
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Child Support Maintenance Calculation Regulations 2012

PART 3

DECISION MAKING

CHAPTER 6

MISCELLANEOUS MATTERS RELATING TO APPEALS

Decisions involving issues that arise on appeal in other cases

28.—(1) For the purposes of section 28ZA(2)(b) of the 1991 Act(1) (prescribed cases and circumstances in which a decision may be made on a prescribed basis)—

- (a) a case in which there is no maintenance calculation in force is a prescribed case; and
- (b) the prescribed basis on which the Secretary of State may make the decision is as if—
 - (i) the appeal in relation to the different matter, which is referred to in section 28ZA(1)(b) of that Act had already been determined, and
 - (ii) for the purposes of making that decision, the appeal had been determined in a way that resulted in the lowest possible amount of child support maintenance in the circumstances of that case being payable.

(2) The circumstances prescribed under section 28ZA(4)(c) of the 1991 Act (appeal treated as pending against a decision given in a different case even though an appeal against the decision has not been brought or, as the case may be, an application for permission to appeal against the decision has not been made but the time for doing so has not expired) are that the Secretary of State—

- (a) certifies in writing that an appeal against that decision is being considered; and
- (b) considers that, if such an appeal were to be determined in a particular way—
 - (i) there would be no liability for child support maintenance, or
 - (ii) such liability would be less than would be the case were an appeal not made.

Child support appeals involving issues that arise in other cases

29. The circumstances prescribed for the purposes of section 28ZB(6)(c) of the 1991 Act(2) (appeals involving issues that arise on appeal in other cases) are where the Secretary of State—

- (a) certifies in writing that an appeal against the decision in question is being considered; and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in section 28ZB(1)(a) of that Act.

(1) Sections 28ZA was inserted by section 43 of the Social Security Act 1998 (c.14).

(2) Section 28ZB was inserted by section 43 of the Social Security Act 1998 (c.14). Subsection (6) concerns the situation where, in prescribed circumstances, an appeal against a decision in a case has not been brought, or an application for leave to appeal has not been made, but the time for doing so has not expired.

Tribunal decision made pending outcome of a related appeal

30. Where, in accordance with section 28ZB(5) of the 1991 Act (appeals involving issues that arise on appeal in other cases), the Secretary of State makes a decision superseding the decision of the First-tier Tribunal or the Upper Tribunal, the superseding decision takes effect from the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal would have taken effect had it been decided in accordance with the determination of the Upper Tribunal or the court in the appeal referred to in section 28ZB(1)(b) of that Act.

Supersession of tribunal decision made in error due to misrepresentation etc.

31.—(1) Where—

- (a) a decision made by the First-tier Tribunal or the Upper Tribunal is superseded on the ground that it was erroneous due to misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the Secretary of State is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

the superseding decision takes effect from the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal, took or was to take, effect.

Supersession of look alike case where law reinterpreted by the Upper Tribunal or a court

32. Any supersession decision made under section 17 of the 1991 Act in consequence of a determination which is a relevant determination for the purposes of section 28ZC of that Act⁽³⁾ (restriction on liability in certain cases of error) takes effect from the date of the relevant determination.

Procedural matters relating to appeals

33. The Schedule to these Regulations has effect.

(3) Section 28ZC was inserted by section 44 of the Social Security Act 1998, amended by section 1(2) of the 2000 Act, section 40(4) of, and paragraph 54 of Schedule 9 to, the Constitutional Reform Act 2005 (c. 4), paragraph 11(1) and (13) of Schedule 3 to the 2000 Act, Schedule 8 to the 2008 Act and S.I.s 2008/2833, 2009/1604 and 2011/1043.