

CHILD SUPPORT

NEW S L E T T E R

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UP-DATE FROM THE FEDERAL CHILD SUPPORT TEAM

COMMUNICATIONS

In mid June, 1997, Revenue Canada sent information regarding the new tax treatment of child support to approximately 725,000 Canadians who reported paying or receiving child or spousal support. Included in the package was information regarding the Federal Child Support Guidelines, along with the Department of Justice's toll-free telephone number to call regarding the guidelines.

The mail-out generated a flurry of activity for the Child Support Team's information line. For a two-week period following the mail-out, approximately 12,600 callers phoned for information on the child support initiative. Call volume is now declining, but may increase again following the summer holiday period of July and August.

If you would like information on the guidelines, please call 1-888-373-2222. You may also order any of the following publications by writing to the Publications Section,

Child Support Team, Department of Justice, Ottawa, K1A 0H8:

- Child Support Guidelines - "10 things you should know about the Federal Child Support Guidelines (a pamphlet);
- The Federal Child Support Guidelines - A guide to the new approach (28 pages);
- The Simplified Tables (for determining child support) with an instruction sheet.

Please note that there are different tables for each province and territory to take into account different provincial/territorial tax rates. To ensure that we send you the correct table, please tell us where the paying parent lives, whether both parents live in the same province or territory, and the number of children to be supported.

Or, you may visit the Justice Internet site under the Child Support Initiative. The address is:

<http://canada.justice.gc.ca>

In addition, lawyers and judges may request the Federal Child Support Guidelines Reference Manual.

The Child Support Team handles a wide variety of questions from

people calling the Child Support Information Line. Here are a few responses to some of the more frequently asked questions.

NOTE: The following is provided for information only and is not intended to be legal advice.

Can I deduct C.P.P. contributions and E.I. premiums from income?

Answer: No, you can't deduct the premiums that you pay for yourself. However, in rare cases, section 1 of Schedule III provides that you can deduct the amount of C.P.P. contributions and E.I. premiums that you pay on behalf of employees who work for you. A careful reading of section 8 of the *Income Tax Act* makes this clear.

Do I use the "Total Income" in my most recent tax return to apply the tables?

Answer: As stated on pages 16 and 17 of *The Federal Child Support Guidelines: A guide to the new approach*, the Guidelines require income to be determined using the most recent information.

If you just want to get a rough idea of your income for the guidelines, the Total Income (line 150) of your most recent federal income tax return may be a good start.



However, if someone received an increase or decrease in income since filing the last federal tax return, the person's income will be different. Since the most recent income information is to be used, the person should use their pay stub or other documentation as the basis for calculating the table amount.

How is support calculated in shared custody situations?

Answer: Section 9 of the Guidelines lists the factors a court must consider in determining the amount of child support in shared custody situations. There is no direction to the court regarding how these factors should apply. The court has discretion in this case.

Now that the guidelines are in force, can someone with a child support order under the *Divorce Act* apply for a variation?

Answer: Yes, under section 17(4) of the *Divorce Act*, a spouse can apply for a variation if there is a change in circumstances. Section 14 of the guidelines provides for the changes in circumstances. This includes paragraph 14(c) which indicates that for an order made before May 1, 1997, the coming into force of section 15.1 of the Act (on May 1, 1997) is a change in circumstances.

LEGAL POLICY

Since the Federal Child Support Guidelines came into effect on May 1, 1997, the Legal Policy Section has been busy reviewing caselaw to

determine whether there are any difficulties in applying the new laws which could require amendments to the guidelines.

RESEARCH

Within five years of the coming into force of the amendments to the *Divorce Act* (i.e. by March, 2002), the federal Department of Justice must provide Parliament with the results of a comprehensive review of the provisions and operations of the Federal Child Support Guidelines and the determination of child support under this Act. To this end, and in close consultation and collaboration with designated officials from the provinces and territories, the Research Section of the Child Support Team is developing a comprehensive program of socio-legal research to support this review.

The Research Section will be required to monitor the guidelines, assess the enhanced enforcement measures, and conduct a major study on reasons people default on support orders. It will also provide support for the National Maintenance Enforcement Survey, and monitor and participate in the development and analysis of Statistics Canada surveys and databases that relate to child support in particular, and family issues in general.

A framework for public consultation on the research plan will be completed by the fall of this year.

PROVINCIAL/ TERRITORIAL CORNER

Every province and territory is implementing the child support reforms with funds available from the federal government. Here is what two provinces are doing.

MANITOBA

Manitoba's new Child Support Resource Centre opened in Winnipeg on June 16, 1997. The Centre provides legal and court information to parents about child support guidelines and the recent changes to the *Income Tax Act* affecting child support.

Lawyers are available at the Centre by appointment to provide information to parents about the new laws and how they affect new and existing orders and agreements for child support. The lawyers help parents make informed decisions about whether they need to change an existing order or agreement and whether they need to retain a lawyer for this. Court staff at the Centre assist unrepresented parents to prepare and file variation applications.

The Centre also offers a parent education program, "For the Sake of the Children", to help parents understand the effects of separation and divorce on children. Currently presented once a week, by the fall the program will be offered two to three times a week and will be expanded to provide more



information on child development, and the legal and financial issues involved, including child support.

Manitoba Justice Department lawyers have given numerous presentations on the guidelines over the past few months, including continuing legal education programs with the Law Society of Manitoba in Winnipeg, Brandon, and Thompson; training sessions with Legal Aid lawyers and paralegals, Family conciliation staff, and Child Support Resource Centre legal staff; as well as participating in a Law Day program organized by the Manitoba Bar Association.

NOVA SCOTIA

A Provincial Steering Committee, comprised of representatives from the Family and Supreme Court Judiciary, Legal Aid, the Canadian Bar Association, Public Legal Education, and the Departments of Community Services and Justice, among others, has been meeting for the past year to prepare for implementation of the Federal Child Support Guidelines in Nova Scotia. Some activities undertaken to date include the following:

Public Communications

Nova Scotia has implemented a provincial toll-free information line on child support guidelines (1-800-665-9779 or 455-3135 in the Halifax Metro area), operated in partnership with Public Legal Education (PLE), from which callers can receive information/publications and can also access

the Lawyer Referral Service for legal advice. This supplements the federal 1-888 line.

Information kits have been distributed widely across the province to ensure parents are informed of the guidelines. Fact sheets and other materials, public information sessions, and child support education sessions for separating and divorcing parents are under development.

Training

Training was provided to staff of the Nova Scotia Department of Community Services, courts, Maintenance Enforcement Program, Public Legal Education, and others.

The Canadian Bar Association (Family Division) held a one day training session in Halifax in April on the guidelines which was well attended.

Legislation

The province is considering amendments to the *Family Maintenance Act* to adopt the Federal Child Support Guidelines to apply to unmarried and married parents who separate (but do not divorce).

In the absence of legislation, the Family Court Rules Committee has issued a Practice Memorandum No. 7 which states that "for the purposes of determining the reasonableness of an award of child support under the *Family Maintenance Act*, the Judge shall be at liberty and is encouraged to refer to the complete

Federal Child Support Guidelines..."

Enhancement of Court Services

Additional staff will be hired for court sites across the province to assist with the child support application process and provide information and assistance to the public. Self-help application kits will be developed for parents who wish to apply for or change their child support agreements/orders.

For information on other provincial/territorial activities, please call the following number within each province or territory:

New Brunswick	1-888-236-2444
P.E.I.	1-800-240-9798
Nova Scotia	1-800-665-9779
Halifax	902-455-3135
Newfoundland	1-709-729-1831
Quebec	1-800-363-1363
Ontario	1-800-980-4962
Manitoba	1-204-945-3572
Saskatchewan	1-888-218-2822
Alberta	
Calgary	403-297-6600
Edmonton	403-415-0404
Operator	403-310-0000
British Columbia	1-888-216-2211
Vancouver	604-660-2192
Yukon	1-800-661-0408
Whitehorse	403-667-5437
N.W.T.	1-800-661-0798

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