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STATUTORY INSTRUMENTS

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**2012 No. 2677**

**The Child Support Maintenance Calculation Regulations 2012**

**PART 5**

VARIATIONS

CHAPTER 3

GROUNDS FOR VARIATION: ADDITIONAL INCOME

**Non-resident parent with unearned income**

**69.**—(1) A case is a case for a variation for the purposes of paragraph 4(1) of Schedule 4B to the 1991 Act where the non-resident parent has unearned income equal to or exceeding £2,500 per annum.

(2) For the purposes of this regulation unearned income is income of a kind that is chargeable to tax under—

- (a) Part 3 of ITTOIA (property income);
- (b) Part 4 of ITTOIA (savings and investment income); or
- (c) Part 5 of ITTOIA (miscellaneous income).

(3) Subject to paragraphs (5) and (6), the amount of the non-resident parent's unearned income is to be determined by reference to information provided by HMRC at the request of the Secretary of State in relation to the latest available tax year and, where that information does not identify any income of a kind referred to in paragraph (2), the amount of the non-resident parent's unearned income is to be treated as nil.

(4) For the purposes of paragraph (2), the information in relation to property income is to be taken after deduction of relief under section 118 of the Income Tax Act 2007 <sup>M1</sup> (carry forward against subsequent property business profits).

(5) Where—

- (a) the latest available tax year is not the most recent tax year; or
- (b) the information provided by HMRC in relation to the latest available tax year does not include any information from a self-assessment return; <sup>F1</sup>or
- (c) the Secretary of State is unable, for whatever reason, to request or obtain the information from HMRC,

the Secretary of State may, if satisfied that there is sufficient evidence to do so, determine the amount of the non-resident parent's unearned income by reference to the most recent tax year; and any such determination must, as far as possible, be based on the information that would be required to be provided in a self-assessment return.

(6) Where the Secretary of State is satisfied that, by reason of the non-resident parent no longer having any property or assets from which unearned income was derived in a past tax year and having no current source from which unearned income may be derived, the non-resident parent will have no

*Status: Point in time view as at 03/07/2013. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 69. (See end of Document for details)*

unearned income for the current tax year, the amount of the non-resident parent's unearned income for the purposes of this regulation is to be treated as nil.

(7) Where a variation is agreed to under this regulation, the non-resident parent is to be treated as having additional weekly income of the amount determined in accordance with paragraph (3) or (5) divided by 365 and multiplied by 7.

[<sup>F2</sup>(8) Subject to paragraph (9), where the non-resident parent makes relievable pension contributions, which have not been otherwise taken into account for the purposes of the maintenance calculation, there is to be deducted from the additional weekly income calculated in accordance with paragraph (7) an amount determined by the Secretary of State as representing the weekly average of those contributions.

(9) An amount must only be deducted in accordance with paragraph (8) where the relievable pension contributions referred to in that paragraph relate to the same tax year that has been used for the purposes of determining the additional weekly income.]

#### Textual Amendments

- F1** Reg. 69(5)(c) and word inserted (coming into force in accordance with reg. 1(2)(3) of the amending S.I.) by [The Child Support and Claims and Payments \(Miscellaneous Amendments and Change to the Minimum Amount of Liability\) Regulations 2013 \(S.I. 2013/1654\)](#), reg. 1(2)(3), **5(3)(a)**
- F2** Reg. 69(8)(9) inserted (coming into force in accordance with reg. 1(2)(3) of the amending S.I.) by [The Child Support and Claims and Payments \(Miscellaneous Amendments and Change to the Minimum Amount of Liability\) Regulations 2013 \(S.I. 2013/1654\)](#), reg. 1(2)(3), **5(3)(b)**

#### Modifications etc. (not altering text)

- C1** Reg. 69(5) modified (temp.) (10.12.2012) by [The Child Maintenance and Other Payments Act 2008 \(Commencement No. 10 and Transitional Provisions\) Order 2012 \(S.I. 2012/3042\)](#), art. 6(b) (which amending art. 6 was omitted (29.7.2013) by virtue of [S.I. 2013/1860](#), art. 6)

#### Commencement Information

- I1** Reg. 69 wholly in force; reg. 69 not in force at made date; reg. 69 in force at 29.7.2013 for certain purposes and reg. 69 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** 2007 c. 3.

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**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support Maintenance Calculation Regulations 2012, Section 69.