

Child Support

Update

September 1999

Changes to the Child Support Act came into force on 24 July 1999 and contained a variety of amendments that will make it easier and more fair for paying and custodial parents to pay and collect child support.

This edition of *Update* outlines the changes that came into force on 24 July 1999 and those that will take effect from 1 April 2000. The next edition will contain an update on the remainder of the changes.

Amendments

Penalties	24 July 1999
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– Revoking of an estimation	1 April 2000
– Use of money interest	1 April 2000
Reciprocal agreement	1 July 2000
Income year of assessment	1 April 2001

Comes into force

Amendments

The amendments are expected to encourage voluntary compliance by giving paying parents more control over the management of their initial liabilities, and by giving Inland Revenue greater flexibility to write-off penalties.

Under the amendments, Inland Revenue will write-off penalties when paying parents keep to their repayment arrangements - entered into within three months of an initial assessment for their first liability being issued. Penalties will also be written-off when an initial penalty is greater than the arrears and there is no history of the parent defaulting on their payments.

Under the amendments Inland Revenue now has discretion to write-off penalties when:

- The paying parent had reasonable cause and rectified the situation as soon as they could, eg, serious illness.
- A payment is late because a parent followed the incorrect advice of an Inland Revenue Officer.
- An honest oversight by a paying parent who has no history of previous defaults and promptly repays the debt.
- A custodian has taken over responsibility for collecting the debt and it would therefore be unfair to enforce collection of the remaining penalty.

Write-off of penalties

Overdue child support payments attract a 10% penalty (or a minimum of \$5) and a further 2% incremental penalty on the outstanding balance (including penalties) for every month a debt remains unpaid.

Situation

In the past, Inland Revenue was only able to write-off late payment penalties when a payment was late because an employer or other third party had not made a deduction. It was also possible to write-off an incremental penalty if a paying parent kept to an agreed arrangement to repay a debt. There are however some circumstances where paying parents were not responsible for late payment, for example:

It could take six weeks to process an application for child support, and because liability begins from the day the application is received, the paying parents' first payment could be equivalent to two or three months of liability. If they could not meet this initial payment, they fall into arrears and penalties begin to accrue. The amendments will encourage parents in this situation to enter into instalment arrangements to repay the first payment, and if they comply, Inland Revenue now has the ability to write-off the penalties accrued.

Some custodians chose to take over the responsibility for collecting child support debt. In this instance, the penalties that had accrued on the outstanding payments remained payable to Inland Revenue.

Exemptions for long-term hospitalisation or incarceration

The minimum child support liability is \$10 a week, but some long-term prison inmates and hospital patients are exempted from paying child support in recognition of their limited opportunity for earning income.

Situation

In the past, a customer was eligible for an exemption from child support payments provided they were in hospital or prison for a full child support year. They did not receive an exemption if they were in hospital or prison for a part year, for example, if a customer was released from prison within a few weeks of the end of the child support year or they received a small amount of income from a benefit or earnings after release, child support would therefore be payable for the year.

There was no exemption for customers who were in a private hospital or in private residential care.

Exemptions were not available for long-term patients in public hospitals who were in receipt of a social welfare benefit, even though the combination of a reduced benefit and child support deduction only left them with about \$17 to meet their personal needs.

Amendments

Exemptions from child support liability now exist for the actual period of imprisonment or hospitalisation - if longer than 13 weeks and they meet the income criteria. Private hospital or residential care patients are now treated the same as those in public hospitals.

A customer no longer needs to make an application for an exemption for every child support year. The application, when accepted, will cover the customer for the actual period of imprisonment/hospitalisation. Applicants must fulfil the income criteria:

- No income is received, other than from investments, for the period of imprisonment/hospitalisation.
- If there is some income from investments, the average gross income from those investments must not exceed an average of \$10 per week for the period of incarceration or hospitalisation.
- Hospital patients have the same income criteria plus an additional income clause - a long-term hospital patient benefit payable under their twenty-second schedule of the Social Security Act 1964 does not disqualify them on income grounds.

Taxable income

Situation

Child support assessments are based on taxable income earned in New Zealand. This meant that paying parents who left New Zealand, and ceased to be a resident for tax purposes, could be assessed under the minimum amount of \$520 per year. As a result, the amount of child support payable did not relate to the paying parents' ability to contribute to the financial support of their children.

Amendment

Inland Revenue can now include overseas taxable income in a child support assessment.

Assessment notices

Situation

The Child Support Act dictated what appeared in a notice of assessment. Some of this information was inappropriate and unnecessary in certain circumstances, for example, when a notice related to a court order or spousal maintenance, information relating to annual and monthly rates, living allowances or income.

Legislation also required Inland Revenue to issue a new notice of assessment every time there was a change in an assessment, even if there was no change in the level of child support. This meant paying parents sometimes received notices that contained no new information.

Amendments

The amendments will provide more flexibility to ensure the notice of assessment content can vary to suit individual customer needs.

Paying parents will continue to receive a notice of assessment for the child support financial year. They will not however receive one if, as a result of an assessment, their liability does not change.

Refunds

Situation

Application refunds were required to be in writing and the administration for this process proved to be very time-consuming.

There were a number of paying parents that had final credits that were less than \$5, as they were under the threshold for the Unclaimed Money Act 1971 they could not be automatically cleared.

Amendments

Paying parents can now make a request for a refund either verbally or in writing. When Inland Revenue is satisfied there are no arrears and no known future liability, excess financial support, without a prior application, can now be refunded.

If there is a final credit of less than \$5 and there has not been a request for a refund after 12 months from when the credit arose, Inland Revenue can transfer that credit to the paying parent's tax account.

Net protected earnings

Situation

Some paying parents have more than one source of income. For example, they may have two jobs or work part-time and receive a social welfare benefit. Under the current legislation, their child support may have to be deducted from more than one source, even though they might prefer to have the whole deduction made from one source.

Amendment

The amendments ensure that paying parents will have at least 60% of their salary or wages left after child support and income tax have been deducted. If paying parents have more than one source of income, they now have the option to have more than 40% in child support deducted from a single salary or wage income.

Message from Martin Scott

One of the most notable amendments, a proposed Child Support reciprocal agreement with Australia, will come into effect on 1 July 2000. Under the agreement the Australian Government will collect child support payments and debt from New Zealanders living there and return it to New Zealand.

In keeping with Child Support's efforts to encourage parents to voluntarily pay child support, the reciprocal agreement will help to send the message to paying parents that avoiding child support is unacceptable - even when living overseas.

The agreement will allow each country to use their own established methods for collecting child support. For example, New Zealand could send a request to Australia about a paying parent who owes child support for their children in New Zealand. Australia would then use their own process to collect the debt and pass the debt to Child Support in New Zealand who would distribute to the custodial parent - and vice versa.





Under the previous legislation, child support could have been deducted from more than one source of income at a rate 40% if a paying parent had two jobs, worked part-time or received a social welfare benefit.

Debt

Beneficiary custodians do not directly receive their child support payments because they are retained by the Crown to offset the cost of the benefit paid to the custodian. Beneficiary custodians who are entitled to spousal maintenance do however receive those payments because they are not retained by the Crown. When child support is unpaid and in arrears, non-beneficiary custodians are able to take responsibility for collection, for example, they can uplift the debt themselves.

Situation

If spousal maintenance is not paid, custodians are unable to take over responsibility for collecting the debt. This problem arose because the term financial support was used, which includes spousal maintenance, when only child support was intended to be covered by the provision.

Custodians who withdrew from the child support scheme would have an entitlement to a final payment for the period up to the date they withdrew. Currently, they must wait until that final amount is unpaid and in arrears before they can uplift the debt.

Amendments

Beneficiary custodians who are entitled to spousal maintenance can now choose to take over responsibility for collecting both existing spousal maintenance debt and any future entitlement.

Custodians who are not social welfare beneficiaries, and who withdraw from the child support scheme, can now choose to take over the collection of any future child support.

Custodian's bank accounts

Situation

The Child Support Act required an application for child support to contain a custodial parent's bank account details. This was not however required to process an application and therefore delayed the process.

The requirement existed to ensure that payment went to the sole or principal provider of care for the children, which in practice proved to be too inflexible.

Amendments

The criteria has been amended so that the processing of an application can start before a customer submits their bank account details.

Custodians can now also choose to have their child support paid to another account, for example, an account in their child's name or in their budget advisors' account.

Estimation of income

Situation

The estimation provisions were very complex and had a number of problems, including some paying parents who:

- Underestimated their income and had to pay the shortfall in a lump sum or could have been subject to an underestimation penalty and incurred penalties if they defaulted on that payment.
- Avoided paying the correct amount of child support by underestimating their income and then not filing an income tax return for the child support year.
- May have already paid their full year's child support liability, based on their estimated income, by the time they estimated it – although the legislation required them to continue paying the minimum amount of child support for the rest of the year. This inevitably lead to the overpayment of liability, while the custodian ended up with a debt to repay.

Amendments

The amendments are intended to make the estimation provisions fairer and easier to use, more specifically:

- Cap child support at what would have been payable had income not been estimated.
- Allow reconciliation assessments to be issued when paying parents who have estimated their income fail to furnish tax returns.
- Stop paying parents from estimating their income until they furnish their outstanding returns.
- Ensure that those who estimate their income part-way through the year will not have to continue paying the minimum amount of \$10 a week when the amount they have already paid covers their liability for the year.
- Waive entitlement if the preceding change results in a custodian moving on to a social welfare benefit, which means they will not incur a debt.
- Provide that when paying parents revoke an estimation or no longer meet the criteria for estimating, their liability will revert to what it would have been had they not estimated, with the resulting shortfall being spread over the rest of the year.
- Provide more flexibility surrounding the application for estimating income.

The use of money interest provisions have been revoked. The provisions were originally included because paying parents could benefit by being able to use their unpaid child support. They were intended to provide an incentive to paying parents to file their income tax returns so that the correct amount of child support liability could be determined. In addition, a late filing fee has also been introduced.

Hello, we are the South Island support team!

Our role, as Child Support Community Liaison Officers (CLO), is to establish contact with local government and community groups and to build relationships with those who have an interest in Child Support issues.

Our aim is to increase public awareness of Child Support and to explain the details in an easily understood format. We also help individuals understand their rights and obligations and illustrate the importance of providing on-going financial support for their children.

We can offer advice over the telephone, in person or give us a call and we can come and talk to your group about Child Support.

Southland

My name is **Lynley Ballantine**. I am the Community Liaison Officer for the Invercargill and Southland areas.

I was born and raised in Southland and I joined Inland Revenue upon leaving school and I started in the ledger section.

I was seconded to Wellington on a number of occasions, but I am always happy to return home to Southland. I joined Child Support when it started in Invercargill in July 1996.

I am a member of a Country Music Club and the editor of its monthly newsletter. I enjoy cooking and experimenting with new recipes, spending time with friends and family and taking part in a group that visits elderly people in rest homes.

I see my role as a challenge to raise the profile and understanding of Child Support within the community. My contact details are 0800-221-221 extension 78035 or direct dial on (03) 214-7035.

Nelson

Hi, I'm **Kassandra Harker** and I am 43 years old. I am of European/Maori decent and affiliated to Ngati Kahungunu, sub-tribe Ngati Moe, although my cultural base is predominantly European. I have a strong sense of my ancestry and have been into genealogy for over 14 years.

I am a true kiwi and I watch all international sport that New Zealand takes part in, and I am strong Manchester United supporter. For the less informed - that is soccer! Although I have hung up my own soccer boots in favour of badminton, and a little social tennis in the summer months.

I am also a self-confessed computer addict!

In October 1991 I took up a position as a Child Support Officer in Nelson. Since then I have been involved in establishing and acting in the position of Technical Officer Child Support, taken on caretaker roles of Team leader and Administrative Review Support Officer.

In my eight and a half years with Child Support, the bulk of my work has been in the debt collection area. I continue to look for challenge in my job and involve myself in projects to develop better processes and practices.

In October 1998 I became a Child Support Community Liaison Officer. I find this role stimulating and diverse and I cover from Haast on the west coast to Seddon on the east, and everything above – this is a challenge in itself.

I personally strive to demonstrate the human face of Child Support to its customers and to educate the community about child support. I also offer my feedback about any problems that our customers face in accessing our services. My contact details are 0800 221 221 extension 7114 or my direct dial (03) 546-1114.

Christchurch

My name is **Miri Ware**. I am the Community Liaison Officer for the Christchurch area – which covers Christchurch City and north and south Canterbury including regions like Timaru, Arthur's Pass, Hamner Springs and Kaikoura.

I have worked for Inland Revenue for ten years and I started out as a GST Processing Officer and moved to Child Support in 1992 after completing a secondment as a system tester at National Office in Wellington.

In 1994 I left Inland Revenue to travel to the United States. I spent several years living and working between New Zealand and the United States before re-joining Inland Revenue Child Support.

In my spare time I like exercising, watching Sky Sport and during the summer I play on a mixed touch rugby team. I also enjoy music and singing - interests I wish to explore further in the future.

I enjoy dealing with communities and look forward to the opportunities this role will offer to assist people with their Child Support issues. Feel free to contact me on 0800-221-221 extension 74765 or on my direct dial on (03) 363-1765.

Otago

My name is **Bruce Simpson**. As Community Liaison Officer I look forward to meeting people and community groups who are interested in hearing more about Child Support from the north, south and central Otago regions.

I've been a member of the Dunedin Child Support Team since October 1991. Prior to this I spent some time in the audit and public counter areas.

Outside work I keep busy with my family and get involved in their activities as much as possible. I also coach junior rugby, enjoy sea fishing and love a good read.

I see my role as helping to ensure our customers receive all the information they require to make informed decisions about Child Support, and to assist agencies and groups that work with our customers to understand our services.

I look forward to hearing from you and would welcome the opportunity to speak to your group. My contact details are 0800 221 221 extension 77071 or direct dial (03) 467-7071.