

Child Support (Assessment) Amendment Regulations 2001 (No. 1)

2001 No. 204

EXPLANATORY STATEMENT

Statutory Rules 2001 No. 204

Issued by the authority of the Minister for Community Services

Child Support (Assessment) Act 1989

Child Support (Assessment) Amendment Regulations 2001 (No. 1)

The two purposes of the Regulations (which are made under section 164 of the *Child Support (Assessment) Act 1989* (the Act)) are to amend the *Child Support (Assessment) Regulations 1989* (the Assessment Regulations) to:

- prescribe payments that are excluded from the income of a person liable to pay child support for the purposes of determining whether the usual minimum child support liability applies to the person; and ,
- make two consequential amendments to reflect the fact that the Child Support Registrar is no longer the Commissioner of Taxation.

Income for minimum child support

Since 1999, a person liable to pay child support has generally been subject to a \$260 pa (\$5 pw) minimum child support liability. The only exception to this (other than in certain shared or divided care assessments) applies if the Child Support Registrar is satisfied that the income of the person for the first 12 months of the child support period will be less than \$260. Schedule 7 to the *Child Support Legislation Amendment Act 2001* (the Amendment Act) recently inserted into subsection 66A(4) of the Act provision for payments to be prescribed that will be excluded from income for the purpose of determining whether the usual minimum child support liability of \$260 pa should apply.

Two payments are prescribed by the Regulations as being excluded from income for this purpose:

- Payments to a prisoner by the person in charge of a prison, to the extent that the payments are *not* for work, approved study or participation in another approved program, inside or outside the prison. The payments thus excluded from income are often known as amenity allowance or gratuity, and are generally to allow prisoners to make minor purchases such as toiletries. Payments for work, etc, will continue to be regarded as income.
- Payments of disability support pension to a person, or payments of pension to a totally and permanently incapacitated veteran, if the Registrar is of the opinion that the pension is substantially used to support the person or veteran.

Child Support Registrar

The child support function has been part of the Family and Community Services portfolio, rather than the Treasury portfolio, for more than two years. However, this move has only recently been reflected legislatively, by Schedule 5 to the Amendment Act. Because of this legislative change, the Child Support Registrar is no longer the Commissioner of Taxation but the General Manager of the Child Support Agency. Therefore, two existing references in the Assessment Regulations to information held by the Registrar "(whether as Registrar or Commissioner)" are no longer

appropriate. Accordingly, these references to the former dual role of the Registrar/Commissioner are omitted by the Regulations.

The Regulations commenced on gazettal.