's satisfaction that his or her business has permanently ceased trading, current income from that business will be taken to be nil²¹.

Proposed treatment of pension contributions

29. Employers often deduct pension contributions directly from the non-resident parent's gross salary and provide a net figure on the end of year PAYE return. But not all contributions are paid in this way, for example, individuals may make payments direct to the provider of a personal pension scheme.
30. All governments in modern times have emphasised the desirability of people making provision for their own retirement income, and have introduced incentives for people to do this. For example, under the current child maintenance scheme, contributions paid to occupational or personal pension schemes are deducted from the weekly income before calculating the maintenance liability. There is no specified limit on the amount of contributions

¹⁹ Regulation 38(3) of the Child Support Maintenance Calculation Regulations 2012

²⁰ Regulation 39 of the Child Support Maintenance Calculation Regulations 2012

²¹ Regulation 39(6) of the Child Support Maintenance Calculation Regulations 2012

that can be deducted, although a parent with care who considers the deduction to be excessive can apply for a variation.

31. We propose to carry forward this rule so that any contributions will be deducted when calculating gross weekly income. This applies both to historic income and current income²². Often this will be given effect automatically, where the employer has already made this offset on the PAYE return for the individual. But where this has not already occurred, non-resident parents will be advised to inform the Commission of their pension contributions to enable the deduction to be made. The amount to be deducted from the income figure will include the value of any tax relief which applies to the contributions.

How the Commission will establish current income

32. Except in cases where HMRC has been unable to provide a positive historic income figure, the Commission will not actively look for current income information. It will be the parent's responsibility to notify the Commission if the current income is at least 25 per cent different. In the first instance, the onus will be on parents to supply the evidence necessary to support their application. We recognise that different requirements will need to be placed on parents with care, who are unlikely to have the same level of knowledge as the non-resident parent.
33. We recognise that there will be instances, as occurs in the existing CSA schemes, where the non-resident parent will be reluctant to provide evidence of their current income. The Summary explains our plan to make it a criminal offence where, if a calculation is based on current income, the non-resident parent fails to inform the Commission of a 25 per cent increase in current income. Where the Commission is unable to obtain the information needed from the non-resident parent, it will ask the current employer (if known).
34. Where HMRC have been unable to provide a positive historic income figure, the Commission will explore the possibility of making a calculation using an estimate of the non-resident parent's current income. It will try to establish a fair estimated figure based on what it knows about the non-resident parent. For example, if the non-resident parent's location and current occupation are known, the Commission may make an estimate based on public information about average or typical incomes of people operating in the non-resident parent's region and occupation²³. Alternatively, it may consider using income information it already holds for a previous period.
35. If it is not possible to use any of the above means to arrive at a current income figure, the Commission will still be able to make a default maintenance decision. This will provide a weekly liability of £30 for one qualifying child, £40 for two and £50 for three or more²⁴.

²² Regulation 35(3) and 40 of the Child Support Maintenance Calculation Regulations 2012

²³ Regulation 42 of the Child Support Maintenance Calculation Regulations 2012

²⁴ Regulation 49 of the Child Support Maintenance Calculation Regulations 2012

36. **Question Ten: Do you think that the amounts a Default Maintenance Decision awards should be increased with inflation?**

Changing a calculation

Annual reviews

37. A feature of the new scheme is to review a non-resident parent's income annually. At this annual review, the Commission will request the non-resident parent's latest available tax year information from HMRC and will adjust the maintenance liability. For the majority of cases, where the maintenance liability is based on historic income, the annual review will set the maintenance liability for the year ahead and that liability will only change if a parent notifies the commission that current income is 25 per cent more or less than that figure.
38. An annual review will still be performed for non-resident parents whose liabilities are based on current income. The current income figure will be compared to the updated historic income figure and if it is 25 per cent different then it will remain. If it is not, a decision will be made to replace (supersede) current income with the updated historic income figure.
39. A non-resident parent's annual review will take place twelve months after the initial effective date has been set²⁵ and any decision to update income will become effective from that date. To ensure the correct amount of maintenance has been set at the review date, the Commission intends to begin the annual review process thirty days before the date of the annual review.
40. Thirty days before the annual review date, the Commission will write to parents to inform them of the income figure that will be used to calculate the non-resident parent's liability for the year ahead. The notification will include a breakdown of the maintenance calculation, including details of qualifying children and any other relevant information such as relevant other children and shared care. This is not a decision and does not carry appeal rights. A formal decision will be made on the effective date of the annual review.
41. The income figure will be based on what the Commission already knows about the non-resident parent's income at the time. If the liability is based on historic income provided by HMRC it will be automatically replaced with an updated figure. If the non-resident parent's liability is based on current income then the Commission will decide whether it is appropriate for the figure to remain or be replaced with the updated historic income figure. This is dependent on whether the current income figure is 25 per cent different to the updated historic income figure.
42. Parents will be given thirty days to notify the Commission of any changes and to provide additional information or evidence to support the change. If either parent successfully challenges the income figure used, for example, if the non-resident parent's current income is at least 25 per cent different, then the

²⁵ Regulation 19(2) of the Child Support Maintenance Calculation Regulations 2012

income figure will be amended. Parents will also have the opportunity to notify the Commission of any other changes which will affect the maintenance liability, for example, changes to shared care arrangements.

43. At the effective date of the annual review a formal calculation decision will be issued to the non-resident parent and parent with care to notify them of the maintenance liability for the year ahead.

Example

- Sally, a parent with care, and George, a non-resident parent, are the parents of Bonnie. The annual review date of their case is 1st December.
- George's existing maintenance liability is based on historic income data of £400 a week.
- The Commission write to George and Sally thirty days before the annual review to tell them that the maintenance liability for Bonnie from 1st December will be based on historic income of £430 per week.
- George contacts the Commission on the 5th November and tells them that his current income is now £295 a week. George provides robust evidence in the form of wage slips to support this change.
- The Commission perform two actions. First, they compare George's current income (£295) with the updated historic income figure (£430). The current income figure is 25% different so the Commission replaces the HMRC income figure with George's current income figure. George's maintenance liability from 1st December will be based on £295 a week. If no further change is reported, that calculation will remain in place until the next annual review.
- The Commission also compare the current income figure against the income figure of £400 from the existing maintenance liability. This is also 25% different so the Commission make a decision (**supersession**) to change the existing maintenance liability so it is based on £295 a week effective from the date George notified them of the change which is 5th November. This will stay in place until 1st December.

44. A change reported within the thirty days after parents have been notified of the annual review decision may result in a supersession to the existing maintenance liability. We appreciate that this could be challenging for some customers to understand and they will be offered extra support to understand the changes to their maintenance calculation. Despite this, the Commission believe that this is the fairest way to ensure parents are paying the right level of maintenance at all times.

Periodic income check

45. In addition to the annual review, the Commission propose to check current income evidence once a year when it is not updated by the parents or by the

Commission at annual review²⁶. This ensures maintenance liabilities are regularly kept up to date.

46. The periodic income check is not performed at the same time as the annual review for two reasons. First, because current income may only have been in place for a short time at annual review and it would be burdensome for the non-resident parent to have to provide evidence again. Secondly, the Commission intend for the annual review process to be mostly automated for operational ease, efficiency and to ensure a swift decision. It will only look at evidence of current income if it supports a parental application made during the process for the maintenance calculation to be changed.
47. If, after eleven months, a maintenance liability is based on current income that has not changed, the Commission will write to the non-resident parent and ask them to provide fresh evidence to show that their current income remains 25 per cent different. If the non-resident parent provides evidence, then the figure will be compared against the historic figure provided by HMRC at the last annual review. Although the historic figure would not have been used at the annual review, it would have been saved and will be used now for comparative purposes. This is because the historic income figure is the most reliable income information the Commission has about the non-resident parent at that time.
48. If the evidence provided by the non-resident parent demonstrates that current income is 25 per cent different to the latest historic income figure, then the Commission will continue with current income. If the current income figure has changed and is no longer 25 per cent different to the historic income, then the Commission will make a maintenance calculation decision (a supersession) based on the new figure. If the non-resident parent does not respond to the Commission's request for evidence of current income within the specified timeframe, then the maintenance calculation will be based on historic income. If a parent with care provides information on the non-resident parent's current income or applies for a change to the liability during this period, then it will be considered alongside anything the non-resident parent provides. The effective date of these decisions will be aligned with the date the decision is made and the Commission expect this to be 30 days after it has written to the non-resident parent to request such evidence.
49. If the Commission discovers that the figure should have been reported by the non-resident parent under the compulsion to report changes in current income²⁷, then the effective date will be aligned with the date the non-resident parent's income changed by 25 per cent.

Variations

50. Significant changes are proposed to the investigation and handling of variations in the new scheme. An amendment was made to the Child Support Act 1991 in the Child Maintenance and Other Payments Act 2008 as part of a package of

²⁶ Regulation 22 of the Child Support Maintenance Calculation Regulations 2012

²⁷ Regulation 9A of the Child Support Information Regulations 2012, as inserted by the proposed Child Support (New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012

wider changes. The amendment placed a duty on the Commission to consider any information available to it when determining variation applications from a parent with care. This is because, under the 2003 scheme, it has fallen to parents with care to 'prove' grounds that lead to an increase in a non-resident parent's maintenance liability. The duty placed in the 2008 Act shifts the burden from the parent with care where the Commission has ready access to relevant sources of information, including income information provided by HMRC.

51. When a parent with care applies for a variation on the basis of unearned income or income from earnings when the non-resident parent or their partner is on nil or flat rate, the Commission will not expect them to provide any evidence beyond information needed to identify a ground. The Commission will, however, ask the parent with care for an explanation of why they suspect the non-resident parent to have additional income. This is to protect the system from spurious or speculative claims.
52. Variation applications intended to capture income a non-resident parent may have diverted are more complex and will still be a challenge to process in the new scheme. This is because there is not a readily available independent information source the Commission can use to identify these cases. The Commission will continue to be reliant on parents to provide supporting information. To ensure the Commission uses its resource effectively, we intend to scrutinise applications on an individual basis using information the parent with care provides and any additional information the Commission can gather.
53. The Regulations do not replicate the current assets ground or the ground which aims to capture a non-resident parent whose lifestyle is inconsistent with their declared income. Both of these grounds result in a notional amount based upon the assets a non-resident parent has or the lifestyle they demonstrate. We propose to capture the actual income derived from an asset and the income used to fund such a lifestyle rather than apply notional amounts. Such income will fall within the unearned income ground where a non-resident parent has taxable income from property, savings and investments (including dividends) and a broad miscellaneous section which captures a variety of income types.
54. An effective way of illustrating the difference in treatment is to compare how a variation would be treated under the 2003 scheme against the proposal for treatment in the new scheme. The example below explores a scenario where a non-resident parent earns rental income on a property. In the 2003 scheme this would be dealt with under an assets ground and in the new scheme it will be dealt with under an unearned income ground.

Example

- Sarah, a parent with care and Mark, a non-resident parent, are the parents of Stacey. Sarah applies for a variation, to take account of a property Mark rents out.
- Mark is notified of the variation and confirms that he has one property which he rents out. The value of the property is £200,000 and the outstanding mortgage is £100,000. The gross profit from rent is £800 per month.

Treatment under the 2003 scheme

The scenario will be treated under an Assets ground and a notional income will be calculated by applying a statutory rate of interest (currently 8%) to the equity in the property.

- £100,000 x 8% (statutory rate of interest) = £8,000.
- This is converted to a weekly figure.
- £8,000 divided by 52 weeks = £153.8
- £153.85 is added to Mark's net weekly income

Treatment under the new scheme

The scenario will be treated as an unearned income ground and income of £2,500 a year or more from property, savings and investments or miscellaneous will result in a variation. In Mark's case, the Commission will base the variation on the rental income he earns.

- HMRC provides a property income figure of £9,600
- This is converted to a weekly figure.
- £9,600 divided by 365 x 7 = £184.00
- £184.00 is added to Marks gross weekly income

If Mark's property was unoccupied and he was not in receipt of rental income then the variation treated under new scheme rules would be rejected. The 2003 scheme rules would continue to allow the variation.

How will additional income variations be updated?

55. Variations which capture a non-resident parent's unearned income will be updated at the annual review if they are based on an income figure from HMRC. If a non-resident parent has evidence of a more recent complete tax year, for example, if they have not yet filed their self assessment form or the return information is being processed by HMRC, then either parent can request the variation to be based on that tax year. If this request is made when the variation is being set for the first time or at the annual review, then the figure from the most recent tax year will be taken so long as it meets the £2,500 per

annum threshold²⁸. If the request is made at any other point in the year, then the figure from the most recent tax year must be different by 25 per cent or more to the existing unearned income figure²⁹. This is to avoid the maintenance liability being disrupted by less significant changes. Non-resident parents who lose their income part way through an accounting period or tax year because the asset on which it generates income is lost, can have their unearned figure set as nil if they can provide supporting evidence.³⁰

56. Variations based on income from earnings (when the non-resident parent is on nil or flat rate) will be treated in the same way as gross weekly income used in the main calculation. This means if a non-resident parent has current income that is different by 25 per cent or more to the figure in place then they can have their variation based on that³¹. Earned income variations are subject to annual reviews regardless of whether they are based on current or historic income. These variations are also subject to the duty to notify the Commission of increases in current income which is explained at the bottom of this Annex.
57. Variations that capture income a non-resident parent has diverted will not be subject to annual review because they will not be based on income provided by HMRC. Parents may apply for these variations to be increased, decreased or ended but the Commission will not routinely review these cases.

Special expense variations

58. Special expense variations enable a non-resident parent to have certain costs taken into account, for example, the costs incurred in maintaining regular contact with the qualifying child. Any amounts agreed will generally be deducted from the non-resident parent's gross weekly income³² to create a new liability. The grounds available to non-resident parents in the new scheme are largely unchanged and are as follows:
 - 58.1. Contact costs³³
This ground aims to capture costs non-resident parents incur when travelling to see the qualifying child.
 - 58.2. Illness or disability of a relevant other child³⁴
This ground is for non-resident parents who have a relevant other child for whom Disability Living Allowance is in payment. It aims to offset certain costs the non-resident parent has in managing that child's illness.

²⁸ Regulation 23(2)(a) of the Child Support Maintenance Calculation Regulations 2012

²⁹ Regulation 23(1)(b) of the Child Support Maintenance Calculation Regulations 2012

³⁰ Regulation 69(6) of the Child Support Maintenance Calculation Regulations 2012

³¹ Regulation 34(2) of the Child Support Maintenance Calculation Regulations 2012

³² Regulation 72 of the Child Support Maintenance Calculation Regulations 2012

³³ Regulation 63 of the Child Support Maintenance Calculation Regulations 2012

³⁴ Regulation 64 of the Child Support Maintenance Calculation Regulations 2012

58.3. Prior debts³⁵

This ground recognises certain debts a non-resident parent and the parent with care incurred when they were still together for which the non-resident parent remains legally liable.

58.4. Boarding school fees³⁶

This ground recognises the costs a non-resident parent pays for the qualifying child to attend boarding school.

58.5. Payments in respect of certain mortgages, loans or insurance policies³⁷

This ground recognises non-resident parents who pay towards the mortgage of the parent with care's home without being legally liable to.

Changes to special expense variations in the new scheme

59. The regulations do not include property or capital transfers made before 1993. This is because by the time the new scheme begins there will be no qualifying children remaining in respect of whom the variation could apply.
60. A further change is that the regulations allow a contact cost variation when a non-resident parent shares care of the qualifying child. The 2003 scheme does not allow a variation in these circumstances. We believe, however, that it is important to encourage and support regular contact between parent and child.
61. The threshold for special expenses (apart from illness or disability if a relevant other child) in the new scheme will be £10 and each expense must breach that threshold to be accepted³⁸. The 2003 scheme applies the threshold to the aggregated costs when more than one ground is applied. Once the threshold has been met and the variation is agreed to, the entirety of the expense will be deducted from the non-resident parent's gross weekly income³⁹. This is also different to the 2003 scheme where only the special expense amount that is over the threshold is deducted from gross weekly income.

³⁵ Regulation 65 of the Child Support Maintenance Calculation Regulations 2012

³⁶ Regulation 66 of the Child Support Maintenance Calculation Regulations 2012

³⁷ Regulation 67 of the Child Support Maintenance Calculation Regulations 2012

³⁸ Regulation 68 of the Child Support Maintenance Calculation Regulations 2012

³⁹ Regulation 68 of the Child Support Maintenance Calculation Regulations 2012