

Child Support (Assessment) Amendment Regulations 1999 (No. 2)

1999 No. 103

EXPLANATORY STATEMENT

Statutory Rules 1999 No. 103

Issued by the Authority of the Minister for Community Services

Child Support (Assessment) Act 1989

Child Support (Assessment) Amendment Regulations 1999 (No. 2)

Section 164 of the *Child Support (Assessment) Act 1989* (the Act) provides that the Governor-General may make regulations prescribing matters required to give effect to the Act.

The Principal Regulations have been amended as a consequence of amendments made to the Act by the *Child Support Legislation Amendment Act 1998* (the Amendment Act).

The Act makes provision for determining the financial support payable by parents for their children. Where care of a child is shared this may be taken account in determining the annual rate of child support payable.

The Act provides how a parent's entitlement to child support is calculated where a court order or registered parenting plan dealing with the care of a child is in force. A person who has more care than is provided for in a court order or registered parenting plan will be taken to have care only to the level specified in the order or parenting plan. The person who has less care as a result of the contravention will be taken to have care only to the level of their actual care of the child.

There may be circumstances in which parents agree to contravene a court order or registered parenting plan. If the Registrar is satisfied that a person has a reasonable excuse for contravening the order the Registrar will calculate the assessment based on the parents actual level of care.

The new regulations specify those circumstances in which the Registrar will be satisfied that a person has a reasonable excuse for contravening a court order or registered parenting plan.

The Act ensures that paying parents subject to an administrative assessment have a total minimum annual rate of child support payable of \$260. Where there is more than one carer entitled to receive child support from the paying parent the minimum total amount of \$260 will be apportioned amongst the carers according to the number of children in their care. This enables calculation of an **annual rate of child support payable to each** carer.

The new regulations will detail the formula to be used in apportioning the \$260 minimum amount between carers.

A minimum amount of child support will be payable by all paying parents. The minimum amount will be \$260 and that debt cannot be waived by the Registrar.

Instead paying parents will be able to apply to the Registrar to have the minimum amount reduced to nil where they have actual income less than \$260.

The new regulations will prescribe the form which an application for reduction of a liability to nil must take.

Subregulation 12(1) of the Principal Regulations allows the date of application to be that date on which an application is received in either the Child Support Agency, the Australian Taxation Office or the former Department of Social Security.

Subregulation 12(1) has been amended to reflect the change from Department of Social Security to Commonwealth Services Delivery Agency (Centrelink).

The Regulations commence on 1 July 1999.