

Child Support (Assessment) Regulations Amendments 1993 No. 131

EXPLANATORY STATEMENT

Statutory Rules 1993 No. 131

Issued by the Authority of the Assistant Treasurer

Child Support (Assessment) Act 198

Child Support (Assessment) Regulations Amendments

The purpose of these Regulations is to prescribe matters that are required or permitted to be prescribed, or which are necessary to be prescribed for giving effect to the Child Support (Assessment) Act 1989 (the Act). Regulations may be made providing they are not inconsistent with the Act.

AMENDMENT 1

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 excluded as eligible children under section 22 of the Act if a regulation has been prescribed for that purpose. A regulation has been prescribed and so all such children are ineligible.

The Act was amended by the Child Support Legislation Amendment Act 1992 to extend eligibility for administrative assessment to parents and relatives who have the care of children subject to a child welfare law. Eligibility is dependent upon each State and Territory referring its powers to the Commonwealth under the Commonwealth Powers (Family Law - Children) Acts.

A new regulation 4 is substituted which inserts a table of States in the regulation which have not referred their powers under the Commonwealth Powers (Family Law- Children) Act. As powers are referred by each State, that State name will be removed from the table.

The Australian Capital Territory and the Northern Territory do not need to refer their powers and are not included in the table. Eligibility is therefore extended to parents and relatives in those Territories.

AMENDMENT 2

Regulation 5 which prescribes matters that may be included in approved forms is omitted because it has become redundant following upon the repeal of section 5 of the Act by the Child Support Legislation Amendment Ad (No. 2) 1992.

AMENDMENT 3

In determining a person's child support income amount, section 55 of the Act provides for a person's taxable income to be multiplied by the inflation factor applicable to that child support year, as set out in the regulations. Regulation 6 prescribes the inflation factor to be applied to a person's taxable income. The inflation factor for the child support year ending on 30 June 1994 is proposed to be 1.035. This figure is stated in the 1992-93 Budget Statement Number 1 as the estimate of a 3.5% increase in average weekly earnings (National Accounts Basis, excluding superannuation) in the 1992-93 income year. The amendment updates the table to include a figure for the child support year ending 30 June 1994.

AMENDMENT 4

The Act was amended by the Child Support Legislation Amendment Act (No. 2) 1992 to shift the effect provisions for income estimates from the Act to the regulations. The Explanatory Memorandum stated at the time that the intention was to generally make the effect provisions fairer for all by having them have effect from the month after the month in which the estimate was made. At the time details were being examined to ensure there are no unintended outcomes from the change (see Chapter 5, page 22 of the Explanatory Memorandum).

It is really only possible to have such a change start from the beginning of a child support year and it has not been possible to be ready with the change in time for 1993-94 assessments. The amendment prescribes the effect provisions of estimates but does not depart from the existing arrangements in the Act. Each estimate lodged will apply to the whole of the child support year as at present.