



SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
Rules of the Supreme Court, 1986

PRACTICE NOTE
P.N. No. 2019-01

DATE ISSUED: February 27, 2019

RULES AFFECTED: Rule F34.03(1)(i)

EFFECTIVE DATE: Immediately

PREVIOUS PRACTICE

NOTES REVISED: P.N. No. 2018-01

The following Practice Note is published pursuant to Rule 4.04 of the *Rules of the Supreme Court, 1986*.

**ADMINISTRATIVE RECALCULATION OF CHILD SUPPORT REGULATIONS
UNDER THE FAMILY LAW ACT**

Background and Purpose

1. On March 1, 2018, the *Administrative Recalculation of Child Support Regulations* (the “*Regulations*”) under the *Family Law Act* came into force. These *Regulations* repealed the previous *Child Support Service Regulations* and introduced an enhanced administrative process with respect to child support recalculation. Under the *Regulations*, the amount of child support payable under an order or agreement containing a standard recalculation clause is recalculated annually by staff with the recalculation office and, where applicable, the office issues a

- Recalculation Notice setting out the recalculated child support amount for the upcoming year.
2. A key feature of the enhanced recalculation process under the *Regulations* is the establishment of a “review date”. In accordance with paragraph 2(o) of the *Regulations*, this date is defined as “the date in each year which is the anniversary of the commencement of the most recent child support obligation under a child support order, an agreement, or a recalculation notice.” In accordance with subsection 5(1) of the *Regulations*, a payor is required to provide his or her income information to the recalculation office by no later than 45 days before the review date.
 3. The Court has been informed that since the coming into force of the *Regulations*, the recalculation office has identified a number of orders and agreements in which the stated review date is inconsistent with the above definition. Additionally, the recalculation office has identified a number of orders and agreements where the standard recalculation clause has been modified or is the outdated clause that had been in use under the previous *Regulations*.

Practice Note

4. Where parties are required to include a recalculation clause in a draft order submitted to the Court pursuant to Rule F34.03(1)(i) of the *Supreme Court Family Rules*, the wording set out in the schedule to this Practice Note must be used. This wording is now included in the standard order template available on the Supreme Court’s “Family Law Forms” webpage.
5. Practitioners should note that paragraph (b) of the required recalculation clause has been amended from the version that appeared in Practice Note P.N. No. 2018-01. Specifically, a sentence which allowed drafters to write in a review date has been deleted from that paragraph. It is intended that this amendment will minimize the occurrence of inconsistent review dates in child support orders.
6. Practitioners should further note that, pursuant to subparagraph 15(1)(a)(vii) of the *Regulations*, the recalculation office may refuse to recalculate the amount of child support payable where an order does not comply with the *Rules of the Supreme Court, 1986*.

7. Practice Note P.N. No. 2018-01 (“Administrative Recalculation of Child Support Regulations Under the *Family Law Act*”) is repealed.

Authorized by:

Raymond P. Whalen
CHIEF JUSTICE OF THE SUPREME COURT
OF NEWFOUNDLAND AND LABRADOR

Ethel Chaulk
REGISTRAR

SCHEDULE

Support Recalculation

(You can only check this box if all parties have agreed to basic table amount of child support and either primary residence parenting or split parenting.)

The amount of child support shall be reviewed each year and, where necessary, will be recalculated by the Recalculation Office in accordance with the *Administrative Recalculation of Child Support Regulations*.

COMMENCEMENT DATE OF CHILD SUPPORT:

- (a) The commencement date of child support pursuant to this order is the ____ day of (month) _____ of (year) _____.

REVIEW DATE:

- (b) The child support amount will be reviewed one year after the date set out in clause (a) above.

INCOME INFORMATION REQUIREMENTS AND DUE DATE:

- (c) The person required to pay child support must provide the following income information to the Recalculation Office:
- (i) Personal income tax return for the most recent taxation year; and
 - (ii) Notice of assessment and any reassessments for the most recent taxation year; or
 - (iii) other document(s) acceptable to the Recalculation Office.
- (d) The income information must be provided to the Recalculation Office **not later than 45 days before the review date** at:

Recalculation Office
9th floor, Sir Richard Squires Building
P.O. Box 2006, Corner Brook, NL A2H 6J8
Tel: (709) 634-4172 | Fax: (709) 634-4155
E-mail: recalculation@gov.nl.ca

RECALCULATION – WHERE INCOME INFORMATION IS PROVIDED

- (e) If satisfactory income information is received by the Recalculation Office at least 45 days before the review date, the Recalculation Office will issue a Recalculation Notice setting out the proposed recalculated child support amount.
- (f) If, as a result of the recalculation, the amount of child support would increase or decrease less than \$5.00 per month, the Recalculation Office will not recalculate the amount of child support. The Recalculation Office will notify the parties that there will be no change for that year.

RECALCULATION – WHERE INCOME INFORMATION IS NOT PROVIDED

- (g) If satisfactory income information is not received by the Recalculation Office at least 45 days before the review date, the Recalculation Office will issue a Recalculation Notice setting out the proposed recalculated child support amount. This amount will be:
- (i) the income amount on which the most recent child support order, agreement, or Recalculation Notice was based; plus
 - (ii) 20% of the payor's income as determined under (g)(i) above.

EFFECTIVE DATE OF RECALCULATED AMOUNT

(h) Unless a Notice of Objection is filed, the recalculated amount of child support stated in the Recalculation Notice will come into effect on the date set out in the Recalculation Notice. The Recalculation Office will file a copy of the Recalculation Notice with the court that made the child support order (or where the agreement is filed) and the Support Enforcement Agency.

- (i) The recalculated amount of child support is payable to the Support Enforcement Agency:

Support Enforcement Division
2nd floor, Sir Richard Squires Building
P.O. Box 2006, Corner Brook, NL A2H 6J8
Tel: (709) 637-2608

OBJECTION TO RECALCULATION

(j) If a party objects to the change in child support amount in the Recalculation Notice, the party must file a Notice of Objection with the court that made the child support order, or where the agreement was filed. The party must also provide a copy of the Notice of Objection to the Recalculation Office.

(k) The Notice of Objection must be filed within 30 days after the Notice of Recalculation is deemed to be received.

(l) If a Notice of Objection is filed, no change shall be made to the amount of child support payable unless:

- (i) a court order is made at the conclusion of the objection hearing; or
- (ii) the Notice of Objection is withdrawn before the objection hearing, in which case the recalculated amount of child support is considered to have come into effect on the date set out in the Recalculation Notice.

CHANGE OF CONTACT INFORMATION

Parties must notify the Recalculation Office of any change to their mailing address, email address, telephone number, or fax number within 10 days of the change.