

Child Support Amendment Act 2001

Public Act 2001 No 90
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The Parliament of New Zealand enacts as follows:

- 1 Title**
- (1) This Act is the Child Support Amendment Act 2001.
 - (2) In this Act, the Child Support Act 1991 is called “the principal Act”.

2 Commencement

Except as provided in section 3(5), this Act comes into force on the day after the date on which it receives the Royal assent.

3 Remedial amendments relating to relevant income year for assessments of child support

- (1) Section 2(1) of the principal Act is amended by—
- (a) omitting from paragraph (a) of the definition of the term **last relevant income year** the words “source deduction payments”, and substituting the words “withholding income”;
 - (b) inserting, in their appropriate alphabetical order, the following definitions:

“**income from employment** has the same meaning as in paragraph (a) of the definition of that term in section OB1 of the Income Tax Act 1994, and includes a payment made to a specified office holder (as defined in section OB1 of the Income Tax Act 1994) in respect of the activities of a specified office

“**withholding income** means—

- “(a) income from employment that has a New Zealand source that is subject to the PAYE rules (as defined in section OB1 of the Income Tax Act 1994);
- “(b) interest or a dividend that has a New Zealand source that is subject to the RWT rules (as defined in section OB1 of the Income Tax Act 1994)”.

- (2) Section 29(1) of the principal Act is amended by omitting from paragraph (a) of the definition of the term **child support income amount** the words “source deduction payments”, and substituting the words “withholding income”.
- (3) The heading to section 38A of the principal Act is amended by omitting the words “source deduction payments not available”, and substituting the words “withholding income not available for full income year”.
- (4) Section 38A(1) of the principal Act is amended by omitting the words “source deduction payments”, and substituting the words “withholding income”.
- (5) This section is deemed to have come into force on 1 April 2001 and applies to child support payable for the child support

year that commenced on 1 April 2001 and for subsequent child support years.

- (6) Despite subsection (5), this section does not apply to an assessment for the child support year that commenced on 1 April 2001 if—
- (a) a liable parent objected to the assessment on the ground set out in section 91(1)(a) of the principal Act because the assessment was based on income from the wrong income year and delivered or posted notice of the objection to the Commissioner before 12 June 2001; and
 - (b) the assessment is altered by the Commissioner under section 92(4) of the principal Act pursuant to the objection.

4 Maximum rate of child support

- (1) Section 29(1)(b) of the principal Act is amended by omitting from the definition of the term **child support income amount** the word “twice”, and substituting the words “2.5 times”.
- (2) Section 29(1)(b) of the principal Act is amended by omitting from the definition of the term **inflation percentage** the word “average”.
- (3) Section 38A(2)(b) of the principal Act is amended by omitting the word “twice”, and substituting the words “2.5 times”.
- (4) Section 39(2) of the principal Act is amended by omitting the word “twice”, and substituting the words “2.5 times”.
- (5) This section applies to child support payable for the child support year commencing 1 April 2002 and for subsequent child support years.

5 Minimum rate of child support

- (1) Section 72(1) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
 - “(a) child support under a formula assessment is, in respect of all of the children for whom the parent is liable to pay child support under a formula assessment,—
 - “(i) for the child support year commencing 1 April 2002, \$663:

- “(ii) for the child support year commencing 1 April 2003, \$663 adjusted by the movement in the all groups index number of the New Zealand Consumer Price Index during the 9-month period that ends with 31 December 2002:
- “(iii) for each subsequent child support year, the minimum annual child support rate under this paragraph for the immediately preceding child support year, adjusted by the applicable inflation percentage.”.
- (2) The principal Act is further amended as set out in the Schedule.
- (3) This section applies to child support payable for the child support year commencing 1 April 2002 and for subsequent child support years.
- (4) The new minimum annual rate of child support substituted by this Act does not apply to orders and determinations made on or before the commencement of this Act, or to formula assessments that implement those orders and determinations.
- (5) The new minimum annual rate of child support substituted by this Act applies to orders and determinations made after the commencement of this Act, and to formula assessments that implement those orders and determinations, but only in relation to child support payable on or after 1 April 2002.
- (6) Subsections (4) and (5) do not limit any power to review or vary an order, determination, or formula assessment.

Schedule
Amendments relating to minimum rate
of child support

s 5(2)

Section 29(1)

Repeal paragraph (a) and substitute:

“

“(a) the minimum annual rate under section 72(1)(a); or”.

Section 41(1)

Omit the expression “\$520” and substitute the words “the minimum annual rate under section 72(1)(a)”.

Section 73

Repeal subsection (1)(b) and substitute:

“

- “(b) the person estimates that the gross income from investments (if any) during that period will not—
 - “(i) exceed an average amount per week in that period that is equal to the relevant minimum annual rate of financial support, divided by 52; and
 - “(ii) if the period is 1 or more full child support years in duration, exceed, in a child support year in that period, the relevant minimum annual rate of financial support.”

Insert in subsection (3), in its appropriate alphabetical order:

“**relevant minimum annual rate of financial support** means, in relation to a child support year,—

- “(a) for an exemption from child support payable under a formula assessment or under an order under section 109, the minimum annual rate for that year under section 72(1)(a):
- “(b) for an exemption from any other child support payable under this Act or from spousal maintenance, \$520”.

Section 75(1)(c)

Omit the words “of \$10 per week in a child support year” and substitute the words “amount per week in a child support year that is equal to the relevant minimum annual rate of financial support, divided by 52”.

Section 98

Repeal subsection (1) and substitute:

- “(1) An order made under this Part as to the annual rate of child support must not operate in a child support year so as to reduce that rate below,—

- “(a) for an appeal on, or other order relating to, a formula assessment or an order under section 109, the minimum annual rate for that year under section 72(1)(a); and
 “(b) for all other orders, \$520.”

Repeal subsection (2)(a) and substitute:

- “(a) an order would, but for this section, operate in a child support year so as to reduce the annual rate of child support payable under a formula assessment below the minimum annual rate for that year under section 72(1)(a); and”.

Omit from subsection (2) the words “in relation to each custodian shall be the amount of \$520” and substitute the words “in the child support year for each custodian is the minimum annual rate for that year under section 72(1)(a)”.

Section 110(3)(a)

Omit the words “, but not below \$520, by that amount” and substitute the words “by that amount (but not in a child support year below the minimum annual rate for that year under section 72(1)(a))”.

Section 112(2)(d)(ii)

Omit and substitute:

“

- “(ii) so as to reduce the liability of any person to pay child support in a child support year below the equivalent of an annual rate that is equal to the minimum annual rate for that year under section 72(1)(a).”

Legislative history

12 June 2001	Introduction (Bill 136-1)
21 June 2001	First reading and referral to Social Services Committee
23 August 2001	Reported from Social Services Committee (Bill 136-2)
30 October 2001	Second reading
31 October 2001	Committee of the whole House
1 November 2001	Third reading
6 November 2001	Royal assent
