



Statutory Rules 1988 No. 87¹

Child Support Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and pursuant to section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Child Support Act 1988*.

Dated 18 May 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

PAUL KEATING
Treasurer

Citation

1. These Regulations may be cited as the Child Support Regulations.

Interpretation

2. In these Regulations, unless the contrary intention appears: "the Act" means the *Child Support Act 1988*.

Prescribed weekly rate—protected earnings rate

3. For the purposes of the definition of "protected earnings rate" in subsection 4 (1) of the Act, the following weekly rate is prescribed, namely, a rate that is one and one-half times the rate specified in paragraph 118 (1) (f) of the *Social Security Act 1947* as in force on the 13 December immediately preceding the period in respect of which the protected earnings rate is to be ascertained.

Exclusion of liabilities

4. (1) The following liabilities, being liabilities for the payment of periodic amounts in respect of maintenance orders or agreements that are not collection agency maintenance liabilities, are not registrable maintenance liabilities:

- (a) a liability in respect of child maintenance where:
 - (i) the parents of the child in respect of whom the relevant order or agreement is made separated before the commencement of the Act; and
 - (ii) the payee is not in receipt of an income tested pension, allowance or benefit;
- (b) a liability in respect of child maintenance where:
 - (i) the parents of the child in respect of whom the relevant order or agreement is made have not cohabited;
 - (ii) the child was born before the commencement of the Act; and
 - (iii) the payee is not in receipt of an income tested pension, allowance or benefit;
- (c) a liability in respect of maintenance of a party to a marriage where the payee:
 - (i) is less than 45 years of age; and
 - (ii) is not the payee in respect of:
 - (A) separate maintenance orders or agreements payable by the same person that make provision for the payee and for a child respectively, being orders or agreements in respect of which the liability in respect of a child is registrable; or
 - (B) a maintenance order or agreement that makes provision both for the payee and for a child, being an order or agreement in respect of which the liability in respect of a child is registrable;
- (d) a liability in respect of maintenance of a party to a marriage where the payee is not less than 45 years of age and is not in receipt of an income tested pension, allowance or benefit.

(2) A liability arising under an order made under section 66K or 77 of the *Family Law Act 1975* (being a liability in relation to a registrable maintenance liability not excluded as such a liability by virtue of subregulation (1)), in respect of which the payee does not furnish to the Registrar a duly completed approved form requesting that the liability be enforced under the Act, is not a registrable maintenance liability.

(3) In this regulation, "payee", in relation to a liability, means the person who is entitled to receive payments under the liability.

Conversion of amounts payable under registrable maintenance liabilities

5. (1) Where, under an order or agreement in relation to a registrable maintenance liability, the amount payable is a kind of periodic amount specified in Column 2 of an item in the following table, the rate of payment applicable in respect of a period specified in Column 3 of that item or a subitem of that item is calculated in accordance with the formula set out in that item or subitem in Column 4:

Column 1	Column 2	Column 3	Column 4
Item No.	Kind of periodic amount	Period	Formula for rate of payment
1	daily	(a) week	(a) $PA \times 7 = WR$
		(b) month	(b) $DR \times 30.4375 = MR$
2	weekly	(a) day	(a) $\frac{PA}{7} = DR$
		(b) month	(b) $DR \times 30.4375 = MR$
3	monthly	(a) day	(a) $\frac{PA}{30.4375} = DR$
		(b) week	(b) $DR \times 7 = WR$
4	yearly	(a) day	(a) $\frac{PA}{365.25} = DR$
		(b) week	(b) $DR \times 7 = WR$
		(c) month	(c) $DR \times 30.4375 = MR$

(2) Where, under an order or agreement in relation to a registrable maintenance liability, the amount specified is a periodic amount in respect of a period that is a multiple of one week, the weekly rate of payment is the rate ascertained in accordance with the formula $\frac{PA}{NW}$.

(3) Where, under an order or agreement in relation to a registrable maintenance liability, the amount specified is a periodic amount in respect of a period that is a multiple of one month, the monthly rate of payment is the rate ascertained in accordance with the formula $\frac{PA}{NM}$.

(4) In the calculation of a daily rate under the table in subregulation (1):

- (a) if, upon initial calculation, there is a sixth decimal place that is greater than 4, the fifth decimal place shall be increased to the next highest number; and
- (b) the final calculation shall be made to 5 decimal places.

(5) For the purposes of a formula appearing in this regulation:

DR is the daily rate of payment;

MR is the monthly rate of payment;

NM is the number of months in respect of which the periodic amount is specified;

NW is the number of weeks in respect of which the periodic amount is specified;

PA is the periodic amount; and

WR is the weekly rate of payment.

Prescribed amount—subsection 76 (2) of the Act

6. (1) For the purposes of subsection 76 (2) of the Act, the amount of \$1 is prescribed.

(2) Subregulation (1) does not apply where:

- (a) but for that subregulation, a person would be entitled to be paid an amount under subsection 76 (1) of the Act in relation to a registered maintenance liability; and
- (b) no further amounts are payable to the person in relation to that or any other registered maintenance liability.

Prescribed amount—subsection 78 (3) of the Act

7. For the purposes of subsection 78 (3) of the Act, the amount of \$50 is prescribed.

Recovery of debt

8. (1) For the purposes of paragraph 113 (a) of the Act, a debt that is payable to the Registrar shall be paid:

- (a) in person by cash, bank notes or cheque at any office of a Deputy Registrar; or
- (b) by forwarding by post to a Deputy Registrar at the prescribed office a bank draft, cheque, postal money order or postal order, payable in the State or Territory in which the prescribed office is situated, for the amount of the debt.

(2) In subregulation (1), “prescribed office” means, in relation to a person:

- (a) by whom a debt is payable; and
- (b) whose address for service is within a State or Territory specified in Column 2 of an item in the following table;

the office of the Deputy Registrar specified in Column 3 of that item in that table:

Column 1 Item No.	Column 2 State/Territory	Column 3 Prescribed office
1	New South Wales	Chatswood, N.S.W.
2	Victoria	Dandenong, Vic.
3	Queensland	Brisbane, Qld
4	Western Australia	Perth, W.A.
5	South Australia	Adelaide, S.A.
6	Tasmania	Hobart, Tas.
7	Australian Capital Territory	Chatswood, N.S.W.
8	Northern Territory	Adelaide, S.A.
9	Territory of Norfolk Island	Chatswood, N.S.W.

- (3) Where a person referred to in subregulation (2):
- (a) is an employer required to pay amounts to the Registrar under section 47 of the Act; and
 - (b) maintains a pay centre in more than one State or Territory;

then:

- (c) for the purposes of that subregulation, the address of each pay centre shall be taken to be an address for service in relation to that person; and
- (d) payments relating to a pay centre situated in a State or Territory shall be made at the prescribed office specified in the table in that subregulation in relation to that State or Territory.

Scale of expenses under subsection 120 (2) of the Act

9. (1) For the purposes of subsection 120 (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.

Payment taken to be received

10. (1) Where an amount that is payable under the Act or is paid for the purposes of the Act is paid by post or otherwise to the Registrar or a Deputy Registrar, the payment shall not be taken to have been made until the amount has been received at the office of the Registrar or Deputy Registrar accordingly.

(2) Where an amount that is payable or paid as referred to in subregulation (1) is paid by cheque, the amount of the payment shall not be taken to be received (whether or not a receipt has been given) if the cheque is not honoured on presentation.

Receipts

11. Where a person pays an amount that is payable under the Act, a receipt shall be issued to the person and may be so issued by any person authorised by the Registrar or a Deputy Registrar for that purpose.

Evidence by affidavit

12. In an action for the recovery of a debt due to the Commonwealth under the Act, evidence may be given by affidavit but the court may, if it thinks fit, require any person who gives evidence by affidavit to attend before the court for the purpose of being cross-examined on that evidence.

SCHEDULE

Regulation 9

**EXPENSES TO BE ALLOWED TO PERSON REQUIRED TO ATTEND UNDER
SECTION 120 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.
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NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 25 May 1988.