

Premature conversion to the new CSA scheme

A loophole that may thwart government policy

Barry Pearson

16th February 2003

Summary

The new CSA scheme commences on 3rd March 2003 for new cases (and for linked cases).

The government has known for years of some serious risks with the new scheme. One is that the CSA could not manage to convert existing cases to the new scheme from the start. Another is that where there are significant changes of liability between the current and new schemes, the parents may need extra time to adjust their finances.

Therefore, the government has legislated measures intended to mitigate these risks. Existing cases are to be converted at a future date, currently not identified but expected to be during 2004. And where the liability changes significantly, the change will be phased-in over up to 5 years from that conversion date.

This still left a loophole, which would allow a parent with care to close a “current scheme” case and restart it as a “new scheme” case. So legislation attempts to deter such behaviour by only allowing a case to restart under the new scheme after a “relevant period” of 13 weeks. If restarted within that 13-week period, it will restart under the current scheme instead.

In many cases, this is an insufficient deterrent. The attached analysis shows that, in various very different circumstances, even this 13-week closure will often allow the parent with care to gain an advantage within a year, or sometimes even during 2003. Some such parents are known to be attempting this method already, reportedly on the advice of CSA staff.

The loophole is not confined to the period up to the conversion date. After the conversion date, a parent with care can short-circuit the phasing-in period using the same method of stopping the case for 13 weeks then restarting it. This has a smaller impact, and is not analysed further here. But any measure implemented by the government to close the main loophole should target this loophole one too.

(The final irony is that the one class of cases where early conversion would be widely favoured, where the parents with care are on Income Support and so would benefit from the child maintenance premium, are unlikely to be able to use this method because they don't have the option of closing the case! The poorest people can't benefit from this loophole).

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About the author

Barry Pearson is a business analyst with a special interest in child support reform.

His degree was in Mathematical Physics. His earlier career was especially in the design of large-scale computer systems. As a result he was appointed a Fellow of the British Computer Society. His more recent career was in business consulting, typically applying solution-oriented engineering and modelling principles to the analysis of business problems.

He became interested in the reform of the UK's child support system, after an earlier special interest in social security and welfare reform. Barry contributed at the Green Paper stage of the CSA reform process. He gave evidence to the Social Security Select Committee after the CSA White Paper was published. He is consulted by, and provides information to, academics, the media, politicians and lobby groups on child support matters.

Barry is the Chief Analyst for Child Support Analysis, a small independent think-tank that aims to take a comprehensive look beyond the current stage of the UK's child support reforms towards what should follow them. He also edits their web site:

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Introduction

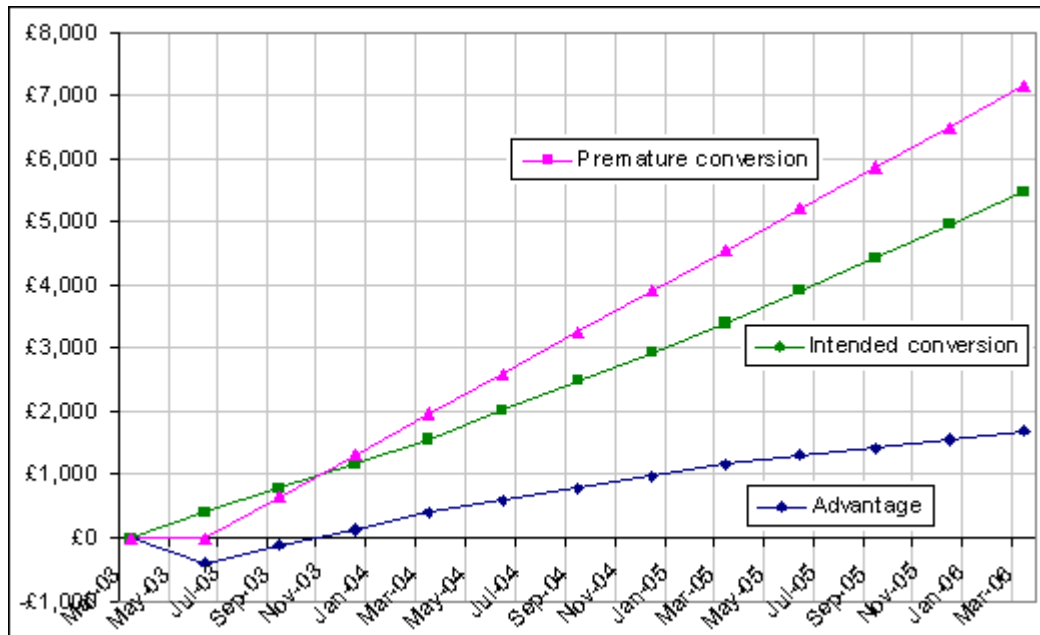
Only people who are familiar with the current and new CSA schemes, and indeed with the nature of the loophole being discussed, are expected to read this paper. Therefore, it does not waste time on education! Neither does it attempt to analyse lots of details. The effects of this loophole are not subtle. They can occur for a wide range of details.

Presentation style

Clearly, this topic is about amounts of money paid over periods of time. Therefore, it uses a graphical style of presentation.

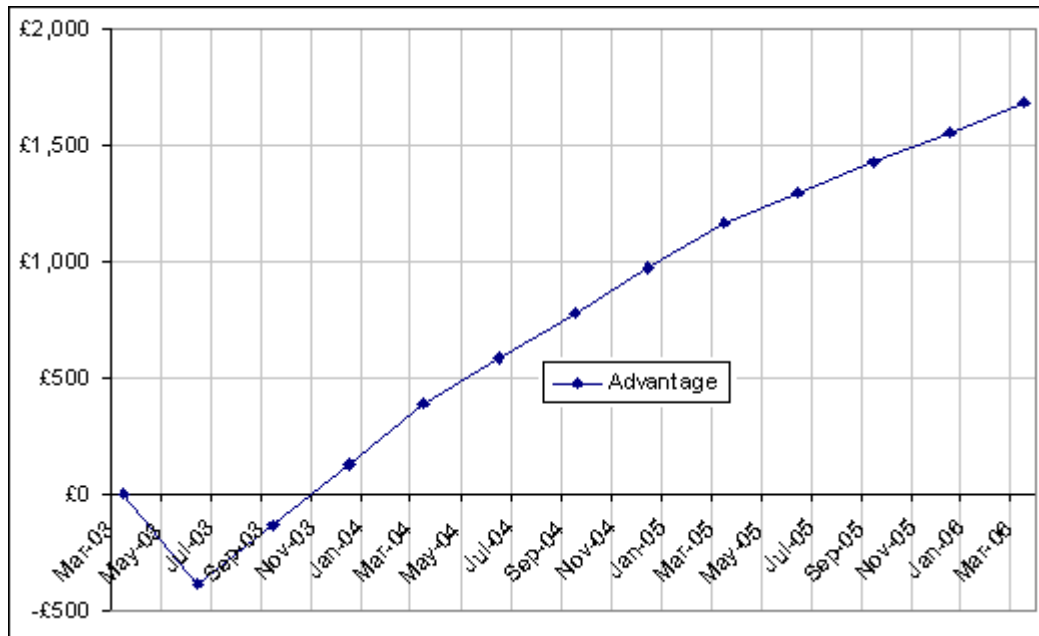
The first graph below shows the nature of the problem being discussed. This graph shows a couple of options that are available to a parent with care, and the advantage arising from one of those options. (For simplicity, a conversion date in March 2004 is assumed, but similar results would be obtained with different conversion dates. Also for simplicity, the “relevant period” when the case is closed is assumed to be March, April, and May 2003).

This illustrative case is a very simple one. A non-resident parent earns £200 net per week, has £50 per week housing costs, and pays child support for 3 children. The three (colour coded) lines are: **green** - the total amount of child support paid from the start of March 2003 up to the start of March 2006 if the cases runs as the government *intends* it to; **pink** - the total amount paid in the same period if the case is *prematurely converted* to the new scheme; and **blue** - the difference (hence, the total *advantage* in this period to the parent with care of forcing it prematurely onto the new scheme).



Obviously, at first the parent with care loses (and this is intended to be a deterrent). But, in common with other cases discussed in this paper, the break-even point for the two options is in a year or less. In this case, the parent with care gets into profit during 2003.

Later graphs in this paper are simpler than this. There is no further point in showing the separate effects of the two options. All that matters is the difference between them, which is the advantage to the parent with care of forcing a premature conversion. So the style of graph used from now on shows just the difference, as follows. (This is the same case as the above). It should be possible to read these graphs even in black and white.



This version of the graph shows more clearly that in this case the advantage is still increasing after March 2006. That is because not only has there been premature conversion, but the phasing-in has been bypassed.

The situations examined in this paper

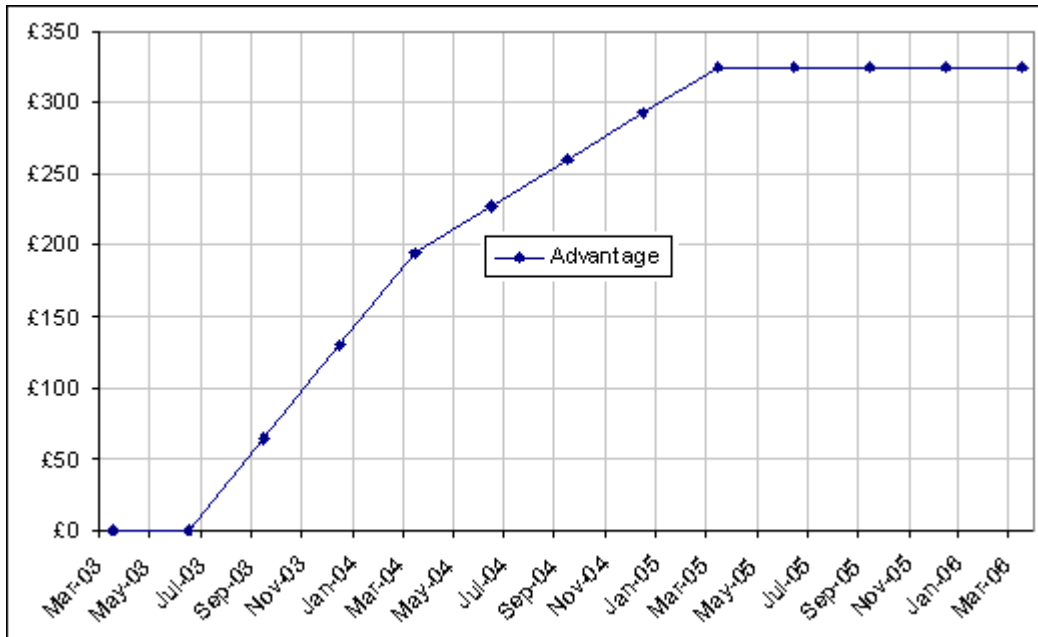
The situations examined are, of course, taken from the 35% or so of cases where the liability will increase under the new scheme. There are many such cases, and these include:

1. Any case where there is a £0 assessment under the current scheme, but a £5 (or more) calculation under the new scheme.
2. Various cases with 2 or 3 children. Because of the way the safeguards work in the current scheme, assessments tend not to differ for different numbers of children until the non-resident parent has a relatively high income. But the new scheme yields different liabilities for extra children at much lower levels of income.
3. High housing costs. This is already well recognised by all concerned as a problem area, because the new scheme doesn't take housing costs into account. Therefore, while high housing costs reduce current scheme assessments significantly, they will not change new scheme calculations at all.
4. Cases where the new scheme calculation is higher than the caps imposed under the current scheme. The caps under the new scheme are significantly higher than those under the current scheme.

Case study 1: £0 assessment, but £5 calculation

There are various known circumstances where this can happen, so it is not necessary to identify the details of this particular case. In fact, one policy objective with the new scheme was that far more non-resident parents would have a non-zero liability.

(One example would be where the non-resident parent is on certain benefits).



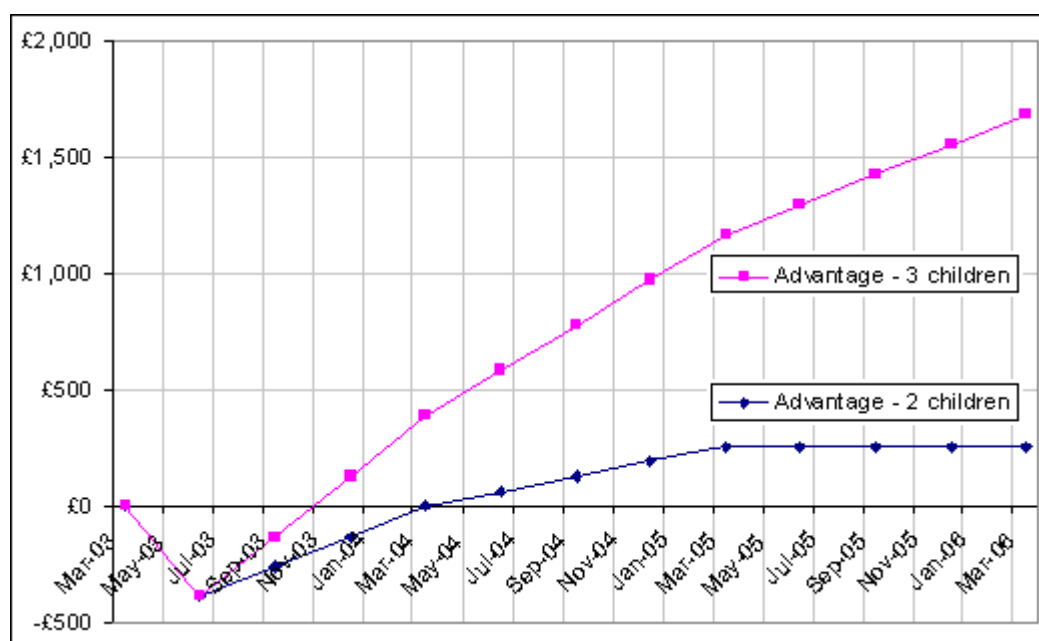
In this case, the parent with care doesn't lose money over any of the period, because, until the conversion to the new scheme, there is no money being paid!

So the parent with care gets into profit from about June 2003 (or whenever the 13-week period ends). The full advantage in this case is achieved in about 2 years.

Case study 2: Fairly average examples with 2 or 3 children

These examples are based on a non-resident parent earning £200 net per week, with £50 per week housing costs. The cases are for 2 and 3 children respectively. (The 3-children case was shown earlier to illustrate the presentation style).

The background to these situations is described in Appendix B. Briefly, while the current scheme tends not to have a significantly different assessment however many children there if the non-resident parent has a low to medium income, the new scheme has different liabilities for different numbers of children from quite a low income.



Reminder: the amounts shown are the *differences* between sticking to the government's transition plan, and forcing a new case to be started. The actually child support liabilities in each case are much higher than these amounts, of course.

With 2 children, this case is fairly marginal. Premature conversion does not offer much advantage for many "run of the mill" cases. (But it is still nearly £300 in total!)

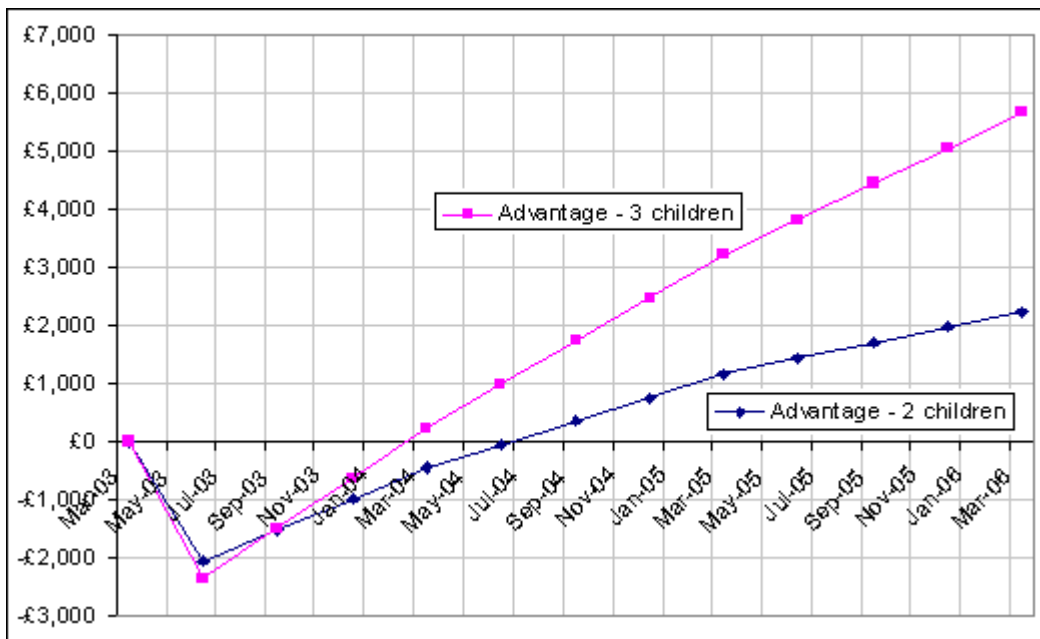
Once there are 3 children, the effect is far greater. That is quite typical of the effect of this loophole. A far higher proportion of parents with the care of 3 children may try to exploit this loophole.

In this case, there is not only an advantage from premature conversion, but also an on-going advantage from bypassing the phasing-in.

Case study 3: High housing cost

These examples are based on a non-resident parent earning £1000 net per week, with £500 per week housing costs. The cases are for 2 and 3 children respectively.

The background to cases involving high housing costs is described further in Appendix B. Briefly, while housing costs reduce the assessment under the current scheme, they don't change the calculation under the new scheme. These situations are often used as one of the justifications for the phasing-in principle.



The problem with these cases is that housing costs can be hard to adjust, especially with just a few months notice. In the case of 3 children, the differences between the intended conversion and the premature conversion averages between £35 and £40 per week.

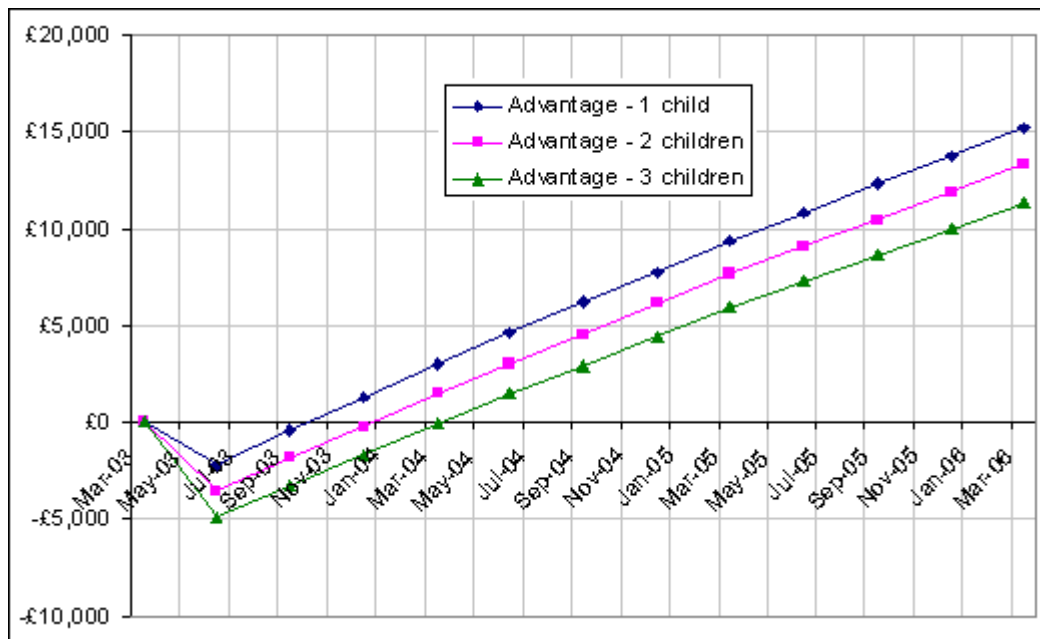
(Once again, these amounts are the extra amounts arising from premature conversion – the actual child support liabilities are much higher).

Case study 4: Higher caps under the new scheme

These examples are based on a non-resident parent earning £2000 net per week, with £500 per week housing costs. The cases are for 1, 2 and 3 children respectively.

The caps for the current scheme are about £167 / £272 / £376 for 1 / 2 / 3 children. The caps for the new scheme are £300 / £400 / £500 for 1 / 2 / 3 children.

(For those without the benefit of the colour coding, the lines, from top to bottom, are for 1, 2 and 3 children respectively).



Unlike most other cases, the largest effect is for 1 child. That is really a consequence of the way the new scheme's cap operates. Instead of being influenced by the maintenance requirements for the children concerned as in the current scheme, it simply operates at a single net income level (£2000 per week), and so tends to reduce the differences resulting from extra children.

Note – the advantage to the parent with care (the *difference* between the intended and premature conversions) is nearly £100 per week if there is just one child. Few people actually spend this amount *in total* on one child!

Allowing a £100 per week loophole for better-off parents, while the same loophole is not available to a parent with care on Income Support who would anyway only be better off by up to £10 per week, is unfortunate.

Appendix A - Government intentions

There is no doubt that this loophole is contrary to stated policy.

Evidence given to the Select Committee

From the 10th report of the Social Security Select Committee of 1998-99:

31. (Baroness Hollis of Heigham) ... Once on, of course, we then expect to phase people onto the new system by £5 if they are earning up to £200 or so and then by £10 for more than that so that 85 per cent will be on within five years. Again there is a balance here between complexity, which is the phasing of the system, and fairness to the individual who does not find himself going from paying £25 or £28 a week, if he has very high housing costs, to paying £60, so we are trying to get that balance right too.

34. (Mrs Boardman) ... The third thing is we will then have a very large element of extra work actually in the year of transition to educate the customers and to physically move their documents from the current system to the new system and I think until we get through those safely we have to be realistic and we cannot promise more than we can deliver in terms of getting extra resources into those areas.

39. (Baroness Hollis of Heigham) ... You would still have to phase. You still could not expect people to go on to the new income right away, they would still have to phase.

40. (Baroness Hollis of Heigham) ... One of our difficulties, even with issues like phasing—and I think it would be fair to say it would make life much simpler if we did not have phasing and one went automatically on to it, but we cannot do that because that would be unfair both to men and to women - is that all the time, at policy level, we are trading these two pressures; trying to get as much fairness as we can against as much simplicity as we must have.

Government's response to the report

From the government's response to that Select Committee report:

63. The Government agrees with the Committee that there will be considerable pressure to introduce the new scheme for existing cases sooner than would be sensible operationally. We want to introduce the new scheme as quickly as we can. We want people who already have a child support assessment to experience the advantages of the reforms as soon as possible. But we have to be careful not to repeat the mistakes of the past. The current scheme failed because it was introduced too quickly.

64. The CSA's caseload is forecast to be over 1 million and transferring so many cases to the new scheme is a major administrative task, which if done too quickly, could put the whole of the new scheme at risk. The Government's view is that a gradual approach is wise, enabling us to iron out any initial problems while the numbers affected are still relatively small.

65. The Government accepts the Committee's recommendation to bring existing cases on to the new system at an early stage and will do this as soon as it is prudent to do so. While also allowing time for those affected to be given advance notification of the changes and when they will occur.

67. Existing cases will be transferred to the new scheme when we are confident that it is operating properly. Parents will be given sufficient notice for them to understand and, if necessary query, the new rate of maintenance.

68. Drawing up and publishing provisional timetables, before we have had time to establish that the new scheme is operating as intended, will raise public expectation and cause difficulties for the Child Support Agency in managing these expectations. But we agree that existing parents using the CSA will want to know at what point they will move onto the new system. We will use more general publicity to keep parents aware of what is happening.

Parliamentary debate

10th February 2003:

Mr. Steve Webb (Northavon): The Secretary of State will be aware that the move from the old child support rules to the new ones will create lots of gainers and lots of losers. He will also know that people who are on the existing system may know what their assessment will be under the new system, but will realise that that assessment will not apply until they are switched to that new system. Has he received the reports that I have received from around Britain describing what is happening now that a date for the introduction of the new system has been given? For example, working lone parents who can see that they will gain some money under the new rules are contacting the Child Support Agency and saying, "We do not want anything more to do with you for the next three months", with a view to coming back in three months' time to register new cases on an enhanced maintenance assessment, so that they will get more child maintenance. Had he anticipated that loophole, is he aware of it, and is he doing anything about it?

Mr. Smith: Yes indeed: there are rules covering the period between the cessation of an existing claim and the start of a new one that are precisely calculated to attempt to close that loophole. A 13-week period is involved. One can well understand why those who have calculated that they stand to gain from the new system want to get on to it as soon as possible. It has been clear from the beginning that we would have to take the process in stages. First, we should deal with the new cases, including the other cases that are linked to them, and we should then move to conversion of existing cases once we know that the new system is working properly. That is the sensible way to proceed. We needed to deal with that loophole without again erecting a battery of rules and bureaucracy that is so complex that it starts to divert more resources away from the main job in hand—getting money to the children who need it.

Legislation

Statutory Instrument 2000 No. 3186 The Child Support (Transitional Provisions) Regulations 2000

Linking provisions, Regulation 28.

(1) Where, after the commencement date but before the conversion date, an application for a maintenance calculation is made or treated as made and within the relevant period a maintenance assessment was in force in relation to the same qualifying child, non-resident parent and person with care -

(a) the application shall be treated as an application for a maintenance assessment;
and

(b) any maintenance assessment made in response to the application shall be an assessment to which regulations 9 to 28 apply.

(2) Where, after the conversion date, an application for a maintenance calculation is made or treated as made, and within the relevant period a maintenance assessment ("the previous assessment") had been in force in relation to the same qualifying child, non-resident parent and person with care but had ceased to have effect -

(a) the amount of child support maintenance payable by the non-resident parent from the effective date of the maintenance calculation made in response to the application shall be calculated in the same way that a conversion calculation would have been made had the previous assessment been in force on the date the calculation is made;
and

(b) the provisions of regulations 9 to 28 shall apply accordingly, including the application where appropriate of transitional amounts, phasing amounts and a transitional period, which for this purpose shall begin on the date which would have been the case conversion date in relation to the previous assessment.

(3) For the purposes of paragraphs (1) and (2) "the relevant period" means 13 weeks prior to the date that the application for the maintenance calculation is made or treated as made.

Appendix B – useful comparisons between the schemes

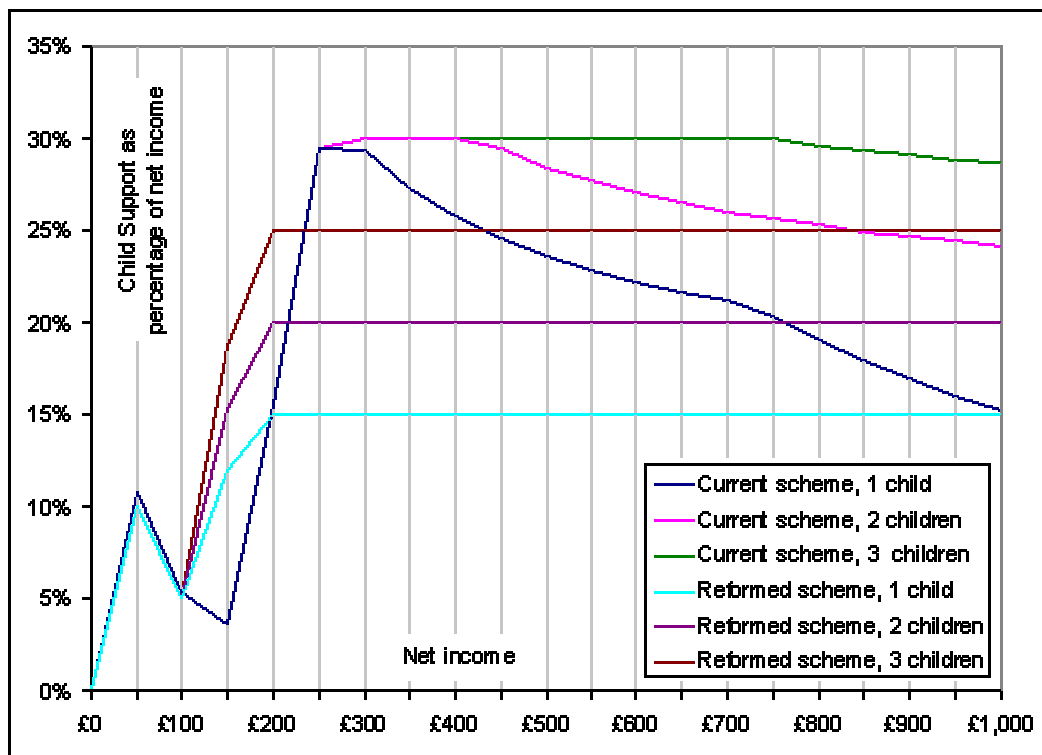
The current scheme and the new scheme “behave” very differently, which accounts for the particular situations chosen for this paper. Here are a couple of situations that are useful to understand.

The effect of multiple children

In most cases, under the current scheme the number of children actually makes little or no difference to the assessment. The reason is that, although obviously the “maintenance requirement” increases with the number of children, there are safeguards such as “exempt income” and “protected income” and “caps” that mask this. It is only at relatively high incomes (for example, perhaps at £250 net income per week, above the average income for non-resident parents) that these safeguards are removed sufficiently to reveal the different maintenance requirements.

However, under the new scheme, the calculations for different numbers of children yield different results at quite low incomes, typically just above £100 net income per week. This means that the loophole described in this paper will often be of interest to parents with the care of 2 or 3 children.

This (colour coded) graph shows how the assessment and calculation, respectively, change as a percentage of net income, as the income itself rises. A relatively modest housing cost of £50 per week is assumed. There are different lines for 1, 2 and 3 children. This graph also hints at how tricky it can be to predict who the winners and losers will be under the new scheme!



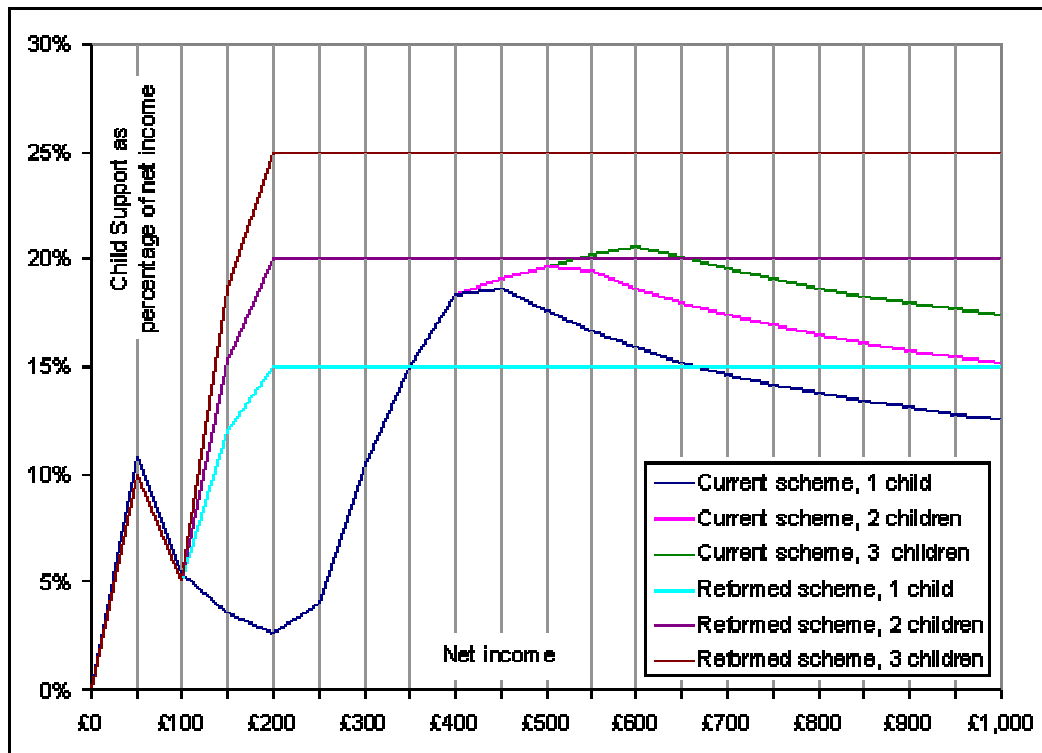
(For those who can't see the colour coding in this graph, the "new scheme" lines are those that become horizontal at 15%, 20%, and 25%, while the "current scheme" lines are those that rise indistinguishably to nearly 30% of net income and then fall away at higher incomes).

The effect of high housing costs

It is well known that cases with high housing costs will often have an increased liability under the new scheme. Not only do these cases often have a much higher liability, but also housing costs can be hard to adjust in the short term. It is likely that such cases were in ministers' minds when the phasing-in scheme was being designed.

For this reason, it is desirable to close both the loophole that enables a case to be prematurely converted to the new scheme, and the additional loophole that enables the phasing-in stage of the new scheme to be bypassed. (These are identified by regulation 28 (1) and 28 (2) of The Child Support (Transitional Provisions) Regulations 2000, as shown in Appendix A).

This graph shows how the assessment and calculation, respectively, change as a percentage of net income, as the income itself rises. The housing cost is assumed throughout to be the highest value permitted for that income under the current scheme (typically half of net income). There are different lines for 1, 2 and 3 children. The new scheme has a massive impact in these cases.



(For those seeing this graph in black and white, the "new scheme" lines are those that become horizontal at 15%, 20%, and 25%, while the "current scheme" lines are those that rise nearly indistinguishably to about 20% of net income and then fall away at higher incomes).

END.