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## [Initial Effective Dates: Phase 2 \(from 30 June 2014\) Overview](#)

Note: This guidance is only relevant to Phase 2 which takes effect from the 30th June 2014. For the setting of effective dates in Phase 1 please refer to the guidance which can be found [here](#).

[1991/48](#) Section 4 and 7 of The Child Support Act 1991

[1991/2628](#) Article 7 of the Child Support (Northern Ireland) Order 1991

[2012/2677](#) Regulation 11 and 12 of The Child Support Maintenance Calculation Regulations 2012

[2014/614](#) Regulation 5, 6 and 7 of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014

The initial effective date is the date on which legal liability for child maintenance commences on a case.

The manner in which an initial effective date is set in a 2012 scheme case varies depending on whether that case is the result of a brand new application or an application from a client whose case was closed as part of the case closure process.

### **General Principles**

In cases where there is a brand new application, the law requires that the non-resident parent is notified of the initial effective date either on or before the date on which liability will commence.

In cases where an application is made as a result of proactive or reactive case closure the initial effective date will be the day after liability is withdrawn on the legacy case, provided that an application is made before liability is withdrawn.

If an application is made as a result of proactive or reactive case closure, but is not made until after the end liability date, then this is treated as a brand new application to the 2012 scheme.

This guidance will look at how the Initial Effective Date is set in each scenario, as well as provide details for how the Initial Effective Date is set where the [case closure](#) look up fails and case closure first contact letters fail to issue

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### [Initial Effective Dates: New Application - Process](#)

Making an application

[1991/48](#) Sections 4 and 7 of The Child Support Act 1991

[1991/2628](#) Article 7 of the Child Support (NI) Order 1991

[2012/2677](#) Regulation 9 of The Child Support Maintenance Calculation Regulations 2012

[2014/612](#) Regulations 3 and 4 of the Child Support Fees Regulations 2014

Before an Initial Effective Date can be set an application to the 2012 scheme must be made.

The applicant must first undertake a gateway conversation with CM Options and provide the information necessary to process the application (including information to identify the non-resident parent if the applicant is a parent with care). The application will be progressed and the Initial Effective Date set once the applicant has paid the application fee (or it has been waived).

Setting the initial effective date and giving notice

[2012/2677](#) *Regulation 11 and 12 of The Child Support Maintenance Calculation Regulations 2012*

The initial effective date will be contained in either the Provisional Calculation Letter (if the applicant is the parent with care/person with care/child in Scotland) or the Initial Calculation Letter (if the applicant is the non-resident parent).

The initial effective date contained in that letter is set by taking the date of the next working day after the letter was generated and adding 5 calendar days to that date. This period is not a legislative requirement; it was chosen to ensure sufficient time is available to issue the letter. Regulations only require that the letter is issued and that the notice is sent at least 2 days before the initial effective date.

NB. For this purpose Monday to Friday are classed as working days. Bank holidays are not classed as working days.

**In cases where there is a brand new application to the 2012 scheme:** the law requires that the non-resident parent is notified of the initial effective date either on or before the date on which liability will commence.

### **Example**

The Provisional Calculation letter (or the initial calculation letter if the non-resident parent is the applicant) for a case is generated on Tuesday the 7th April. The initial effective date for that case as recorded in the letter will therefore be Monday the 13th April provided that the letter is sent no later than the 11th April.

**In ordinary business as usual cases:** we will seek to notify the non-resident parent via the Provisional Calculation letter (or the initial calculation letter if the non-resident parent is the applicant). The notice will be deemed to have been given two days after it was posted to the non-resident parent at their last known or notified address

If the brand new application to the 2012 scheme triggers reactive case closure the rules for setting the initial effective date are different. Please refer to the guidance below 'Application in a reactive case closure scenario'.

### **Example**

The Provisional Calculation letter (or the initial calculation letter if the non-resident parent is the applicant) for a case is generated on Friday the 10th October. The initial effective date for that case as recorded in the letter will therefore be Saturday the 18th October provided that the letter is sent no later than the 16th October.

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### [Initial Effective Dates: Application arising from case closure - Overview](#)

[1991/48](#) Sections 4 and 7 The Child Support Act 1991

[1991/2628](#) Article 7 of the Child Support (NI) Order 1991

[2012/2677](#) Regulation 11 and 12 of The Child Support Maintenance Calculation Regulations 2012

[2014/614](#) Regulation 5,6 and 7 of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014

The process for the setting of initial effective dates in applications which arise following the closure of a legacy case is different to that of a brand new application.

These differences occur because:

- the liability in the legacy scheme case must end before the liability in the 2012 scheme case can begin, and
- the initial effective date for the 2012 scheme case will be the day after liability ends on the legacy case, provided the new application is made before the liability end date

This is to fulfil a legislative requirement and support a public commitment to ensuring continuous liability for clients who choose to open a 2012 scheme case on the closure of their legacy case, provided those clients take the actions required.

If an application is received after liability has been withdrawn on a 1993 / 2003 it will be treated as a brand new application to the 2012 scheme so we are not required to provide continuity of liability.

NB. We have only made a commitment to providing continuous liability, which is not the same as continuity of payment. For more information see [case closure](#) guidance

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### [Initial Effective Dates: Application in a proactive case closure scenario - Process](#)

Liability end date for the closing legacy case

[2014/614](#) *Regulation 5 and 6(1)(b) of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014*

This will be the date specified in the Initial Contact Letter issued when a case is selected for proactive case closure. That date will be at least 180 days but no more than 272 days after the notice is given.

The notice will be deemed to have been given two days after it was posted to the non-resident parent at their last known or notified address.

For further information see the guidance on proactive case closure

Making an application and setting the initial effective date

[1991/48](#) *Sections 4 and 7 of The Child Support Act 1991*

[1991/2628](#) *Article 7 of the Child Support (NI) Order 1991*

[2012/2677](#) *Regulation 9 of The Child Support Maintenance Calculation Regulations 2012*

[2014/614](#) *Regulation 5(5) and (6) of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014*

Before an Initial Effective Date can be set an application to the 2012 scheme must be made.

The applicant must first undertake a gateway conversation with CM Options and provide the information necessary to process the application (including information to identify the non-resident parent if the applicant is a parent with care). The application will be progressed and the Initial Effective Date set once the applicant has paid the application fee (or it has been waived).

If an application is made before the date on which liability ends on the closing 1993 / 2003 scheme case then the initial effective date on the 2012 case will always be the day after liability on the 1993 / 2003 case ends.

NB In a case closure scenario it is not necessary to pay the application fee before the end liability date to ensure continuity of liability. However the application will not be progressed until the application fee is paid (or waived). From the point an application is made the client will have 14 days to pay (or waive) the fee. If this is not done, within 14 days, the application will be rejected and a new application will need to be made. Continuity of liability will not be provided in these cases as this will be treated as a brand new application.

The 14 day period is not in legislation. However, it is considered a reasonable period of time for the applicant to pay their fee. If we let the applicant have an indefinite

period of time to pay their fee it could result in the non-resident parent having a maintenance liability and potentially accruing substantial arrears before we have been able to progress the application and inform them of the amount of their liability.

Client communications throughout the case closure journey emphasise the importance of acting promptly should parents wish to make an application to the 2012 scheme and they will be signposted to CM Options to discuss.

In exceptional cases if there is a very good reason for non payment within 14 days please speak to your team leader and seek advice from Advice and Guidance if appropriate.

If an application is received after liability has been withdrawn on a 1993 / 2003 it will be treated as a brand new application to the 2012 scheme so we are not required to provide continuity of liability.

### **Example**

The liability end date on a closing 2003 scheme case is the 17th of February. As long as an application to the 2012 scheme is made before the 17th of February the initial effective date on the new 2012 scheme case will be the 18th of February.

Giving notice of the initial effective date

[2014/614](#) *Regulation 5, 6 and 7 of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014*

The initial effective date for the case will be contained in the provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant).

The regulations specify that the provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant) will only be issued once an application has been made, the non-resident parent's address has been verified and the application fee has been paid or waived.

The regulations require that the letter must then be issued 'as soon as is reasonable' once the 39 days before liability ends on the closing 1993 / 2003 scheme case has passed. The letter should still be sent at least 2 days prior to the initial effective date to ensure that the required notice is given.

### **Policy rationale**

The regulations have been drafted to allow for flexibility in when the provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant) is issued, to cover technical issues like batch failure for example, whilst also ensuring a degree of certainty for clients.

The provision that we issue 'as soon as is reasonable' after the 39th day has passed does not mean that we have to issue the provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant) immediately after the 39th day. Instead it will allow us to wait until nearer the end liability date where this is reasonable. This delay can be considered 'reasonable' as it will give us an opportunity to gather up to date and relevant information before sending out the provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant), avoiding confusion for clients. Further benefits of this approach are that it will avoid the issuing of multiple provisional calculation letters (or initial calculation letters if the non-resident parent is the applicant) if there are multiple PWC's and ensure that the HMRC data pulled to inform the provisional (or initial, if the non-resident parent is the applicant) calculation is as up to date as possible.

### **Example**

The liability end date on a case selected for proactive case closure is the 30th September. A new application for the 2012 scheme is received from the parent with care on the closing case on the 1st of August. The application fee is paid by card on the same day.

The provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant), for this case will be issued as soon as is reasonable after the 22nd August.

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### [Initial Effective Dates: Application in a reactive case closure scenario - Process](#)

A reactive case closure scenario affects a group of cases. This group will include the brand new application to the 2012 scheme as well as any cases which are linked to that application. For further details see the chapter on reactive case closure

The rules governing how initial effective dates are set varies slightly between the brand new application to the 2012 scheme which triggers reactive closure and any cases that close reactively as a result of that application. As a result the processes for making an application and setting initial effective dates varies across the different cases.

Liability end date for the closing legacy case

[2014/614](#) *Regulation 6(1)(a) of The Child Support (Ending Liability in Existing Cases and Transition to New Calculations Rules) Regulations 2014*

This will be the date specified in the Initial Contact Letter issued when a case is selected for reactive case closure. That date will be no less than 30 days after the notice is given.



The notice will be deemed to have been given two days after it was posted to the non-resident parent at their last known or notified address.

For further information see guidance on reactive [case closure](#)

Making an application and setting the initial effective date – closing legacy case

[1991/48](#) Sections 4 and 7 of The Child Support Act 1991

[1991/2628](#) Article 7 of the Child Support (NI) Order 1991

[2012/2677](#) Regulation 9 and 11 of The Child Support Maintenance Calculation Regulations 2012

[2014/614](#) Regulation 5(5) and (6) of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014

Before an Initial Effective Date can be set an application to the 2012 scheme must be made.

The applicant must first undertake a gateway conversation with CM Options and provide the information necessary to process the application (including information to identify the non-resident parent if the applicant is a parent with care). The application will be progressed and the Initial Effective Date set once the applicant has paid the application fee (or it has been waived).

If an application is made before the date on which liability ends on the closing 1993 / 2003 scheme case then the initial effective date on the 2012 case will always be the day after liability on the 1993 / 2003 case ends.

NB In a case closure scenario it is not necessary to pay the application fee before the end liability date to ensure continuity of liability. However the application will not be progressed until the application fee is paid (or waived). From the point an application is made the client will have 14 days to pay (or waive) the fee. If this is not done, within 14 days, the application will be rejected and a new application will need to be made. Continuity of liability will not be provided in these cases as this will be treated as a brand new application.

The 14 day period is not in legislation. However, it is considered a reasonable period of time for the applicant to pay their fee. If we let the applicant have an indefinite period of time to pay their fee it could result in the non-resident parent having a maintenance liability and potentially accruing substantial arrears before we have been able to progress the application and inform them of the amount of their liability.

Client communications throughout the case closure journey emphasise the importance of acting promptly should parents wish to make an application to the 2012 scheme and they will be signposted to CM Options to discuss.



In exceptional cases if there is a very good reason for non payment within 14 days please speak to your team leader and seek advice from Advice and Guidance if appropriate.

If an application is received after liability has been withdrawn on a 1993 / 2003 it will be treated as a brand new application to the 2012 scheme so we are not required to provide continuity of liability.

### **Example**

The liability end date on a closing 2003 scheme case is the 17th of February. As long as an application to the 2012 scheme is made before the 17th of February the initial effective date on the new 2012 scheme case will be the 18th of February.

Giving notice of the initial effective date - application arising from the closing of a legacy case

Providing an application, arising from the closing of a 1993/2003 scheme case, is made before liability ends on the legacy case, the initial effective date on the 2012 scheme case will be the date liability ended on 1993/2003 scheme plus one day.

This will be the effective date regardless of when the letter is sent informing the non-resident parent of their effective date. The only legal requirement is that this letter must be sent 'as soon as is reasonable'. The law does not require that it is sent on a specific date, but it must be given either in writing two days before the effective date or by telephone on or before the effective date, and followed up in writing. In practice it has been decided that it is reasonable to wait until around the time of end liability before sending this letter, as this will maximise the chance that all 1993/2003 clients in the case group will have made their application, and we can send a single provisional (or initial) calculation letter informing of the effective date to the whole case group.

Making an application – new applicant who triggers reactive case closure

[1991/48](#) Sections 4 and 7 of The Child Support Act 1991

[1991/2628](#) Article 7 of the Child Support (NI) Order 1991

2012/2677 Regulation 9 of The Child Support Maintenance Calculation Regulations 2012

Before an Initial Effective Date can be set an application to the 2012 scheme must be made.

The applicant must first undertake a gateway conversation with CM Options and provide the information necessary to process the application (including information to identify the non-resident parent if the applicant is a parent with care). The application

will be progressed and the Initial Effective Date set once the applicant has paid the application fee (or it has been waived).

Making an application - new applicant who triggers reactive case closure

[1991/48](#) *Sections 4 and 7 of The Child Support Act 1991*

[1991/2628](#) *Article 7 of the Child Support (Northern Ireland) Order 1991*

[2012/2677](#) *Regulation 9 of The Child Support Maintenance Calculation Regulations 2012*

Before an Initial Effective Date can be set an application to the 2012 scheme must be made.

The applicant must first undertake a gateway conversation with CM Options and provide the information necessary to process the application (including information to identify the non-resident parent if the applicant is a parent with care). The application will be progressed and the Initial Effective Date set once the applicant has paid the application fee (or it has been waived).

Setting the initial effective date and giving notice - new applicant who triggers reactive case closure

[2014/614](#) *Regulation 5(3) and 5(5) of The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014*

[2012/2677](#) *Regulation 12 of The Child Support Maintenance Calculation Regulations 2012*

Providing an application arising from the closing of a legacy case is made before liability is withdrawn on the legacy case the initial effective date on 2012 scheme will be the date liability was withdrawn on 1993/2003 scheme plus one day.

In order to ensure that the initial effective date is the same for both the new applicant and the application arising from the closing of a legacy case, and that the legally required notice is given, [a procedural exception to the Calculation – Provisional process](#) must be followed for setting the initial effective date on the application which triggers reactive case closure only.

The following is a summary, more information can be found in the online procedures here.

- In the first instance we will try to notify the non-resident parent of the initial effective date by telephone.
- Once an application is made that triggers reactive case closure, a caseworker will have a period of 14 days in which to attempt to contact the non-resident parent by phone.

- If at any point in that period the caseworker speaks to the non-resident parent they will notify the client of the initial effective date and record that conversation in the case notes. This will serve as giving notice of the initial effective date so liability on the 2012 scheme case will commence on the day after liability ends on the reactively closing 1993 / 2003 scheme case.
- If this isn't recorded, we will not be able to demonstrate compliance with this requirement.
- If by the 14th day the caseworker has been unable to contact the non-resident parent by telephone then a manual letter will be issued to the non-resident parent at their verified address. This letter will contain notice of the initial effective date.
- Once this letter is served liability on the 2012 scheme case will commence on the day after liability ends on the reactively closing 1993 / 2003 scheme case.
- There is still a requirement to send a provisional calculation letter (or the initial calculation letter if the non-resident parent is the applicant), to all cases in the casegroup but it does not matter if this is done after the initial effective date as notice of that date has already been given.

Note: This process is followed even in cases where the clients with a reactively closing legacy case choose not to apply to the 2012 scheme, or do so after their legacy liability is ended.

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[Initial Effective Dates: Application arising from proactive to reactive case closure - Process](#)

[2014/614](#) *Regulation 6(2) of the Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations 2014*

[2012/2677](#) *Regulation 11(8) The Child Support Maintenance Calculation Regulations 2012*

If a case becomes related to a new application after a proactive case closure initial notice has been issued, the Secretary of State may revise the liability end date by giving the interested parties at least 30 days' notice. at least 32 (to allow 2 days for posting).

To ensure clients receive at least 30 days' notice we won't revise the liability end date if there are less than 38 days' left until the original end liability date. This is to allow for processing and postage. Some people call this 'Accelerated Reactive'.

Where there are less than 38 days' left until the liability end date, the case will remain on its proactive case closure journey and the original liability end date will stand.

For further information see guidance on proactive to reactive [case closure](#)

In these cases the process for setting the initial effective date will be the same as described above for application arising from reactive [case closure](#).

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### [Initial Effective Dates: Phase 1 \(prior to 30/6/14\)](#)

*[2012/2677](#) Regulations 6(2), 7(2), 10, 11 and 12 of the Child Support Maintenance Calculation Regulations 2012*

The effective date of an initial maintenance calculation is the date the non-resident parent is given written notice that the child maintenance application has been made. Post notifications are treated as sent 2 days after the day on which they are posted. The effective date of the initial maintenance calculation will therefore be the date the notice is issued (i.e. the next working day) + 2 days.

This includes the date of postage and no allowance is made for weekends or public holidays.

#### **Example**

A person with care makes an application on Thursday 12 June 2014. Information is gathered by telephone and an official notice of application is requested to the non-resident parent on the same day. This letter would be posted on Friday 13 June 2014. The effective date of the initial maintenance calculation will be the date that the notification is issued (13th June) + 2 days = Sunday 15th June,

or

A person with care makes an application on Friday 13 June 2014. Information is gathered by telephone and an official notice of application is requested to the non-resident parent on the same day. This letter would be posted on Monday 16 June 2014. The effective date of the initial maintenance calculation will be the date that the notification is issued (16th June) + 2 days = Wednesday 18th June.

Remember: it might not always be the person with care that makes the application for child maintenance.

**NOTE:** the same process applies to applications made by:

- A non-resident parent, or

- Child in Scotland

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#### [Initial Effective Dates: Case closure look up fails - Decision Making Guidance](#)

System issues have been identified which means that in small number of instances when a 1993 / 2003 scheme case becomes linked to a new application to the 2012 scheme the system's look up process will fail to identify it.

In these instances the 1993 / 2003 scheme case will not be selected for the reactive case closure process so the notice which contains the liability end date will not be issued to the clients. Liability on the 1993 / 2003 scheme case cannot be legally ended unless this notice is sent to the non-resident parent at their last known or notified address.

This means that in the cases affected the non-resident parent will have liability on two separate schemes; their 1993 / 2003 scheme case and the new 2012 case. Both of these liabilities are legally valid and, provided the correct procedures have been followed, all effective dates will also be valid.

While both liabilities are legally valid it is not legally defensible to collect both as it would most likely require the non-resident parent to pay more than they would had the look up process worked correctly.

When correcting these cases the overriding policy objective is to ensure that the parent with care receives their full entitlement whilst not requiring the non-resident parent to pay more than they would have done had they been assessed only on the 2012 scheme.

When a case which fits the above criteria is identified it should be escalated to the Enhanced Support Model through the usual channels and guidance on how to handle the case will be issued. A manual process for dealing with these cases (MP217) is currently being developed.

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#### [Initial Effective Dates: First contact letter fails to issue - Decision Making Guidance](#)

During live running one potential system error which could occur is that automatically generated letters fail to print entirely. This is known as 'batch failure'. It can mean in some circumstances, letters never being issued, and because we will be unable to automatically identify those cases, we will only be prompted that there is an issue by client contact.

In the event that batch failure affects the sending of the first contact letter in a case closure case this will mean that liability on the closing case cannot be legally withdrawn. This is because it is only the giving of notice in the timescales required by law that gives the withdrawal of liability its legal effect. For further information see the chapter on [case closure](#)

In the event that you receive a query from a client on this issue it should be referred to the Advice and Guidance team.

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