



AUTHOR / KEY CONTACT

Child maintenance amendments 2018



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In December 2018, new regulations proposed by the Government were brought into force. These changed the way child maintenance calculations are carried out and enforced. The changes included:

Varying a child maintenance calculation

The child maintenance service ([CMS](#)) can now assess and thereafter vary a child maintenance liability by calculating a notional income from certain high-value assets held by a paying parent (NRP). Specified assets will be regarded as having a weekly value, which is taken into account in order to vary a maintenance calculation. The weekly value of the asset is treated as additional income of the NRP.

This means that once the basic child maintenance calculation is made, either parent can apply for a variation of the calculation on the basis that there are capital assets that should be taken into account and calculated as income producing assets.

What are the 'specified assets' that will be given an income value?

An income of 8% of the capital value per annum is applied and the minimum aggregate value of assets must be greater than £31,250 for any additional income to be assumed. The assets are:

1. money, whether in cash or on deposit, including any money which is due to a NRP where requiring payment of the monies to him or her immediately would be reasonable;
2. gold, silver or platinum bullion bars or coins;
3. a virtual currency which is capable of being exchanged for money;
4. land or rights in or over land;
5. certain company shares;

6. stock and unit trusts;
7. gilt edged securities; or
8. a chose in action (basically a type of legal case/order/debt due to the NRP) which has not been enforced on the date of an application for a variation and where enforcement would be reasonable.

The exemptions are if the asset:

- has been received by the NRP as compensation for personal injury suffered by him or her;
- is being used in the course of the NRP's trade or business;
- could have been purchased from the gross weekly income of the NRP which has been taken into account for the purposes of a maintenance calculation;
- will need to be sold in order to meet any additional maintenance payment required as a result of a variation and the sale of that asset would cause hardship to a child of the NRP, or would otherwise be unreasonable having taken into account all relevant circumstances; or
- is a legal or beneficial interest in land where the land in question is the primary residence of the NRP or any child of the NRP.

Also, in the case of an asset which is subject to a mortgage or charge, the value of that asset will be its value after a deduction is made for any amount owing under the mortgage or charge.

Deduction orders

There can also be regular deduction orders and lump sum deduction orders from joint accounts. Such provision also extends to the application of lump sum deduction orders from sole trader accounts and also applies to partnership accounts (where such a partnership is formed in England or Wales). In each of these cases, the person against whom one of these orders may be made will be an account-holder of the relevant account and there are additional safeguarding checks to establish ownership of funds before making any deduction.

Passport confiscations

Those who repeatedly refuse to meet their child maintenance obligations could have their passports removed. They will get it back when they make a payment on their arrears. Parents subject to this ban have 48 hours to surrender their passport.

Support from HMRC

This will help to better meet the needs of the CMS, including setting up Deduction from Earnings Orders at the point of application where the NRP does not set up a payment method, and making better use of data-sharing powers.

The government also plans to introduce more changes at a later date. These will extend its ability to make deductions at the rate of £8.40 per week from benefits to include Universal Credit, for those liable to pay flat rate maintenance.

Find out more about [child maintenance](#).