
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Child Support Maintenance Calculation Regulations 2012

PART 5

VARIATIONS

CHAPTER 1

GENERAL

Procedure in relation to a variation

59.—(1) Where the Secretary of State has given the preliminary consideration to an application for a variation and not rejected it, the Secretary of State—

- (a) must give notice of the application to any other party informing them of the grounds on which the application has been made and any relevant information or evidence given by the applicant or obtained by the Secretary of State, except information or evidence falling within paragraph (5); and
 - (b) may invite representations (which need not be in writing but must be in writing if in any case the Secretary of State so directs) from the other party on any matter relating to that application, to be submitted to the Secretary of State within 14 days after the date of notification or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case.
- (2) The Secretary of State need not act in accordance with paragraph (1) if—
- (a) the Secretary of State is satisfied on the information or evidence available that the application would not be agreed to;
 - (b) in the case of an application for a variation on the ground mentioned in regulation 69 (non-resident parent with unearned income), the information from HMRC for the latest available tax year does not disclose unearned income exceeding the relevant threshold and the Secretary of State is not in possession of other information or evidence that would merit further enquiry; or
 - (c) regulation 75 (previously agreed variation may be taken into account notwithstanding that no further application has been made) applies;
- (3) Where the Secretary of State receives representations from the other party—
- (a) the Secretary of State may, if the Secretary of State is satisfied that it is reasonable to do so, inform the applicant of the representations concerned (excluding material falling within paragraph (5)) and invite comments within 14 days or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case; and
 - (b) where the Secretary of State acts under sub-paragraph (a), the Secretary of State must not proceed to determine the application until such comments are received or the period referred to in that sub-paragraph has expired.

(4) Where the Secretary of State has not received representations from the other party notified in accordance with paragraph (1) within the time specified in sub-paragraph (b) of that paragraph, the Secretary of State may in their absence proceed to agree (or not, as the case may be) to the variation.

(5) The information or evidence referred to in paragraph (1)(a) is as follows—

- (a) details of the nature of the long-term illness or disability of the relevant other child which forms the basis of a variation application on the ground in regulation 64 (illness or disability of a relevant other child) where the applicant requests they should not be disclosed and the Secretary of State is satisfied that disclosure is not necessary in order to be able to determine the application;
- (b) medical evidence or medical advice which has not been disclosed to the applicant or the other party and which the Secretary of State considers would be harmful to the health of the applicant or that party if disclosed; or
- (c) the address of the other party or qualifying child, or any other information which could reasonably be expected to lead to that party or child being located, where the Secretary of State considers that there would be a risk of harm or undue distress to that other party or that child or any other children living with that other party if the address or information were disclosed.