



**Inland Revenue**  
Te Tari Taake

18 November 2022

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 24 October 2022. You requested:

- 1) *What statute or regulation allows a prisoner to apply for an exemption to pay child support?*
- 2) *If a prisoner receives an exemption from the obligation to pay child support, is there any obligation to pay an equivalent amount that the child would have otherwise received, once the prisoner is released back into the community?*
- 3) *How much child support is an individual obliged to pay in the following situations:*
  - a) *The individual is unemployed and receiving a benefit*
  - b) *The individual is unemployed but is not receiving a benefit*
  - c) *The individual is in prison and does not have an exemption from paying child support.*

This response provides information for parents whose child support liability is based on the standard formula assessment. This is because voluntary agreements can be for any amount (over \$10 a week) that the liable parent and receiving carer decide and agree on.

**Question 1: The statute or regulation allowing a prisoner to apply for a child support exemption**

Part 5A of the Child Support Act 1991 (CSA) sets out the exemptions from paying child support. Within Part 5A, section 89D of the CSA states that there is an "exemption for long-term prisoners" if they meet certain conditions, such as if they have nil income (excluding a prison allowance) during their imprisonment.

You can read the CSA on the Government's legislation website: [www.legislation.govt.nz](http://www.legislation.govt.nz).

You may also find Inland Revenue's factsheet *Child support – prisoners* (IR154) helpful. The factsheet explains the eligibility rules for a child support exemption while a liable parent is in prison. You can find the fact sheet at the link [ir154-2022.pdf \(ird.govt.nz\)](http://ir154-2022.pdf(ird.govt.nz)) or on Inland Revenue's website, [www.ird.govt.nz](http://www.ird.govt.nz), by searching for "IR154".

**Question 2: When a prisoner is exempt from paying child support, are they obliged to pay an equivalent amount that the child would have otherwise received once they are released back into the community?**

When a person is granted a child support exemption, they are not required to pay child support for the time that they had an exemption for. However, a prisoner's child support liability may restart when they are released from prison if they no longer qualify for an exemption.

**Questions 3 a) and b): How much child support a person is liable to pay if they are unemployed and receiving a benefit, and if they are unemployed but not receiving a benefit**

*An assessment of child support liability depends on income and circumstances*

The amount of child support to be paid varies according to the incomes and circumstances of both the liable and caring parent. This is because the formula assessment takes into account the following:

- both parents' incomes
- the age of the child
- the amount of care each parent has, and
- the support the parents provide for other children.

A person's child support liability can only be calculated if the above factors are known.

In addition:

- the costs of raising the child should be shared between the parents based on their financial ability, and
- the parent who earns the most income will usually be expected to contribute to more of the costs of raising the child.

A liable parent who is unemployed and not receiving a benefit may have other sources of income, for example from rental property, investments, overseas or Superannuation. Their child support liability can only be calculated using their specific income details and circumstances, and those of the caring parent.

Just as a person's income can vary, so can a person's benefit rate. Their rate of benefit may depend on their age, circumstances and what kind of benefit they are receiving. You can find a list of benefits and payment rates on Work and Income's website at: [A-Z benefits and payments - Work and Income](#).

*Child support liability calculator*

A person can estimate how much child support they may need to pay using the child support liability calculator on our website. The information used in the online calculator is not submitted to Inland Revenue, so can be used to estimate what a person's child support liability would be with different incomes and circumstances. You can find this free tool at: [Work out how much child support I'll pay or receive \(ird.govt.nz\)](#).

How a child support formula assessment is calculated, and what income is used, is set out in Part 2 of the CSA.

*There is a minimum rate of child support*

From 1 April 2022 to 31 March 2023, the minimum annual rate of child support is \$1,024. This is the minimum amount that a liable parent must pay. If their formula-assessed child support amount is below the minimum rate, they will be liable to pay the minimum rate.

The annual minimum rates are published on our website: [Child support annual rates \(ird.govt.nz\)](#).

If a liable parent is paying child support for more than one child and is paying the minimum amount, the payment will be divided between all the children.

Minimum assessments are covered in sections 32 and 72 of the CSA.

**Question 3 c): How much child support a person is liable to pay if they are in prison and do not have an exemption from paying child support**

If a liable parent is not eligible for a child support exemption while they are in prison, they may be liable to pay child support. If a liable parent does not qualify for an exemption,

they may be eligible to have their liability reduced. For example, if their income drops by 15% or more from the income used in their previous child support assessment, they may be able to estimate their income for child support, which may reduce their liability.

More information is in the fact sheet *Child support – prisoners* (IR154), as advised in the answer to question 1. More information about estimating income is on our website at: [Estimating your income for child support \(ird.govt.nz\)](https://www.ird.govt.nz/child-support/estimating-income).

You can find more information about the formula assessment on our website: [How child support works \(ird.govt.nz\)](https://www.ird.govt.nz/child-support/how-child-support-works) and in our [Helping you to understand child support](https://www.ird.govt.nz/child-support/helping-you-to-understand-child-support) guide (IR100).

**Publishing of OIA response**

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider this response is of public interest so will publish this response in due course. Your personal details, or any information that would identify you, will be removed before it is published.

Thank you for your request. I trust that the information provided is of assistance to you.

Yours sincerely



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