



Administrative Recalculation of Child Support in PEI

This handout uses the word Order, however, recalculation is also available for eligible Agreements and Divorce Judgments

In PEI, people with child support obligations may be eligible to have the amount of child support in their Order recalculated each year without having to go back to Court. This process is called **administrative recalculation**. The government employee who recalculates child support is called a **Recalculation Officer** and they work in the Child Support Services Office. Remember, child support is for the child and it's important that the appropriate amount is being paid based on your income. You are encouraged to register your child support Order with the Recalculation Officer if it is eligible for recalculation.

When is a child support Order or agreement eligible for recalculation?

- 1. Your Order needs to include wording that says that it may be administratively recalculated** (this is often called an **administrative recalculation clause**). The recalculation clause in your Order has to be valid, meaning it has to follow the rules in the legislation and regulations. Otherwise, the Recalculation Officer cannot recalculate. You can find wording for recalculation clauses at <https://www.princeedwardisland.ca/en/information/justice-and-public-safety/child-support-recalculation>.
- The Recalculation Officer cannot recalculate your support if any of the following circumstances apply to your order:
 - a. the payor (person obligated to pay child support) has self-employment income
 - b. the payor's income was imputed (grossed up) by the court
 - c. the parties have shared parenting time (each parent has the children 40% or more of the time)
 - d. a pattern of income was used to determine payor's income (e.g. average of last three year's income); or
 - e. child support departs from the *Federal Child Support Guidelines* Tables
- The Recalculation Officer cannot recalculate support for children who are over the age of majority (18). If one or more of your children on your support Order are over 18, the Recalculation Officer cannot recalculate.
- One of the parties has to register the Order with the Recalculation Officer by sending in the Registration Form**, available here: <https://www.princeedwardisland.ca/en/information/justice-and-public-safety/child-support-recalculation>.

When is support recalculated?

The Recalculation Officer can only recalculate your support on the **anniversary date** of your Order (which means once a year.) When you get a child support Order, you can register it with the Recalculation Officer and, if it is eligible for recalculation, each year the Recalculation Officer can recalculate the support obligation. The Recalculation Officer is not automatically provided child support Orders. **To have your child support recalculated, you must register your Order with the program at least 75 days before the anniversary date to allow time for the recalculation process.** The Recalculation Officer recommends you register a new child support Order as soon as you get it.

What is the recalculation process?

Step One: If your Order is successfully registered in the program, at least **60 days before** the anniversary date of your Order, the Recalculation Officer will send a letter to the Payor reminding the Payor to provide their **tax return or Notice of Assessment/Re-Assessment** within **30 days** of the date of the letter.

Step Two- Option 1:
If the Payor provides their tax return or Notice of Assessment/Re-Assessment to the Recalculation Officer within 30 days of the anniversary date of the Order, the Recalculation Officer will issue a **Notice of Recalculation** stating what the recalculated (new) support amount will be.

Step Two - Option 2: Part 1 - If the Payor doesn't give the Recalculation Officer their tax return or Notice of Assessment/Re-Assessment within 30 days of the anniversary date of the Order, the Recalculation Officer will **deem** their income – which means the Recalculation Officer will add 10% to the Payor's income listed on the child support Order or most recent Recalculation Order and issue a **Notice of Recalculation** to both parties stating what the recalculation (new) support amount will be.

Step Two - Option 2: Part 2 - When the Recalculation Officer sends a Notice of Recalculation with deemed income to the parties, the Payor has 30 days to file a Notice of Objection and their tax return or Notice of Assessment/Re-Assessment. If they do, the Recalculation Officer will issue an **amended Notice of Recalculation** and send it to the parties. Both parties then have 30 days to file a Notice of Objection to the new Notice of Recalculation.

Step 3: If either party disagrees with the Notice of Recalculation and wants to make an application to the Court, they can file a **Notice of Objection** with the Court and the Recalculation Officer.

Step 4: If neither party files a Notice of Objection within 30 days of the Notice of Recalculation the Recalculation Officer will issue a Recalculation Order and file it with the Court. The recalculation Order states what the recalculated (new) child support amount is.

What happens if one of us files a Notice of Objection?

Sometimes when someone receives a Notice of Recalculation, they do not agree with the amount of child support set out in the Notice. If someone does not agree **and intends to go to Court** to ask a judge to order a different amount of child support, the person who does not agree (who is called the **Objecting Party**) has to let the Recalculation Officer and the Court know they are objecting by filing a Notice of Objection. If a Notice of Objection is filed, the process of recalculation is on hold until the Notice of Objection process is finished.

What is the process to object to my support being recalculated?

Step One: The **Objecting Party** must file a **Notice of Objection to Recalculation** with the Recalculation Officer and the Court within 30 days of the date of the Notice of Recalculation.

Step Two: Within **60 days** of filing the Notice of Objection to Recalculation, the Objecting Party must file a child support application with the Court, get a court date from the Court for a child support hearing, and serve the application and the hearing date on the other party and the Recalculation Officer.

Step Three: The Court hearing for the child support application must happen within **120 days** of filing the Objection to Recalculation.

Step Four – Option 1: If the Court hearing happens, the recalculation process is over for the year. The Court may issue a new child support Order. The Recalculation Officer is not automatically provided the new Court Order - one of the parties **must** register the new Order with the Recalculation Officer.

Step Four – Option 2: If the Objecting Party does not file an application within **60 days** of the Notice of Objection or the Court hearing does not happen within **120 days**, the Recalculation Officer will issue a Recalculation Order.

Things to Know during the Objection Process: The Recalculation Officer has the authority to refuse to recalculate when they believe it would be more appropriate for the Court to decide on the child support matter. It can take time to work with a lawyer or the Child Support Services Office to prepare a court application. Sometimes, it can take longer than 120 days to get a court date. It's important to keep the Recalculation Officer informed about how things are going on preparing for Court, as the Recalculation Officer may refuse to recalculate support for the year if the Objecting Party is working to bring the matter before the Court.

What happens after the Recalculation Officer issues a Recalculation Order?

Once the Recalculation Officer issues a Recalculation Order, the Payor then has to pay the amount of support in the Recalculation Order starting the month after the Recalculation Order is issued.

Other things to know about administrative recalculation

The Recalculation Officer has no ability to change a child support Order or accept information from a Payor or Recipient other than is set out in the timelines or circumstances allowed by the [Regulations](#). This means that if you do not respond within the timelines required, the Recalculation Officer **must** take the steps required under the regulations. If you are late providing information or filing a Notice of Objection, the Recalculation Officer cannot change a Recalculation Order that has already been issued. Also, the Recalculation Officer cannot hear appeals or change an Order after it is issued. If you have a problem with a Recalculation Order that is issued, you must apply to Court to ask a judge to deal with it.

The Recalculation Officer cannot make retroactive changes to child support and can only recalculate support for the year of the recalculation. If you believe your support in previous years may have been incorrect, you may contact a Child Support Guidelines Officer at (902) 368-6220 or csso@gov.pe.ca or contact your lawyer.

For more information about administrative recalculation, download a Registration Form or Notice of Objection, or to find out more about services available to assist you with child support matters please visit

<https://www.princeedwardisland.ca/en/information/family-law>

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