

Child Support Legislation (Transitional - Western Australia) Regulations 2000 2000 No. 223

EXPLANATORY STATEMENT

Statutory Rules 2000 No. 223

Issued by the authority of the Minister for Community Services

Subject - *Child Support Legislation Amendment Act 1998*

Child Support Legislation (Transitional - Western Australia) Regulations 2000

The purpose of the Regulations is to provide transitional arrangements for the adoption by the Western Australian Parliament of some Commonwealth child support legislation made in 1998.

The Commonwealth child support legislation applies to all children of marriage in Australia. However, the States retain the power to make laws in respect of ex-nuptial children. While most States have referred these powers to the Commonwealth, the Western Australian Parliament has not done so. This means that the Commonwealth child support legislation and subsequent amendments do not apply to ex-nuptial children in Western Australia unless and until that Parliament legislates to adopt the Commonwealth legislation.

The Western Australian Parliament first adopted Commonwealth child support legislation in 1990. Subsequent Commonwealth amendments (up to 1993) have also been adopted. A further Western Australian Act was recently enacted to adopt Commonwealth amendments made in 1995, 1997 and 1998. However, transitional arrangements are necessary to prevent some of the 1998 amendments from flowing through immediately. The most problematic of these amendments relate to the change from using taxable income of two years past in the child support formula to using the most recent taxable income. The transitional arrangements will avoid clients and the administrative system having to cope with three different child support assessments in quick succession.

The Regulations provide that certain of the 1998 amendments do not apply to an administrative assessment for a child support period that starts before 1 January 2001. Also, if an assessment starting on that date were not based on 1999-2000 taxable income, a new assessment could be made on the basis of that income if it were to become available after 1 January 2001, but before 1 June 2001.

The Attachment contains more details about the Regulations.

The Regulations commenced on Gazetta.

ATTACHMENT

DETAILS ABOUT THE CHILD SUPPORT LEGISLATION (TRANSITIONAL - WESTERN AUSTRALIA) REGULATIONS 2000

Background

The Regulations are made under section 5 of the *Child Support Legislation Amendment Act 1998* (referred to in these Regulations as the Commonwealth Amending Act).

The Regulations provide transitional arrangements for the adoption by the Western Australian Parliament of some Commonwealth child support amendments made in 1998. The transitional arrangements avoid customers and the administrative system having to cope with three different child support assessments in quick succession.

Regulation 1 - Name of Regulations

This regulation provides for the name of the Regulations.

Regulation 2 - Commencement

This regulation provides for the Regulations to commence on gazettal.

Regulation 3 - Application

This regulation has the effect of applying the Regulations to the 1998 amendments to the *Child Support Assessment Act 1989* (the CSA Act), as adopted by the Western Australian Parliament most recently.

Regulation 4 - Definition

This regulation provides one definition for the purposes of the Regulations. This is an abbreviated reference for the Commonwealth Amending Act.

Regulation 5 - Transitional - certain items not to apply

This regulation provides that the amendments made to the CSA Act by the specified Schedules to the Commonwealth Amending Act do not apply to an administrative assessment for a child support period that starts before 1 January 2001. The specified Schedules deal with:

- * the child support adjusted formula income amounts;
- * the minimum liability;
- * the adjustment of the child support income base;
- * the assessment on the most recent taxable income;
- * the liable parent's reportable fringe benefits totals; and
- * the entitled carer's reportable fringe benefit totals.

Regulation 6 - Transitional - child support period commencing on 1 January 2001

This regulation essentially reproduces a transitional rule that applied on the commencement of the Commonwealth Amending Act for all other jurisdictions, but updated to deal with Western

Australian child support periods commencing on 1 January 2001 that are now affected by these changes. The main effect of the rule is to convert child support years (the previous basis of the child support scheme) into child support periods (the new basis) for the purposes of regulation 7.

Regulation 7 - Transitional - new assessment when 1999-2000 taxable income figure becomes available

This regulation also reproduces a previously applicable transitional rule in so far as it may apply to a child support period commencing on 1 January 2001. Under the regulation, an assessment for a child support period that starts on 1 January 2001 may be based on 1999-2000 taxable income if available (or, if not, on the previous year's income). If that 1999-2000 taxable income were to become available after 1 January 2001, but before 1 June 2001, a new assessment may be made based on the 1999-2000 taxable income. (If assessments were to be based on 1999-2000 taxable income that became available on or after 1 June 2001, a technical anomaly in the legislation would prevent the use of 2000-01 taxable income when it should logically apply.)