

Improving Child Support





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There is a glossary of terms at Appendix A. Throughout this White Paper the parent with care is referred to as 'she' and the absent parent as 'he'. This simply reflects the most common arrangement. All the proposals in the White Paper apply equally when the parent with care is the father and the absent parent is the mother.

Introduction and summary

1. This White Paper sets out proposals for changes to the child support maintenance scheme.
2. The regular receipt of maintenance can transform the lives of parents with care and their children, because it widens the choices available to them and enables them to work if they wish to do so, improving the standard of living of their children. The child support system was introduced in April 1993 to achieve this. The proposals in this White Paper are intended to ensure that many more children are supported by their own parents whenever they can afford to maintain them, and that absent parents are not able wilfully to avoid their responsibilities. The Government believes that changes are needed to the system to ensure that it is more widely acceptable to absent parents and that more maintenance is actually paid to parents with care.
3. The Government believes that the principles underlying the child support system are right. They command support from both the general public and Parliament, and have been endorsed by the Social Security Select Committee on each occasion it has examined the scheme. The Government believes also that a formula approach to the assessment of child support maintenance is appropriate for the great majority of separated parents. The Government has always recognised, however, that the Child Support Act was a major change in the law with significant social implications and has repeatedly stressed its intention to examine the effects of the child support system. The Secretary of State for Social Security has accordingly monitored the child support arrangements and has taken careful note of the helpful and constructive advice of the Social

Security Select Committee in its recent second report on the scheme.¹ The Government has decided that changes are needed to prevent undue hardship and to enable the Child Support Agency to operate effectively. In framing its proposals for change, the Government has taken care to ensure that the interests of all the parties – the absent parent, the parent with care and the children, and the taxpayer – are taken fully into account and that a sound balance has been maintained throughout.

4. The changes proposed are summarised below.

a. The introduction during 1996/7, following primary legislation, of some discretion to depart from the maintenance formula assessment in cases where the absent parent would otherwise face hardship or where certain property or capital transfers took place before April 1993. There will be closely specified grounds for the special circumstances that will be considered, and limits on the extent of the departure. Either parent will be able to apply for a departure, and both will be entitled to make representations.

b. Changes to the maintenance formula from April 1995:

- no absent parent will be assessed to pay more than 30 per cent of his normal net income in current child maintenance, or more than 33 per cent in a combination of current maintenance and start-up arrears;
- a broad-brush adjustment will be provided in the maintenance formula to take account of property and capital settlements;

- an allowance will be made towards high travel-to-work costs;
- housing costs will be allowed for a new partner or step-children;
- the maximum level of maintenance payable under the formula will be reduced.

c. From April 1997, parents with care in receipt of Income Support or Jobseeker's Allowance will be able to build up a maintenance credit which will be paid as a lump sum when the recipient starts work of at least 16 hours a week.

d. Family Credit and Disability Working Allowance recipients will receive some compensation for loss of maintenance where the changes in **b.** above result in a reduction in their assessment during an award of benefit.

e. Fees will be suspended for a period of two years until April 1997; and interest payments will also be suspended, to be replaced after two years with a penalty for late payment.

f. Changes will also be made to improve the administration of the scheme including:

- the deferment of the take-on by the Child Support Agency in 1996/7 of cases not in receipt of Income Support, Family Credit or Disability Working Allowance where there was a court order or written maintenance agreement before April 1993. These cases will continue to be able to use the courts;
- where the Agency causes a delay in setting maintenance,

¹The Operation of the Child Support Act: Proposals for Change. Session 1993-4 (Fifth Report)

consideration will be given to not enforcing more than six months' worth of arrears, provided the absent parent gives a commitment to meet his on-going liability;

- a simpler way of dealing with change of circumstances reports;
- periodic reviews every two years;
- deferral of liability by eight weeks when the absent parent provides certain relevant information within four weeks of the date the maintenance enquiry form is issued to him;
- changes to simplify the definitions of housing costs and earnings;
- changes to the interim maintenance assessment rules including:
 - the introduction of an interim assessment for self-employed absent parents;
 - the introduction of a protected income provision when deduction from earnings orders are applied in interim maintenance assessment cases;

g. Corresponding changes will also be made to the child support maintenance scheme in Northern Ireland.

5. None of these changes will apply retrospectively. Absent parents will be required to pay maintenance at the rate currently assessed and to pay arrears due at current rates. Changes in assessments will apply only from the dates specified in legislation.

1

The system now and proposals for change

The child support system

- 1.1 The child support scheme was introduced from 5 April 1993 to replace a child maintenance system which was failing large numbers of children and the parents with whom they lived. Prior to the introduction of the Child Support Act, child maintenance was delivered by a variety of courts and by local offices of the Department of Social Security, with assessments based entirely on discretion. The result was uncertainty and inconsistency as to the amounts to be paid and, in many cases, a failure of the system to ensure that payments were made. Only a third of parents with care received maintenance regularly. The Government's determination to reform this situation was widely supported throughout the country and the principles behind the changes still command widespread support.
- 1.2 The Child Support Act introduced a new system of child maintenance to provide for most people seeking maintenance for a child. The scheme was intended to ensure, amongst other objectives, that:
- parents honour their responsibilities to their children whenever they can afford to do so;
 - a fair and reasonable balance is struck between a parent's responsibilities for all the children he or she is liable to maintain;
 - the system produces fair and consistent results;
 - parents' incentives to work are maintained.

Experience to date

1.3 The child support system represents a substantial improvement compared with the old fragmented and uncertain system which preceded it. However, it has faced a great deal of opposition, mainly from absent parents who were unwilling to pay any maintenance or higher amounts of maintenance than in the past. Some of them have deliberately obstructed the work of the Agency. This matches experience in other countries that have introduced similar schemes and demonstrates the magnitude of the changes in attitude and practice needed if parents are to recognise that the primary responsibility for supporting their children rests with them rather than the state. Again, experience in other countries is that parents' attitudes do change over time, as child support schemes gain wider public acceptance. The Government has consistently promised to keep the scheme under review and to make any necessary changes in the light of experience.

1.4 The Government introduced measures in February 1994 which met many of the early criticisms of the scheme. In particular, the changes aimed to ease the transition to higher payments for some pre-1993 cases, and to moderate maintenance payments for absent parents with low incomes or substantial second family commitments.

1.5 As the Child Support Agency's case-load has increased, the Government has continued to look carefully at the whole system in the light of experience and criticism of it, bearing in mind the following principles:

- parents should maintain their own children to the extent that they can afford to do so;

- the scheme should be perceived to be fair in its treatment of both parents and of the children;
- child maintenance should be paid at an appropriate amount, regularly and on time;
- the Child Support Agency should deliver an efficient and effective service;
- some protection should be afforded to parents with care on benefit who are affected by the changes;
- incentives for parents with care who wish to work should be improved;
- recognition should be given to formal child maintenance arrangements involving transfers of assets, made before the Child Support Act was implemented in April 1993;
- absent parents should be able to support themselves after paying maintenance.

1.6 The Government was grateful to receive the thorough and constructive second report of the Social Security Select Committee, which made an important contribution to these proposals for change.

Introduction of discretion

1.7 The Government continues to believe that the principles underlying the child support system are best realised, in the main, through maintenance assessments based on an objective formula. There is no wish in Government or in Parliament to see a return to a discretion-based system, with its attendant problems of inconsistency and unfairness. But the Government recognises that there is a small minority of cases where there are special circumstances which it would be right to take into account but which cannot be reflected in a universal formula.

- 1.8 The Government therefore proposes to introduce a Bill to provide for a limited discretion to depart from the strict formula assessment in appropriate cases. This should provide a safety valve for the genuine hard case. It is important, however, that discretion does not undermine the whole basis of the Act. The Bill will therefore provide for discretion to be exercised only in tightly specified circumstances: generally that the absent parent has necessary expenses not allowed for in the formula and that failure to take them into account would result in hardship. This will not be an automatic process: each case will be thoroughly examined, and departure will be allowed only where this is fair, taking account of the circumstances of both parents and the interests of the children. Parents with care will also be able to apply for a departure from the formula. The system of departures will also deal with property or capital settlements in certain cases.
- 1.9 Discretion will be exercised by the Child Support Agency in the first instance, but there will be a right for either party to ask that the issues be looked at afresh by an independent Child Support Appeal Tribunal. The proposed system is described in more detail in Chapter 2.
- 1.10 The Government intends to bring forward the necessary legislation in the current session of Parliament and to introduce the new departures system during 1996/7, the earliest possible date in view of the need for legislation.

Property or capital transfers

- 1.11 A major source of criticism has been the lack of specific recognition for cases where, as part of a settlement between parents made prior to April 1993, there was a transfer of property or capital from one parent to the other.

Settlements of this kind have been labelled 'clean break settlements'. In relation to children, this terminology is incorrect, since it is not possible for parents to terminate their financial obligations to their children. Where there was a property or capital settlement between the parents, it was always open to the parent with care to return to court for increased child maintenance and for the Secretary of State for Social Security to seek maintenance to recover Income Support paid for the children. The practical consequences of these settlements are often reflected in the maintenance formula. For example, an absent parent's maintenance payment will be lower if handing over his share of the equity in the former home means he then has less capital to spend on his new home and has taken out a larger mortgage on it (which is taken into account under the formula). However, the effects of such a settlement are not all directly taken into account in the formula. The Government intends, therefore, that either party should be able to ask for the consequences of a settlement to be taken into account.

- 1.12 The system for departures from the formula will eventually be able to deal with these cases on an individual basis. But the need for primary legislation means that departure arrangements cannot be introduced until well into 1996. The Government proposes, therefore, to introduce from April 1995 a broad-brush adjustment in the formula to provide some recognition of these settlements. Once the system for departures is established, either parent will be able to ask for their case to be considered individually, if they believe the broad-brush provision under the formula is inappropriate. Details of the formula adjustment are in Chapter 3.

Changes to the formula

- 1.13 The Government believes the formula approach is right in the majority of cases, but, in the light of experience, it proposes to make some modifications to the formula to take account of particular concerns that have been raised. The Government intends to bring the changes described below into effect in April 1995. They are set out more fully in Chapter 3.

A limit to maintenance as a proportion of net income

- 1.14 The original expectation, based on detailed modelling using the best available information before the scheme was introduced, was that only a very small number of cases would involve maintenance payments of more than 30 per cent of net income. Experience has shown that a significant minority of absent parents is assessed to pay more than 30 per cent. The Government intends, therefore, to introduce a cap on the amount of maintenance payable under the formula, so that normally no one is assessed to pay more than 30 per cent of net income in current maintenance. In cases where there are also arrears which have accumulated in the period before maintenance was assessed, payments will generally be limited to no more than 33 per cent of net income.

Costs of travel to work

- 1.15 The net income remaining after maintenance is paid should in most cases be sufficient to enable absent parents to meet their travel-to-work costs amongst other expenses, but the Government recognises that, in some cases, the costs of travel to work will be unusually high. It is therefore

proposed to introduce into the formula some provision for those who commute long distances based on the distance between the parent's home and workplace. The allowance will not apply to self-employed people or to those who do not incur an actual cost. People facing exceptional travel costs not covered by this allowance in the formula will be able to seek a departure from the formula.

Second families

- 1.16 Many parents have argued that the formula does not treat their second family fairly compared with the first family. In fact, the needs of natural children of a second relationship have always taken precedence over maintenance for a first family, and in many cases the protected income provision in the formula² ensures that the needs of step-children take precedence too. But at present, where an absent parent does not benefit from the protected income provision, no allowance is made for the housing costs of his new partner or step-children. The Government proposes to remedy this by allowing the new partner's housing costs, and those of any step-children living with the parent, in the calculation of exempt income³.

Maximum payable under the formula

- 1.17 Where an absent parent is able to pay the full amount of the basic maintenance requirement and still has assessable income above that level, he is required to pay an 'additional element' until he reaches the maximum payable under the formula. The maximum varies from case to case and can be very high indeed where there are several children. The Government has decided to halve the maximum additional element.

² See Appendix B for an explanation of the formula.

³ Exempt income is described in Appendix B.

Take-on of non-benefit cases pre-dating April 1993

- 1.18 The Government wants to allow time for the Agency to clear its existing workload, including the issues arising from the proposed system of departures, before another tranche of cases is taken on. There is still a number of pre-1993 cases where the parent with care is not on Income Support, Family Credit or Disability Working Allowance, which are outside the new system and which were due to be taken on in a phased programme starting in 1996. The take-on of these cases will be deferred beyond 1996/7. At a date to be announced, these parents with care will be able to apply for the Child Support Agency's collection and enforcement service. A fee will be payable. Chapter 4 gives further details.

Help for parents with care

- 1.19 The Government believes that the changes proposed in this White Paper will lead to a better functioning system of maintenance which will benefit parents with care and their children. Most of the measures in this White Paper apply equally to the income assessments of both parents, and so parents with care who have sufficient income to make a contribution to maintenance will benefit from them directly where the circumstances are appropriate. Parents with care in receipt of Family Credit or Disability Working Allowance will receive some compensation if their income drops

when the changes are introduced, and this will last for the duration of their current benefit award.

- 1.20 The introduction of a maintenance disregard for recipients of Income Support was discussed, but not recommended, by the Social Security Select Committee. The Government shares the Select Committee's reservations. It believes that such a measure would make it more difficult for parents with care to become independent of Income Support by reducing the gain from moving into work of 16 hours or more a week.
- 1.21 The availability of regular maintenance at realistic levels provides a valuable stepping stone for parents with care to move from dependency on Income Support into work. The Government proposes to reinforce this incentive by introducing a new maintenance credit scheme available to parents with care on Income Support or Jobseeker's Allowance, to enable them to receive a lump sum when they move off benefit and into employment of 16 hours or more a week. Further details are in Chapter 5.

Administration

- 1.22 The changes to the assessment are intended to address the concerns that have been raised about the impact of the policy on parents and children. It is equally important to ensure effective and helpful administration of the scheme. Deferral of the take-on of pre-1993 non-benefit cases beyond 1996/7 will avoid a new and difficult burden for the Agency at that time, allowing it to concentrate on new cases. The Government also proposes a number of changes to ease administration which are described in Chapter 6 below.

2

The 'departures' system

Introduction

- 2.1 The use of a formula for determining maintenance has been criticised as inflexible and as not taking proper account of individual circumstances. The Government has listened carefully to these comments but remains of the view that, in the vast majority of cases, a formula provides the best means for establishing maintenance liability in a fair and consistent way. The changes to the formula proposed in this White Paper will take account of certain specific problems that have been raised. None the less, the Government accepts that there will always be a small proportion of exceptional cases which cannot be fairly treated by any universal formula and intends to introduce some limited discretion to cater for them.
- 2.2 Under the proposed system, once the maintenance payable under the formula has been assessed, either parent will be able to apply for a 'departure' from the assessment. This departure will be allowed only in certain tightly defined circumstances and only after the other parent – or other interested parties – have been given the opportunity to make representations.
- 2.3 In the first instance, this discretion will be exercised by the Child Support Agency. Either parent, if he or she is unhappy with the decision to allow or to refuse a departure, or with the extent of departure granted, will be able to ask for the matter to be considered afresh by an independent Child Support Appeal Tribunal (CSAT). The CSAT will exercise independent discretion with the power to substitute its decision for that of the Agency. There will be provision in the normal way for appeals on points of law from

the CSAT to a Child Support Commissioner and, subsequently, the courts. Where a case is particularly complicated or raises novel issues, the Agency may decide to refer the request for departure straight to a CSAT for a decision.

- 2.4 The intention is that formula assessment should continue to be the norm; that the standard formula assessment should be the starting point even when a departure is allowed; and that departures should not be common. The principles underlying the original Child Support Act, as set out in 'Children Come First', will continue to apply. Although the circumstances in which a departure can be allowed will be tightly specified, the process is *not* intended to be simply the application of a series of mechanical rules. The intention is that a departure will be allowed only when this seems fair, looking at a case in the round and taking account of all the circumstances including the financial position of both parents and the interests of the taxpayer.

The grounds for agreeing a departure

New cases⁴ – applications by the absent parent

- 2.5 To qualify for a departure, an absent parent will have to meet two conditions:
- a. that, because of the special circumstances of the case he faces specific additional expenses not taken into account in the formula; and

- b. that he would face hardship – that is, he would be unable to support himself (and any new family) – if he were to pay maintenance at the level determined by the formula.

Hardship will not be defined in strict arithmetical terms but will be interpreted in the context of the protected income provisions of the Child Support Act.

- 2.6 The additional expenses will be tightly specified in legislation. In general terms the Government proposes that these should cover:
- a. exceptionally high costs of travel to work beyond those allowed in the formula;
 - b. high costs of travel to maintain contact with the child;
 - c. particular expenses – not covered by the provision for disability in the formula – resulting from the absent parent's own long-term illness or disability or the long-term illness or disability of a dependant;
 - d. in exceptional cases, the costs of caring for step-children;
 - e. certain debts of the former relationship between the parents.

- 2.7 Even when these conditions are met, a departure will be allowed only if this would be fair to **both** parents taking account of all their circumstances and the welfare of the child or children. There will be explicit provisions to ensure that the interests of taxpayers are taken into account.

⁴'New cases' are those where there was no court order or written maintenance agreement prior to April 1993.

Applications by the parent with care

2.8 Applications for a departure from the maintenance assessment may also be made by the parent with care where appropriate. For example, if the parent with care has assessable income and is able to make a contribution to maintenance, the grounds applicable to an absent parent will also be open to her. In addition, parents with care will also be able to apply on the grounds:

- a. that the assessment is unrealistically low because, although the absent parent has been able to demonstrate a low income, he has substantial assets or an extravagant lifestyle inconsistent with income at that level;
- b. in cases where the absent parent's housing costs are excessive, but are still allowed in full in the formula because he has children in his household or he is sick or disabled, that he is nevertheless able to meet them or has deliberately created the excessive costs in order to escape some or all of his child support maintenance liability;
- c. that the absent parent's housing costs allowed under the formula include costs for housing a new partner or new partner and step-children which should be met, or are being met, wholly or in part by the new partner;
- d. that the absent parent receives an allowance under the formula for his travel-to-work costs but he was nevertheless able to meet these costs or had deliberately created the situation in order to escape some or all of his child support maintenance liability.

2.9 Where appropriate, an absent parent will also be able to apply for a departure on these grounds (for example, if the parent with care's contribution to maintenance is lower because all her housing costs are allowed, but her new partner is in fact paying the mortgage in full).

Cases where maintenance agreements were made before April 1993

2.10 Where a maintenance agreement was made prior to the start of the child support scheme in April 1993, absent parents will often have believed their maintenance arrangements to be settled and will have taken on new financial or family commitments. The consideration of departures will take account of this; in particular, it will take account of commitments from which it would be unreasonable to expect the absent parent to withdraw. Also, in addition to the conditions outlined in paragraph 2.5 above, there will be a further specific ground for a departure; the need to repay certain debts incurred before April 1993.

Cases where there has been a capital or property settlement before April 1993

2.11 There will also be special arrangements to cover cases where, as part of a settlement (defined in paragraph 1.11 above) made prior to April 1993, property or capital was transferred from one parent to the other or to the children, and in recognition of this, the amount payable by way of child maintenance was less than would otherwise have been the case. It will be grounds for a departure that the 'broad-brush' allowance under the formula (described in Chapter 3) is inappropriate – either too high or too low – in the particular circumstances of

the case. In these cases there will *not* be a requirement to demonstrate hardship. The test of fairness to all the parties will apply, however.

Method of departure

- 2.12 Where it is agreed that particular expenses should be allowed for, in whole or in part, they will be taken into account as part of the process for calculating assessable income. Maintenance will then be reassessed on the new assessable income figure.
- 2.13 Where an application for a departure relates to a capital or property transfer and it is decided that a departure from the formula is appropriate, the allowance under the formula (described in Chapter 3 below) will be removed. An amount which represents the weekly value of the assets when the settlement was made will then be deducted from the maintenance otherwise payable.

Limits to the maintenance reductions

- 2.14 There will be cases where an absent parent is well able to afford the original assessment even after meeting any additional expenses of the type described. In such cases, it is right that child support should take priority. There will be powers to limit the size of departures from the original assessment where this is appropriate. In no case will a departure bring maintenance below the minimum or above the maximum implied by the standard rules.

Procedures

- 2.15 Procedures will be introduced to ensure that applications for a departure order will not delay the payment of maintenance. There will be a power to require maintenance payments to be sufficiently up to date, before an application for departure can be considered.

Cases taken on between April 1993 and the start of the new procedure

- 2.16 Inevitably, by the time the departures system can be established, there will be a backlog of people who wish to apply. There will therefore be a phased programme for applications for departures where a child support maintenance assessment was made before the new procedure begins. Transitional provisions will allow for discretion to be exercised as to whether and how the departure should be backdated to the date of introduction of the new departures procedure.

Legislation and implementation

- 2.17 The Government intends to introduce a Bill in the current Parliamentary session to give effect to these plans, and to introduce the new departures system during the financial year 1996/7. No departures will be backdated to dates before the introduction of the new procedure.

3

Changes to the formula⁵

Minimum of 70 per cent of net income to remain after an absent parent has paid maintenance

- 3.1 The aim of this proposal is to ensure that all absent parents are assessed to pay no more than a prescribed proportion of their net income. Initially, it was estimated that the majority of absent parents would be left with more than 70 per cent of their net income (as defined in the formula) after paying child support maintenance. While this has proven to be the case, recent analysis of actual cases where a maintenance assessment has been made indicates that a substantial minority, around 20 per cent, is left with less than this. The Government will introduce a regulation to ensure that no one is assessed to pay maintenance of more than 30 per cent of his net income under the formula. However, this will still be subject to the requirement to pay a minimum amount – currently £2.30 – unless exempted. This will apply only to the current maintenance assessment amount: absent parents who owe arrears of maintenance may be required to pay over and above this. However, even when paying off arrears of maintenance, an absent parent will be able to keep at least two-thirds of his net income.

⁵See Appendix B for an explanation of the formula.

Broad-brush provision for property or capital settlements

- 3.2 Perhaps the biggest single criticism of the Child Support Act has been that the maintenance formula takes no account of property or capital settlements made before April 1993. The major difficulty in making an allowance for these settlements lies in establishing the facts surrounding them. Many agreements were the result of protracted negotiation, often over many months. Court records often contain few, if any, details of the amounts of equity involved, how monies were apportioned between the parties and what elements were intended to represent spousal as opposed to child maintenance. A system of individual departures from the formula can deal with such issues but it is not possible to reflect accurately the value of these settlements in the maintenance formula itself. In order to overcome this difficulty, from April 1995 the Government intends to introduce a broadly based allowance in exempt income, which will provide some recognition that a transfer has taken place, without the need for lengthy and detailed investigation of cases.
- 3.3 The applicant will be required to provide contemporaneous written evidence that a transfer occurred and evidence as to its value. Where a transfer of property from the absent parent to the parent with care is involved, the value will be net of any outstanding mortgage at the date of the settlement. There will be no

uprating to current prices and no account will be taken of the appreciation or depreciation of the property or capital.

- 3.4 Where a transfer has taken place, it will be assumed that the ex-partners were in any case entitled to half each of the total value. Only to the extent that the absent parent transferred some or all of his share of the property or capital to the parent with care will it count as a contribution to child maintenance. For example, if a property worth £50,000, with a £30,000 outstanding mortgage, were transferred to the parent with care, then the absent parent would be assumed to have given up £10,000 of equity.
- 3.5 No allowance will be made where the amount transferred was less than £5000. Transfers greater than this will be divided into bands – £5000 to £9999, £10,000 to £25,000, and over £25,000, with a specific allowance in exempt income to cover each band, for example, £20, £40 and £60 a week for the suggested bands. These amounts take account of the fact that the basic deduction rate from assessable income is 50 per cent.
- 3.6 This broad-brush approach will clearly not produce precisely the right result in all cases and will not take account fully of the special rules governing the transfer of property and capital in cases where the parents were not married. But the allowance will give a broad recognition that a transfer took place. As indicated above, once the new departures system is available, it will be possible for either parent to apply for this simple adjustment to be replaced by a detailed consideration of the circumstances of the individual case.

An allowance towards high travel-to-work costs

- 3.7 The fact that the formula does not take specific account of travel-to-work costs is another main source of criticism of the scheme, particularly from people who travel long distances and whose costs can be considerable. The Government's approach has been to make sufficient allowance within the maintenance formula to enable absent parents to make choices about how to spend their money, rather than to make allowance for specific costs which will vary from case to case, with one absent parent having high travel-to-work costs while another might have low travel costs but other high work-related costs, or high expenses in other areas. This approach reflects that in the social security system as a whole and avoids inconsistency.
- 3.8 Nevertheless, the Government recognises that travel-to-work costs can be a special case and that an absent parent who is not able, after paying maintenance, to meet high travel costs will suffer a severe disincentive to work. This in turn will affect his ability to pay maintenance. The Government intends, therefore, to introduce a broadly-based allowance in exempt income which will represent a contribution towards high travel costs, and will be the same regardless of the method of transport used.
- 3.9 Where the straight-line distance between an employee's home and place of work is in excess of 150 miles a week, a flat-rate allowance of 10 pence per mile will be made for the distance above 150 miles. For

example, an absent parent who lives 25 miles from his workplace and works a five-day week will travel 250 miles a week and will receive an allowance of £10 a week in exempt income. There will be special arrangements for those with more than one employer or place of work. The Government recognises that actual travel costs may vary substantially in individual cases with the same mileage: but a formula approach cannot readily deal with questions such as the proportion of car expenses attributable to work rather than personal use, or whether travel is by the most cost-effective means. The allowance is intended to be simple and understandable, and to represent a useful contribution to expenses in cases where long travel is involved. Once the departures system is established, absent parents whose particular circumstances and high travel costs cause them hardship will be able to ask for individual consideration of their case.

Allow housing costs for a new partner and step-children

- 3.10 Under existing arrangements, the amount allowed for housing costs is reduced where a parent has a partner or step-children. This is because a parent is allowed his own costs and those of any of his own children living with him, but not those of any partner or step-children. The Government intends to end this apportionment of housing costs and to allow reasonable housing costs in full in all cases. This change will particularly help absent parents who have taken on the responsibility of a step-family.

Lower maximum payable under the formula

- 3.11 The amount payable under the formula consists of two parts: the basic element, which is intended to meet the day-to-day costs of bringing up the child, and the additional element, which is to allow the child to share in the prosperity of the parents.
- 3.12 After allowance for living expenses and housing costs, 50p in every £1 of the absent parent's income is put towards the basic element. If there is still income left after the basic element has been met, a further deduction is made for the additional element at 15p in the pound for one child, 20p in the pound for two, and 25p in the pound for three or more. This additional element is subject to an overriding maximum set by reference to the number of children to be supported.
- 3.13 The Government intends to reduce the maximum amount of additional element payable under the formula by half. So, for example, the maximum amount payable for one child aged 5 (including the basic element) will be reduced from £143.40 a week to £104.85. Where there are three children aged 16, 15 and 13, the maximum will be reduced from £407.18 to £251.71.
- 3.14 Where a wealthy absent parent has income left after meeting the maximum amount payable under the formula, it is open to the parent with care to apply to the courts for a top-up order. This provision will continue.

Higher rate interim assessments

- 3.15 Where an absent parent fails to provide sufficient information for an assessment to be completed, the Child Support Officer may impose an interim maintenance assessment. This assessment is calculated at one and a half times the maintenance requirement and, in the majority of cases, is higher than the full assessment. However, a small number of wealthy absent parents may pay less under an interim assessment than under a full assessment and there have been instances where absent parents have simply paid the interim assessment, thereby denying their children their full entitlement under the Act.
- 3.16 The Government intends to prevent wealthier absent parents exploiting the current provisions by introducing a higher rate of interim assessment in these cases. Where the Child Support Officer believes that the absent parent has accepted the interim assessment in the knowledge that his full assessment would be higher, he will estimate the level of income (if necessary, using his powers of inspection) and complete an assessment using a revised exempt income calculation. This revised calculation will make allowance only for the absent parent's personal living expenses, not for housing costs or any other allowances for which he may qualify. This is intended to ensure that the interim assessment is at least as high as the full assessment would be.
- 3.17 Once the absent parent has provided all the information required to make a full assessment his liability will be adjusted accordingly.

4

Take-on of pre-1993 non-benefit cases

- 4.1 Under the Child Support Act and the related Commencement Orders, cases with court orders or written maintenance agreements which pre-date April 1993, where the parent with care has not claimed or received Income Support, Family Credit or Disability Working Allowance, are still a matter for the courts who continue to deal with any issues arising about child maintenance. Responsibility for these cases was due to pass to the Child Support Agency during the 12 months from April 1996, when either parent could apply for a child support assessment if they wished.
- 4.2 The Government has decided it will be best to take on these cases when they can be given access to the new departures system, and that for the present the Agency should devote its main resources to improving service to its current caseload. For the time being, these cases will remain within the jurisdiction of the courts. The Bill which will introduce the new departures system will also provide for these cases to be taken out of the jurisdiction of the Child Support Agency, with a reserve power to bring them into the Agency's jurisdiction at a future date.
- 4.3 Absent parents and parents with care will continue to have access to the courts to settle their maintenance disputes while they remain outside the Agency's jurisdiction. The Government recognises that a major difficulty experienced by some parents with care who use the courts is in arranging for maintenance to be collected and enforced in cases where the absent parent is slow to pay. When the work of the Agency permits, therefore, the Government intends to allow parents who have court orders or written maintenance agreements to have access (on payment of a fee) to the Agency's collection and enforcement service.

5

Help for parents with care

5.1 Parents with care will be able to apply for departures from the formula under the scheme described in Chapter 2 above and will be invited to make any representations where the absent parent has applied for a departure. They will also be asked for their account of the position regarding former property and capital settlements before an allowance is made under the clean break provision in the formula. Other proposals, relating to interim maintenance assessments (see paragraphs 6.13–6.15 below) should ensure that maintenance payments are obtained more quickly in cases where absent parents are deliberately slow to provide information for a full assessment. In self-employed cases (paragraph 6.21 below) a provision will be introduced to ensure the early payment of maintenance at a reasonable rate until an assessment can be completed.

Recipients of Family Credit and Disability Working Allowance

5.2 Maintenance payments are taken into account when assessing entitlement to all income-related benefits. Those on Income Support, Housing Benefit and Council Tax Benefit will be able to ask for the change of circumstance to be taken into account straightaway. But Family Credit and Disability Working Allowance are awarded for fixed 26-week periods and are designed to be simple broad-brush schemes which give a guaranteed level of support for this period. Awards are not therefore reassessed when a person's income

changes (either up or down) during that 6-month period. Any decrease in maintenance will, therefore, be felt by parents with care with a Family Credit or Disability Working Allowance award which takes account of maintenance payable before the changes. Rather than breach the fundamental rules of these schemes, the Government intends to make a non-benefit compensation payment to the extent of half of any reduction in the maintenance assessment. This broad-brush compensation reflects the fact that the amount of maintenance in payment at the time the Family Credit or Disability Working Allowance award was made may differ both from the previous maintenance assessment and from the amount actually in payment when the change is made.

Enabling parents with care to benefit directly from maintenance paid by the absent parent

5.3 Since April 1992, parents with care who receive Family Credit or Disability Working Allowance have seen a direct improvement in their financial position when maintenance begins to be paid by the absent parent, because the first £15 of maintenance is disregarded in calculating their benefit. This provision helps to ensure that parents with care who are able to work for 16 hours or more a week are better off in work than if they received an out-of-work benefit such as Income Support.

5.4 There have been some calls to extend a maintenance disregard into Income Support as well. The Government takes the view that this is not desirable because, like any other increase in out-of-work benefit disregards, it would reduce the clear water between in- and out-of-work benefits and thus make it more difficult to be better off in work. However, the Government accepts that the current situation, where maintenance payments to parents with care on Income Support reduce benefit pound for pound, may discourage some absent parents, and may be seen as unfair by parents with care whose former partners are meeting their obligations.

5.5 So that parents with care on Income Support or Jobseeker's Allowance who receive maintenance can see a direct benefit from it, the Government intends to introduce by primary legislation a scheme building on the principles of the Back to Work Bonus proposed in the Jobseeker's Allowance Bill. For each week in which maintenance is paid, a parent with care will receive a credit of £5 (or the actual amount of maintenance if less), which will be payable as a lump sum when she leaves Income Support or Jobseeker's Allowance to take up work of 16 hours or more. This will provide a substantial incentive to take up work and will ease any financial problems during the transition.

6 Administrative changes

Introduction

- 6.1 The Government is concerned that the Child Support Agency has not yet provided a good, reliable service for its clients. Much of the criticism of the Child Support Act has arisen because of the inefficient administration of the scheme. A review of the Child Support Agency's operations, with a view to simplifying procedures, speeding up the maintenance process, encouraging compliance by absent parents and improving service to customers, has led to proposals for a number of changes. Some can be implemented administratively and will be introduced shortly, but some will require legislation.

Deferment of some cases

- 6.2 Two measures designed to enable the Agency to tackle its backlog of work more effectively were announced on 20 December 1994. The Agency is reducing the amount of new work it is taking on by: deferring the next tranche of cases where parents with care have been receiving Income Support since before April 1993; and deferring action on cases where the Agency wrote to the parent with care before 1 July 1994 and either she has not replied or she has not given all the necessary information.
- 6.3 The aim is to enable the Agency to give a better service to its existing caseload. It will deal with these deferred cases when it is in a position to tackle them quickly and to a high standard. It will generally take on any benefit recipient affected by the new arrangements who wishes the Agency to pursue maintenance, and there is no

question of stopping or deferring action where the absent parent has been delaying or failing to co-operate with the Agency in arranging maintenance. The Agency will also continue to deal with parents with care making new or repeat applications for Income Support, Family Credit or Disability Working Allowance and people not applying for these benefits who do not already have a court order or maintenance agreement. These new measures will enable the Agency to concentrate on such cases.

Initial arrears

- 6.4 The Government recognises that some absent parents have been faced with very high bills for initial arrears. It is the case that some arrears of maintenance will normally accrue after the start-date for liability but before a maintenance assessment has been made and payment requested, and it is reasonable to expect the absent parent to have made some provision for this period. Where, however, there has been significant delay by the Agency, the Government will consider not enforcing more than six months' worth of arrears, provided the absent parent gives a commitment to meet his ongoing liabilities and to repay the six months' arrears. The Government will compensate the parent with care for any actual financial loss from the non-pursuit of the remaining arrears once there is firm and sustained evidence – normally over a year – that the absent parent is complying with this commitment. If he defaults without good reason, the Agency will seek repayment of the full amount of the arrears owing.

Reviews

- 6.5 There are two main types of review of a child support assessment. **Change of circumstances reviews** mean that clients can report changes of circumstances as they arise and have their assessment revised accordingly. **Periodic reviews** provide for a full review of both parents' circumstances at set intervals, which are in addition to reviews for reported changes.

Change of circumstances reviews

- 6.6 In practice it has become evident that the present administrative arrangements to implement changes of circumstance are too onerous. These require that both the parent with care and the absent parent should complete a full review form, reconfirming all details on the basis of which the current assessment was made; and that the Agency should re-check all the information provided. This process is time-consuming for both clients and the Agency, and prevents the fast implementation of changes of circumstances as they occur.
- 6.7 The Government intends, therefore, that any reported change of circumstance should be applied in isolation to the current assessment, once the details of the change have been checked and confirmed. This will ensure that these changes are implemented more quickly, and enable the Agency's staff to concentrate on the new assessments, and the collection and enforcement of maintenance.

Periodic reviews

- 6.8 Currently, a periodic review is due each year. The process of carrying out a periodic review is almost as complex as that of undertaking the original

application for an assessment and has proved to be more time-consuming than was originally envisaged. The underlying aim is to ensure that regular reviews are carried out, and the Government now believes that this aim can be satisfactorily met through completing these periodic reviews every two years rather than yearly. Change of circumstances reviews ensure that significant alterations in circumstances are dealt with as soon as they arise.

Provision of information for reviews

- 6.9 In some cases, one or other of the parents does not provide all the necessary information, preventing the Agency from completing a review. In cases where the absent parent fails to co-operate, the Government intends that he should be charged at the interim maintenance assessment rate until he provides the necessary information; this rate is usually significantly higher than the full maintenance assessment rate. Where the parent with care is not in receipt of benefit, the Agency will cease to act for her if she fails to provide the information necessary to conduct the review.

Fees

- 6.10 The Agency currently charges a fee for the assessment service, as well as a separate fee for the collection service. The charge is levied separately on each of the parties to an assessment. Certain people are exempt, usually where they are in receipt of specified benefits.
- 6.11 The principle of this is clear. The Agency's clients are receiving a service for which they would previously have had to pay court and legal fees. It is

also, however, right that a fee should be levied only if the client receives the relevant service, and that the quality of the service should be reflected in the level of the fee. In the light of the current backlog and level of performance of the Agency, the Government has decided (subject to paragraph 4.3 above) not to charge any further fees until April 1997. They will, however, be reintroduced at that date.

- 6.12 This provision will not be retrospective. Fees outstanding prior to the legislative change will continue to be dealt with under the existing provision.

Interim maintenance assessments

- 6.13 If an absent parent fails to provide sufficient information to enable a Child Support Officer to determine the amount of his maintenance liability, he may be subject to an interim maintenance assessment. This assessment is set at one and a half times the maintenance requirement and, in the majority of cases, is substantially higher than the full assessment.
- 6.14 Once the absent parent has provided sufficient details for an assessment to be completed his liability reverts to the normal rate but, where the interim rate is higher than the normal rate, he is still liable for this higher amount for the period that the interim maintenance assessment is in force until all the necessary information is provided.
- 6.15 The Government intends to change this rule so that liability for the whole period will revert to the full assessment rate once the relevant details have been provided.

Date of liability

- 6.16 In cases where there is no court order, liability under the Child Support Act commences as soon as the Child Support Agency issues a maintenance enquiry form to the absent parent.
- 6.17 The Government intends to make changes to this rule. Where the absent parent returns the maintenance enquiry form within four weeks of issue, confirming his name and providing certain relevant information, then the date of liability will be deferred for eight weeks from the date the maintenance enquiry form was issued.
- 6.18 If the maintenance enquiry form is not returned within the prescribed period, or if the relevant details are not provided, the date of liability will remain the date at which the form was issued.

Interest charges

- 6.19 Interest charges are designed to penalise late payment and to discourage absent parents from building up arrears. However the procedures are complicated to administer and are difficult for clients to understand.
- 6.20 The Government intends, therefore, to remove the current provisions for the charging of interest and to introduce from April 1997 a new system of penalties for late payment. It is intended that the new system will be simpler to administer and a clearer deterrent to late payment.

Self-employed cases

- 6.21 The Agency has experienced considerable difficulties in completing

assessments where the absent parent is self-employed. These difficulties have often been due to the unavailability of accounts. The Government intends to introduce a further interim maintenance assessment to enable self-employed cases to be assessed quickly. In these cases, the absent parent will normally be asked to pay £30 a week (the average of self-employed assessments completed by the Agency to date), although the amount may be reduced if the absent parent can show that it would cause him hardship to pay it. It will also be adjusted once the full assessment has been completed, and backdated to the start of the period of liability for maintenance. The special interim assessment will last only so long as the absent parent continues to show he is doing his best to produce the information required. If the absent parent fails to co-operate, the normal interim maintenance assessment will be imposed.

- 6.22 In addition, changes will also be made so that accounts over a longer period can be used for estimating earnings, and consideration given to making better use of accounts and information which may already have been prepared for tax and national insurance purposes.

Deduction from earnings orders

- 6.23 A large proportion of the Agency's current assessments are interim maintenance assessments. These are made when absent parents refuse to provide all the information required to make a full assessment. These assessments can be difficult to enforce. The most effective means of collection is through a deduction from earnings order, which instructs the absent parent's employer to make a regular deduction from earnings to cover

maintenance payments, but it is essential that in all these cases the absent parent should be left with enough to live on. Where a deduction from earnings order applies to a full maintenance assessment, there is a 'protected earnings' safeguard to ensure that absent parents are not left in any week with too little income after the deduction has been made. In interim assessment cases, however, the existing regulations do not enable the employer to deduct less than the full amount of the interim assessment. As a result the Agency has imposed only a small number of orders in these cases to avoid causing absent parents hardship.

- 6.24 A safeguard on similar lines to the protected earnings in full maintenance assessment cases will be introduced, based on Income Support rates and taking into account any available information about the absent parent's new family commitments. The Agency will then be able to impose deduction from earnings orders in all appropriate cases where an interim assessment has been made. This should ensure that more absent parents comply more quickly by providing the required information to enable a full assessment to be made, since full assessments are usually below the rate of an interim assessment.

Assessment of earnings and housing costs

- 6.25 Changes will be introduced to the definitions of housing costs and earnings, to simplify administration and reduce the amount of information needed before an assessment can be made.

- 6.26 The current definition of earnings requires the provision of evidence of earnings over a very specific period. It is proposed to enable the Agency to have regard to a wider range of evidence in determining the appropriate average rate of income. Equally, the calculation of housing costs requires details of the income of non-dependants in the household and fails to deal adequately with certain types of mortgage. It is proposed to simplify the definitions of housing costs and to enable the use of more readily available evidence to determine reasonable housing costs.

Payment periods

- 6.27 Current procedures require the Agency to consider the circumstances of both parties, in particular the intervals at which their other income is received, when handling receipts and payments of maintenance. This requirement frequently results in one payment period for the absent parent and another for the parent with care. It is proposed that the same payment period should apply to both parents, other than in exceptional circumstances.

Other technical changes

- 6.28 A package of technical amendments to the child support legislation will be laid shortly. This will include a power to correct a wrong interim maintenance assessment, to resolve problems which arise in relation to the Secretary of State's exercise of his powers of collection.

7

Timetable for change

- 7.1 In April 1995, all changes to the formula outlined in Chapter 3 will be introduced, interest payments will be abolished, and the requirement for parents to pay fees will be suspended for two years (subject to paragraph 4.3 above). Parents with care on Family Credit or Disability Working Allowance will be given some compensation for losses from the formula changes. Most of the other administrative changes in Chapter 6 will also be introduced. All clients will be sent a leaflet explaining the changes and requesting further information from them where necessary. Specially trained staff will process applications for an allowance in the formula for a property or capital settlement, and computer software will be available to calculate the travel to work allowance. Other changes to the formula will be implemented automatically by the Child Support Computer System.
- 7.2 A Bill will be introduced in the current session of Parliament to cover the changes needing primary legislation. As soon as it receives Royal Assent, the simplified way of carrying out reassessments or reviews due to changes of circumstances will be introduced. In 1996/7 the new system of departures from child support formula maintenance assessments will be introduced. The take-on of pre-1993 non-benefit cases which was due to take place in 1996/7 will be deferred to a future date to be decided.
- 7.3 From April 1997 a new maintenance credit scheme will start, fees will be re-introduced and late payment penalties will begin.

Appendix A:

Glossary of terms

Absent parent

The parent who does not normally live with the children for whom maintenance is being assessed.

Additional element

Extra amount of maintenance payable where the total amount of assessable income is more than that needed to meet the maintenance requirement. This is explained more fully in Appendix B.

Assessable income

Net income minus exempt income. It is the income from which maintenance is paid. This is explained more fully in Appendix B.

Back to Work Bonus

New scheme (if Parliament agrees) to enable people in receipt of Jobseeker's Allowance or Income Support who work part-time to build up entitlement to a lump sum payable when they start work of 16 hours or more a week.

Departure

Departure from maintenance formula assessment in some exceptional cases.

Exempt income

The income which the parent keeps for his or her own essential expenses before any maintenance payments are calculated. This is explained more fully in Appendix B.

Jobseeker's Allowance

New benefit (if Parliament agrees) payable from April 1996 to people seeking work.

Maintenance credit

Proposal that, from April 1997, parents with care in receipt of Income Support or Jobseeker's Allowance will receive a credit of £5 a week (or the actual amount if less), which will be given to them as a lump sum if they start work of 16 hours or more a week.

Maintenance disregard

Part of a maintenance payment which is disregarded in calculating benefit.

Maintenance requirement

The amount which represents the day-to-day needs of the children for whom the child maintenance assessment is being made. This is explained more fully in Appendix B.

Natural child

The biological child of a relationship (also includes adopted children).

Net income

Income after tax, national insurance contributions and 50 per cent of any contribution to an occupational or personal pension have been deducted.

Non-benefit cases

All cases other than those where the parent with care (or her current partner) claims Income Support, Family Credit or Disability Working Allowance.

Parent with care

The parent with whom the child concerned normally lives.

Protected income

Calculation made in the maintenance formula which ensures that an absent parent keeps enough income after paying maintenance to meet his or her day-to-day needs and that of any second family. This is explained more fully in Appendix B.

Start-up arrears

Arrears of maintenance incurred after the start date for liability but before a maintenance assessment has been made.

Step-child

Child who lives with the absent parent or parent with care but is their current partner's child from a previous relationship.

Top-up order

Order made by the courts for maintenance above the formula level.

Appendix B:

Existing formula for assessing child maintenance

This appendix explains how the maintenance formula currently works and does not take any account of any changes proposed in this White Paper.

General principle

The formula is designed to reflect the ability of *both* parents to contribute to the maintenance of their children. Consequently, the circumstances of each of them are considered when maintenance payable by the absent parent is assessed. In the majority of cases, the parent with care may be in receipt of Income Support or may otherwise have a low income and so cannot normally afford to contribute. However, where a parent with care does have sufficient income, she is assessed to contribute to the cost of maintaining her children on the same basis as the absent parent, and this has the effect of reducing the amount of maintenance the absent parent is required to pay.

The formula

The maintenance formula consists of several component parts, as follows:

- The **maintenance requirement** for the children, which is based on Income Support rates and is the amount all parents should pay if they can afford it.
- The **assessable income** of each parent, derived from a calculation of the net income of each parent less an allowance for expenses (known as exempt income). Maintenance is paid at the rate of 50p in each £1 of assessable income until the maintenance requirement is met.
- An **additional element** payable by parents who can pay more than the maintenance requirement, up to a maximum amount.

- A safeguard – **protected income** – which reduces the maintenance payable by absent parents in certain circumstances, to ensure their income remains well above Income Support level.

The maintenance requirement

This is the amount needed to provide for the basic day-to-day needs of the child or children for whom a maintenance assessment is being made. It is based on the Income Support rates for personal and other needs. Because a child needs to be looked after, as well as fed and clothed, the maintenance requirement includes an amount equal to the Income Support personal allowance for a person aged 25 or over. This is for the care needed by the child and does *not* represent maintenance for the parent with care – spousal maintenance remains a matter for the courts to decide. This allowance is reduced when the youngest child reaches 11 and again at 14, to reflect the fact that the level of day-to-day care needed by children lessens as they grow older. It is omitted where there is no child aged under 16 to be maintained.

Calculating income

After calculating the maintenance requirement the formula looks at parents' ability to pay. The first stage is to calculate net income, which includes income from other sources as well as earnings from employment. The net earnings from employment are calculated by deducting tax, national insurance and half of any contributions to a pension, from the gross amount. The allowance of half of the pension contribution follows the general pattern adopted in the assessment of income-related benefits, achieving roughly equal treatment between those contracted into and

those contracted out of the state pension scheme. This approach also provides a balance between the need to make provision for retirement and a child's need for basic maintenance.

The calculation of earnings for the self-employed is intended to reflect the flow of cash through the business and the money available to the absent parent for payment of maintenance. The calculation reflects the difference between the gross receipts from the business and expenses wholly, exclusively and necessarily incurred in *running*, but not in *expanding*, the business. This means that a very wide range of expenses is allowed. Although there is no allowance for capital expenditure, the interest payments on a loan reasonably taken out for the purposes of the business are allowed. In addition, capital repayments may be allowed where the loan is for the replacement of equipment or machinery. These provisions are designed to strike a balance between the needs of the business and a child's right to basic maintenance.

Exempt income

The next step is to calculate an allowance known as exempt income. This represents the basic personal expenditure of the parents and any children of their own who live with them, again based on Income Support rates. It includes a personal allowance for the parent and the parent's housing costs. It also includes allowances and housing costs for any children of that parent living with him or her.

Cases where the absent parent has a new partner

An absent parent's new partner has no liability for the maintenance of children from the absent parent's previous relationship. Her income is ignored in the assessment of his net income. She is, however, expected to contribute equally to the support of her own children from the new relationship, if she has sufficient income.

Additionally, the housing costs included in his exempt income are allowed only for himself and any of his own children who live with him. When he has a new partner, or a second family, the costs are apportioned, the absent parent being allowed only the share for himself and any of his own children in the exempt income calculation.

Calculating the amount of maintenance payable

When the exempt income has been calculated, it is subtracted from net income to leave an element of the formula known as assessable income. A deduction rate of 50 per cent is applied to the assessable income until the maintenance requirement is met. Where the absent parent has assessable income left after he has met the basic maintenance requirement, the formula provides for an additional element of maintenance to be calculated. The deduction rate applied is 15 per cent where there is only one child, 20 per cent where there are two children, and 25 per cent where there are three or more. The principle

behind the additional element is that, as a parent's income increases, it is right that his children should share in his prosperity as they would if they continued to live with him. The lower deduction rates reflect the fact that, in general, as income rises, a greater proportion is kept by parents for their own use.

Protected income

The maintenance formula includes an important safeguard known as protected income. A calculation is made in all cases to ensure that the absent parent (and his second family if he has one) retains significantly more income after he has paid maintenance, than he would receive if he were unemployed and claiming Income Support. When calculating protected income, the needs of all members of the second family are considered, with allowances for the new partner and any step-children as well as for the absent parent and any of his children who live with him. This amount is then compared with the family's total income.

Overall, the level of protection is set at a minimum of £30 above the appropriate Income Support level. An additional level of protection, set at 15 per cent of the difference between this amount and the family's net income, is then added to that basic amount.

The protected income calculation shows whether the absent parent can afford to pay the full amount of maintenance which has been assessed, or whether it needs to be *reduced* so that he and his new family keep more of his income. It ensures that, where absent parents have insufficient income, the interests of second families are protected and placed before those of the first. In particular, the allowances for step-children safeguard their interests where their own absent parent is not paying maintenance.

Phasing in payments

There are also provisions for phasing in the new amounts of maintenance where absent parents have previously been paying under a court order or written maintenance agreement, and have responsibility for children. These provisions were extended considerably in February 1994, and absent parents now have up to 18 months to adjust to the new levels.

Shared care

Where two parents each care for a child at least 104 nights a year (that is, two nights a week on average), the parent who provides the lesser amount of care is treated as the absent parent. The maintenance assessment in these cases differs from the standard formula. The allowances made against the absent parent's net income for basic expenditure include amounts for the child, based on the time spent with the parent. The maintenance payment for the child is then worked out in the normal way, but is reduced pro rata to the number of nights the child stays with him.

These provisions mean that an absent parent's maintenance liability will be reduced where he is providing a significant amount of care for a child. Basing the provision on *nights* of care recognises the additional costs involved in providing overnight accommodation.

Absent parent required to pay maintenance for children in more than one family

Where there are applications to the Agency in respect of children in two or more families, the maintenance requirement for the children in each family is assessed in the normal way. The absent parent's assessable income is then divided pro rata to each maintenance requirement before maintenance is deducted.

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