

Statutory Rules 1989 No. 1

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Child Support (Assessment) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Child Support (Assessment) Act 1989*.

Dated 28 September 1989.

BILL HAYDEN

Governor-General

By His Excellency's Command,

Paul Keating

Treasurer

Commencement

1. These Regulations commence on 1 October 1989.

Citation

2. These Regulations may be cited as the Child Support (Assessment) Regulations.

Interpretation

3. In these Regulations, unless the contrary intention appears:
 "Assessment Act" means the *Income Tax Assessment Act 1936*;
 "the Act" means the *Child Support (Assessment) Act 1989*.

Exclusion of certain children

4. All children who are in the custody of, or under the guardianship, care and control or supervision of, a person under a child welfare law are not eligible children.

Prescribed matters for approved forms

5. (1) For the purposes of section 11 of the Act, the following matters are prescribed:

(a) in relation to subsection 27 (1) of the Act:

- (i) the name, address, date of birth and telephone number of the applicant;
- (ii) the name, address and date of birth of the liable parent;
- (iii) the reason for the application;
- (iv) the applicant's tax file number;
- (v) the relationship of the parents of each child for whom the support is sought;
- (vi) the name and date of birth of each child;
- (vii) the relationship of the applicant to each child;
- (viii) whether custody of each child is shared;
- (ix) the names and dates of birth of any other children of the applicant and liable parent;
- (x) the maintenance paid by the liable parent;
- (xi) the steps taken by the applicant to obtain maintenance;
- (xii) details of the income tested pension, benefit or allowance received by the applicant;
- (xiii) the applicant's taxable income;
- (xiv) the name and address of the liable parent's employer;

(b) in relation to subsection 32 (2) of the Act:

- (i) the name, address and telephone number of the applicant;
- (ii) the applicant's tax file number;
- (iii) the date and place of lodgement of the application to which the withdrawal relates;
- (iv) the reference number allotted to the application by the Child Support Agency (if known);

(c) in relation to subsection 60 (2) of the Act:

- (i) the name, address and telephone number of the person making the election;
- (ii) the person's tax file number;
- (iii) the reference number allotted to the application for child support (if known);
- (iv) in respect of the estimated income-details of income derived, or to be derived, from:
 - (A) a profession, trade, business or other personal exertion; and
 - (B) property;and of deductions claimed, or to be claimed, in connection with that income;

- (v) whether an income amount order (within the meaning of section 59 of the Act) has been made in relation to the person and, if so:
 - (A) the date of the order; and
 - (B) the period for which the order was made; and
 - (C) whether the order is still in force;
- (d) in relation to subsection 62 (2) of the Act:
 - (i) the name, address and telephone number of the person revoking the election;
 - (ii) the person's tax file number;
 - (iii) the reference number allotted to the application for child support (if known);
 - (iv) the date and place of lodgement of the election to which the revocation relates;
 - (v) whether an income amount order (within the meaning of section 59 of the Act) has been made in relation to the person and, if so:
 - (A) the date of the order; and
 - (B) the period for which the order was made; and
 - (C) whether the order is still in force;
- (e) in relation to subsection 89 (1) of the Act:
 - (i) the name, address, date of birth and telephone number of the applicant;
 - (ii) the applicant's tax file number;
 - (iii) the name, date of birth, address and telephone number of the other party to the agreement;
 - (iv) the names and dates of birth of the children to whom the agreement relates;
 - (v) the relationship of the parents of the children;
 - (vi) details of the child support agreement;
 - (vii) details of any court order or other agreement in relation to maintenance of the children;
 - (viii) details of the income tested pension, allowance or benefit received by the custodian;
- (f) in relation to subsection 128 (2) of the Act:
 - (i) the name, address and telephone number of the custodian entitled to child support;
 - (ii) the custodian's tax file number;
 - (iii) the reference number allotted to the application for child support (if known);
 - (iv) the name, address and telephone number of the liable parent;
 - (v) details of the income tested pension, allowance or benefit received by the custodian;

- (vi) details of the order made under section 124 of the Act and the statement made under section 125 of the Act;
- (g) in relation to paragraph 128 (4) (a) of the Act:
 - (i) the name, address and telephone number of the custodian entitled to child support;
 - (ii) the custodian's tax file number;
 - (iii) the reference number allotted to the application for child support (if known);
 - (iv) the name, address and telephone number of the liable parent;
 - (v) the date and place of lodgement of the application;
- (h) in relation to subsection 151 (2) of the Act:
 - (i) the name, address and telephone number of the custodian entitled to child support;
 - (ii) the custodian's tax file number;
 - (iii) the reference number allotted to the application for child support (if known);
 - (iv) the name, address and telephone number of the liable parent;
 - (v) the date from which the liability of the liable parent is to end.

(2) The matters contained in a form are, and each document accompanying a form is, to be verified by a declaration, signed by the person signing the form, that each matter set out in the form, and each document, is correct in every material particular.

Inflation factor

6. For the purposes of section 55 of the Act, the inflation factor:
- (a) applicable to the child support year ending on 30 June 1990 is 1.0575; and
 - (b) applicable to the child support year ending on 30 June 1991 is 1.065.

Taxable income: prescribed provisions and circumstances

7. (1) For the purposes of subsection 56 (3) of the Act, the following provisions and circumstances are prescribed:

- (a) section 31C, subsection 36A (8), sections 78A, 82KJ, 82KK, 82KL, 136AF and 177F of the Assessment Act;
- (b) the circumstances in which subsection 170 (9B) of that Act applies;
- (c) a provision that is a prescribed provision within the meaning of subsection 170 (14) of that Act.

(2) For the purposes of subsection 57 (7) of the Act, the following circumstances are prescribed, that is to say, where an assessment under the Assessment Act could be amended to give effect to the provisions of the Assessment Act, or in the circumstances, prescribed in subregulation (1).

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Conversion of annual rates into daily rates of payment

8. (1) An annual rate of child support is to be converted into a daily rate by using the formula:

$$DR = \frac{AR}{365.25};$$

where:

DR is the daily rate of payment; and
AR is the annual rate of payment.

(2) In calculating a conversion, the calculation must be made to 6 decimal places and:

- (a) if the final figure is greater than 4—the second-last figure must be increased by 1 and the final figure then disregarded; and
- (b) if the final figure is 4 or less, it must be disregarded.

Orders that may be made by a court

9. A court may make orders containing provisions of the following kind with respect to the calculation of the amount of an annual rate of child support, an adjusted income amount, child support income amount, exempted income amount or disregarded income amount in relation to a liable parent or in relation to the custodian entitled to child support:

- (a) that a specified amount be substituted for one of those amounts;
- (b) the period for which the specified amount is to be substituted;
- (c) that the specified amount is to be indexed by the inflation factor;
- (d) that one of those amounts be varied;
- (e) the period for which the variation is to remain in force;
- (f) where the variation is by a specified amount—that the amount is to be indexed by the inflation factor.

Scale of expenses under subsection 161 (2) of the Act

10. (1) For the purposes of subsection 161 (2) of the Act, the scale of expenses set out in the Schedule is prescribed.

(2) A reference in the Schedule to the High Court Rules is a reference to the High Court Rules as in force from time to time.

Service of orders

11. A copy of an order under subsection 162 (1) of the Act must be served on the person to whom the order is addressed:

- (a) where the person is a natural person:
 - (i) by delivering the copy to the person personally; or
 - (ii) by leaving the copy at, or sending the copy by pre-paid post to, the address of the person last known to the proper officer of the court; or
- (b) where the person is a body corporate—by leaving the copy at, or

sending the copy by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

Date of making of application etc.

12. (1) An application for administrative assessment or for the acceptance of a child support agreement is to be taken to have been made on the day on which the application is received in an office of:

- (i) the Department of Social Security; or
- (ii) the Child Support Agency; or
- (iii) the Australian Taxation Office.

(2) An election under section 60 of the Act, or a revocation under section 62, is to be taken to have been made on the day on which the form of election or revocation is received in any of the offices referred to in subregulation (1).

(3) Where any other matter is required by the Act to be done in an approved form, the form is to be taken to have been received on the day on which the form is received in any of the offices referred to in subregulation (1).

SCHEDULE

Regulation 10

**EXPENSES TO BE ALLOWED TO PERSON REQUIRED
TO ATTEND UNDER SECTION 161
OF THE ACT**

1. Any person required to attend:
 - (a) in the case of a person remunerated by wages, salary or fees—such amount as is provided for in the High Court Rules in relation to expenses of witnesses so remunerated; or
 - (b) in any other case—such amount as is provided for in the High Court Rules in relation to expenses of witnesses generally.
2. Any person required to attend—such amount as is reasonable:
 - (a) in respect of that person's conveyance to and from the place at which that person so attends; and
 - (b) if that person is required to be absent overnight from his or her usual place of residence—in respect of meals and accommodation.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 1 1989.

29 September/