
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Child Support Maintenance Calculation Regulations 2012

PART 3

DECISION MAKING

CHAPTER 4

UPDATING GROSS WEEKLY INCOME

Setting the review date

19.—(1) The Secretary of State must, in relation to each application for a maintenance calculation, fix a date at which the non-resident parent's gross weekly income is to be reviewed by reference to an updated HMRC figure ("the review date").

(2) Subject to paragraph (3), the first review date falls 12 months after the initial effective date and subsequent review dates fall on each anniversary of that date, unless the Secretary of State decides in any particular case or class of case to fix a different date.

(3) Where a maintenance calculation is in force and there is a further application in relation to the non-resident parent in respect of a new qualifying child, the review dates are to be aligned so that the first review date in respect of the new application is the next review date for the calculation already in force.

(4) Where an application for a maintenance calculation in relation to both non-resident parents of a qualifying child is treated as a single application by virtue of regulation 10(3) (multiple applications) the Secretary of State may fix different review dates in respect of each non-resident parent.

Updating gross weekly income at the review date

20.—(1) Where an updated figure is provided by HMRC for the latest available tax year in accordance with a request under regulation 35(2)(b) (historic income – general), that figure applies, for the purposes of determining historic income, on and after the review date.

(2) If the non-resident parent's gross weekly income, as calculated in accordance with Chapter 1 of Part 4 by reference to that updated figure, has changed, the Secretary of State may make a supersession decision with effect from the review date.

Updating unearned income at the review date

21.—(1) This regulation applies where, in relation to a maintenance calculation in force, additional income has been taken into account by virtue of a variation previously agreed to under regulation 69 (non-resident parent with unearned income).

(2) When the Secretary of State makes a request to HMRC for the purposes of reviewing the non-resident parent's gross weekly income in accordance with regulation 20 (updating gross weekly income at the review date) the Secretary of State may also request information relating to the non-

resident parent's unearned income for the latest available tax year and, where appropriate, make a supersession decision on the basis of that information with effect from the review date.

Periodic current income check

22.—(1) Where—

(a) the non-resident parent's gross weekly income is based on an amount of current income by virtue of regulation 34(2) (the general rule for determining gross weekly income and exceptions to that rule); and

(b) no supersession decision changing that amount has been made within the past 11 months, the Secretary of State may, for the purposes of validating that amount, require evidence of current income to be provided by the non-resident parent.

(2) Where the non-resident parent fails to provide evidence as requested under paragraph (1), the Secretary of State may make a supersession decision determining the non-resident parent's gross weekly income on the basis of historic income.

(3) Where the Secretary of State is provided with sufficient information on which to make a new determination of current income, the Secretary of State may make a supersession decision applying the general rule in regulation 34(2).

(4) Subject to paragraph (5), a supersession decision under this regulation has effect from the date on which it is made.

(5) Where the Secretary of State makes a supersession decision under paragraph (3) and the relevant change of circumstances affecting the non-resident parent's current income was one that the non-resident parent was required to report in accordance with regulations under section 14(1) of the 1991 Act, the decision takes effect from the date on which the change occurred.

25% tolerance for changes outside annual review or periodic current income check

23.—(1) This regulation applies where the non-resident parent's gross weekly income is based on an amount of current income by virtue of regulation 34(2) and, before the next review date, there is a change of circumstances affecting the amount of that current income.

(2) No supersession decision giving effect to that change may be made unless the amount of that current income has changed by at least 25%.

(3) Paragraph (1) does not prevent a supersession decision that—

(a) is made on the Secretary of State's own initiative under regulation 20 (updating weekly income at the annual review) or regulation 22 (periodic check where current income unchanged for 11 months);

(b) is made on the ground mentioned in regulation 17(1)(c) (error of law); or

(c) supersedes a decision determining the non-resident parent's gross weekly income on the basis of regulation 42 (estimate of current income where insufficient information available).

(4) Where the condition in paragraph (2) is satisfied, the current income (as changed) is to apply even if it does not differ from historic income by an amount that is at least 25% of historic income.