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STATUTORY INSTRUMENTS

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**2012 No. 2677**

**The Child Support Maintenance Calculation Regulations 2012**

**PART 3**

DECISION MAKING

CHAPTER 2

REVISION

**Grounds for revision**

**14.—(1)** <sup>M1</sup>A decision to which section 16(1A) of the 1991 Act applies may be revised by the Secretary of State—

- [<sup>F1</sup>(a) if the Secretary of State receives an application for the revision of a decision under either section 16 or section 28G (application for a variation where a maintenance calculation is in force) of that Act—
- (i) within 30 days after the date of notification of the decision;
  - (ii) within 30 days after the date on which notice of the correction is given under regulation 27A(3) (correction of accidental errors); or
  - (iii) within such longer time as may be allowed under regulation 15;]
- (b) if the Secretary of State is satisfied that the decision was wrong due to a misrepresentation of, or failure to disclose, a material fact and that decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would have been but for the wrongness of the decision;
- (c) if an appeal is made under section 20 of the 1991 Act <sup>M2</sup> (appeals to First-tier Tribunal) against a decision within the time limit prescribed by the Tribunal Procedure Rules but that appeal has not been determined;
- (d) if the Secretary of State commences action leading to the revision of the decision within 30 days after the date of notification of the decision;
- (e) if the decision arose from official error;
- (f) if the information held by HMRC in relation to a tax year in respect of which the Secretary of State has determined historic income for the purposes of regulation 35, or unearned income for the purposes of regulation 69, has since been amended; or
- (g) if the ground for revision is that a person with respect to whom a maintenance calculation was made was not, at the time the calculation was made, a parent of a child to whom the calculation relates.

(2) A decision may not be revised because of a change of circumstances that occurred since the decision had effect or is expected to occur.

(3) An interim maintenance decision or default maintenance decision made under section 12 of the 1991 Act may be revised at any time.

[<sup>F2</sup>(3A) Where—

- (a) the Secretary of State makes a decision and there is an appeal;
- (b) there is a further decision in relation to the appellant (“decision B”) after the appeal but before the appeal results in a decision by the First-tier Tribunal (“decision C”); and
- (c) the Secretary of State would have made decision B differently if aware of decision C at the time of making decision B,

decision B may be revised at any time.]

(4) In paragraph (1)(e) “official error” means an error made by an officer of the Department for Work and Pensions or HMRC acting as such to which no person outside the Department or HMRC materially contributed, but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of the Upper Tribunal or the court.

#### Textual Amendments

- F1** Pt. 3 reg. 14(1)(a) substituted (23.3.2015) by [The Child Support \(Miscellaneous and Consequential Amendments\) Regulations 2015 \(S.I. 2015/338\)](#), regs. 1(2), **8(2)**
- F2** Pt. 3 reg. 14(3A) inserted (30.6.2014) by [The Child Support \(Consequential and Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/1386\)](#), regs. 1(2), **7(4)** (as amended (24.6.2014) by [S.I. 2014/1621](#), reg. 3)

#### Commencement Information

- I1** Reg. 14 wholly in force; reg. 14 not in force at made date; reg. 14 in force at 29.7.2013 for certain purposes and reg. 14 in force at 25.11.2013 in so far as not already in force, see reg. 1, [SI 2013/1860](#) and [S.I. 2013/2947](#)

#### Marginal Citations

- M1** Section 16(1A) was inserted by section 8(1) and (3) of the 2000 Act and amended by Schedule 8 to the 2008 Act and [S.I. 2008/2833](#). The decisions to which section 16(1A) applies are: a maintenance calculation; an interim maintenance decision; a default maintenance decision; a supersession; a decision on a variation referred to an appeal tribunal under section 28D of the 1991 Act.
- M2** Section 20 was amended by paragraphs 1(1) and (4) to (6) and 3 of Schedule 7, and Schedule 8, to the 2008 Act and [S.I. 2008/2833](#).

[<sup>F3</sup>**Consideration of revision before appeal**

**14A.—**(1) This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision; and
- (b) that notice includes a statement to the effect that there is a right of appeal to the First-tier Tribunal against the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal against the decision only if the Secretary of State has considered on an application whether to revise the decision under section 16 of the 1991 Act.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 14(1) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 16 of that Act.

(5) In this regulation, “decision” means a decision mentioned in section 20(1)(a) or (b) of the 1991 Act (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000).]

#### Textual Amendments

**F3** Pt. 3 reg. 14A inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **6(2)**

#### Late application for a revision

**15.**—(1) The time limit for making an application for a revision specified in regulation 14(1)(a) (grounds for revision) may be extended where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for an extension of time must be made by one of the parties or their authorised representative.

(3) An application for an extension of time must contain particulars of the grounds on which the extension is sought and must contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified.

(4) An application for an extension of time may not be granted unless the applicant satisfies the Secretary of State that—

- (a) it is reasonable to grant the application;
- (b) the application for revision has merit<sup>F4</sup>, except in a case to which regulation 14A applies]; and
- (c) special circumstances are relevant to the application and because of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 14(1)(a).

(5) In determining whether it is reasonable to grant an application for an extension of time, the Secretary of State must have regard to the principle that the greater the amount of time that has elapsed between the end of the time specified in regulation 14(1)(a) for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant the application for an extension of time<sup>F5</sup>, except in a case to which regulation 14A applies], no account shall be taken of the following—

- (a) that the applicant, or any person acting for the applicant, was unaware of or misunderstood the law applicable to the case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that the Upper Tribunal or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

#### Textual Amendments

**F4** Words in Pt. 3 reg. 15(4)(b) inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **6(3)(a)**

- F5** Words in Pt. 3 reg. 15(6) inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **6(3)(b)**

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**Commencement Information**

- I2** Reg. 15 wholly in force; reg. 15 not in force at made date; reg. 15 in force at 29.7.2013 for certain purposes and reg. 15 in force at 25.11.2013 in so far as not already in force, see reg. 1, [SI 2013/1860](#) and [S.I. 2013/2947](#)

**Effective date of a revision**

**16.** Where a decision is revised and the date from which the original decision took effect is found to be wrong, the decision as revised takes effect from the date on which the original decision would have taken effect had the error not been made.

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**Commencement Information**

- I3** Reg. 16 wholly in force; reg. 16 not in force at made date; reg. 16 in force at 29.7.2013 for certain purposes and reg. 16 in force at 25.11.2013 in so far as not already in force, see reg. 1, [SI 2013/1860](#) and [S.I. 2013/2947](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, CHAPTER 2.