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SPECIAL REPORT

Child Support (Pass On) Acts Amendment Act 2023

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This special report provides early information on the passing on of child support, and the treatment of those payments for the purpose of determining entitlement to benefits and other assistance under the Social Security Act 2018, ahead of an upcoming edition of the *Tax Information Bulletin*.

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Overview of the amendments

Amendments overview

The amendments made under the Child Support (Pass On) Acts Amendment Act 2023 ensure that beneficiaries receiving a sole parent rate of main benefit are not treated differently from other beneficiaries. From 1 July 2023, child support collected by Inland Revenue will be paid to those beneficiaries, and the Ministry of Social Development (MSD) will then treat these payments as income when determining entitlement to a benefit or other assistance.

Previously, parents and carers who received a sole parent rate of main benefit were required to apply for child support to be assessed and collected by Inland Revenue. Child support payments collected by Inland Revenue on behalf of these sole parent beneficiaries were retained by the government to offset the cost of their benefits. Once the cost of their benefit had been offset, any excess was paid to the beneficiary. Excess payments were not treated as income by MSD when determining the sole parent's benefit entitlement. However, other beneficiaries (such as repartnered beneficiaries) had their child support passed on. This created inequity and inconsistency between how sole parent beneficiaries and other beneficiaries were treated in the benefit system.

To correct this, the obligation for sole parent beneficiaries to apply for child support to be assessed and collected by Inland Revenue has been removed. Any child support payments collected by Inland Revenue will be passed on to sole parent beneficiaries. These changes do not apply to Unsupported Child's Benefit beneficiaries.

MSD will treat the child support payments passed on by Inland Revenue as income when determining the beneficiary's eligibility to, or rate of, benefit. Monthly child support will be spread across four or five weeks. This process will be automated using information provided by Inland Revenue under its approved information sharing agreement.

Related to the amendments outlined above, formula assessments of child support payable by liable parents are now costs that can be considered for Temporary Additional Support and Special Benefit purposes.

The Child Support (Pass On) Acts Amendment Act 2023 implements the first of two phases – passing on child support and treating most child support payments as income. The second phase would implement rules for how child support payments are treated as income in rarer cases and may come into effect at a later date.

Effective date

All the proposed amendments take effect on 1 July 2023.

Amendments to the Child Support Act 1991

Passing on child support

Sections 141 to 143 of the Child Support Act 1991

Child support assessed and collected by Inland Revenue for parents or carers receiving a sole parent rate of main benefit is no longer retained and is passed on to the receiving carer.

Background

Child support is money paid by parents who do not live with their children or who share care with someone else. The money is to help with the cost of raising a child. One of the main objects of child support is to ensure children are maintained by their parents.

Parents and carers receiving a sole parent rate of main benefit were required to apply to Inland Revenue for a formula assessment of child support, and child support payments collected by Inland Revenue on their behalf were retained by the government to offset the cost of their benefit.

Once the full cost of their benefit was offset, any remaining child support payment was paid to them.

These settings did not apply to other beneficiaries. For example, parents on a couple's rate of main benefit who have children in their care from a previous relationship receive any child support payments in full, with none of it retained by the government.

Key features

The amendments ensure child support payments collected by Inland Revenue for parents or carers receiving a sole parent rate of main benefit are no longer retained by the government. Instead, child support payments are passed on in the same way they are passed on to other beneficiaries.

Requirement to apply for child support through Inland Revenue removed

Sections 9, 12 and 27 of the Child Support Act 1991

Parents receiving a sole parent rate of main benefit are no longer required to apply for formula assessed child support through Inland Revenue.

Background

Parents and carers receiving a sole parent rate of main benefit were required to apply for a formula assessment of child support through Inland Revenue, unless one of the grounds for exemption (such as a risk of violence) applied.

This requirement did not apply to other beneficiaries with children or other parents outside the benefit system.

Key features

The requirement that parents receiving a sole parent rate of main benefit apply for child support has been removed. This enables carers to enter the type of child support arrangement that best meets their needs – whether this is a formula assessment, a voluntary agreement, a private arrangement, or no child support arrangement at all.

Amendments do not apply to people receiving an Unsupported Child's Benefit

Sections 2, 50, 96Y, 122, 131, 152B and 179A to 180A of the Child Support Act 1991

The amendments that pass on child support payments and remove the requirement to apply for child support through Inland Revenue do not apply to people receiving the Unsupported Child's Benefit (UCB).

Background

The UCB is administered by MSD for children living with caregivers outside the State care system. It is a payment that helps caregivers who are supporting children whose parents cannot care for them because of a family breakdown.

Caregivers who receive the UCB are required to apply for child support with Inland Revenue. Any child support payments made by liable parents are retained to offset the cost of the recipient's UCB.

Key features

The amendments that pass on child support and remove the requirement to apply for formula assessed child support do not apply to UCB recipients.

Passing on child support for caregivers receiving the UCB is being considered by Oranga Tamariki as part of the long-term work to reform the system of financial assistance and support for caregivers.

These reforms intend to transform the caregiver financial assistance system and passing on child support will be considered in the context of the new model.

The relevant sections in the Child Support Act 1991 that applied to a "social security beneficiary" have been amended to only refer to a "UCB beneficiary". This ensures that those sections continue to apply to people receiving the UCB.

Amendments to the Child Support Rules 1992 and Family Court Rules 2002

Redundant forms and rules

Rules 13, 19 and schedule 1 of the Child Support Rules 1992 and rules 21, 258, 260 and schedule 3 of the Family Court Rules 2002

The prescribed forms and other rules relating to urgent maintenance orders in the Child Support Rules 1992 and Family Court Rules 2002 are revoked.

Background

The Child Support Amendment Act 2021 revoked the provision of the Child Support Act 1991 that allowed a person to apply to the Family Court for an urgent maintenance order if they had made an application for child support to Inland Revenue, but child support had not yet been assessed.

This provision was originally included in the Child Support Act 1991 to cover the transition when child support moved to Inland Revenue in case there were unforeseen circumstances that meant Inland Revenue was unable to assess child support. However, the prescribed forms and other rules relating to urgent maintenance orders in the Child Support Rules 1992 and Family Court Rules 2002 were not revoked at the same time as the provision.

These forms and other rules have been revoked because they are redundant.

Amendments to the Social Security Act 2018 and Social Security Regulations 2018

Use of automated electronic systems

Sections 113, 296 and new Subpart 5A of Part 6 of the Social Security Act 2018 and regulations 207, 208A and 208B of the Social Security Regulations 2018

The process of considering child support payments as income is automated. Benefit debt arising from an error in the information shared by Inland Revenue, or the processing of that information by MSD is not recoverable and will be written off.

Background

Previously, any child support remaining after the full cost of a sole person's benefit was recovered was paid to the parent or carer. This child support was only income for Temporary Additional Support, Special Benefit, and Childcare Assistance.

Now that child support is no longer retained, the child support payment is income for benefits and other assistance. This is consistent with how child support paid to other beneficiaries is treated.

People receiving a benefit or other assistance have been required to tell MSD about any income they receive. MSD staff would then determine the period for which the income affects any benefits they receive and apply the income manually over that period.

Key features

The amendments allow for automation of the process to treat child support payments as income for benefits and other assistance. Automation is supported by Inland Revenue sharing child support information with MSD under their Approved Information Sharing Agreement.

The sharing of child support information by Inland Revenue means that a person's obligation to declare their income to MSD is satisfied unless the information shared is incorrect.

In the event there is a systems failure (that leads to a disruption to the disclosure of information to MSD that is used in or by the system) or specified individual errors (as set out in section 304A of the Social Security Act 2018) in the processing of the child support information provided by Inland Revenue, any resulting overpayment of benefit (debt) is not recoverable from the beneficiary and will be written off.

New definitions: “information share child support payment” and “general provisions child support payment”

Schedule 2 of the Social Security Act 2018

New definitions for “information child support payment” and “general provisions child support payment” are inserted to enable the new income-charging rules to be applied.

Background

Treating certain child support payments as income under new income rules means it is necessary to specify the child support payments the new rules apply to because there are scenarios where it is not appropriate for the child support payments to be spread as income on a forward-looking basis.

Key features

The new income rules will apply to an “information share child support payment” only (see [“Child support payments treated as income”](#) below). This is child support that is:

- money received by the person, and
- not a general provisions child support payment.

A “general provisions child support payment” will continue to be treated under the general income rules where appropriate. This is a payment that is money received by the person that is child support and is all or any of the following:

- paid in a manner other than by direct credit to a bank account
- paid to a person before they apply for and are granted a benefit or other assistance
- paid under a formula assessment paid after the full cost of a person’s UCB has been recovered
- paid under a voluntary agreement paid to a person receiving a UCB
- paid under an order made by the Family Court
- foreign child support payment

- paid to a person receiving a specified New Zealand benefit while they are not living in New Zealand
- payments relating to a child support period before 1 July 2023
- child support about which Inland Revenue has not provided information to MSD, and
- any child support payments specified by regulations made under section 418(1)(na).

New section 418(1)(na) allows newly identified payment scenarios to be added to the definition of general provisions child support payment via regulations. This allows those child support payments to be treated correctly and for them to be classified in a timely manner.

Child support payments that do not come under either definition would not be income for a benefit or other assistance. For example, child support that two parents owe each other that has been netted off and is no longer payable.

Child support payments treated as income

Clauses 7A–8, 11–13, 15 and Part 3A of schedule 3 of the Social Security Act 2018

New income rules apply to “information share child support payments”. The income will be spread across the next four or five weeks (depending on the number of benefit payments in a one-month period after the payment is received and whether a weekly or fortnightly benefit is being received).

“General provisions child support payments” will continue to be treated under MSD’s existing general income rules.

Background

New income rules apply to information share child support payments (see “[New definitions: “information share child support payment” and “general provisions child support payment”](#)” above).

Child support is a monthly payment, whereas benefit payments are paid weekly or fortnightly. Under the general income rules, MSD has a discretion to determine the period to which any income relates. This means that when MSD is made aware of a person’s income, they may determine that it relates to a past or future period. If MSD determines the income relates to a past period for which the benefit has already been paid, this can result in benefit debt for the beneficiary.

Key features

The new income rules treat information share child support payments as income on a weekly basis.

This replaces how MSD treats child support payments from Inland Revenue as income for all beneficiaries, not just parents receiving a sole parent rate of main benefit.

General provisions child support payments will continue to be treated as income under MSD’s existing general income rules.

Information share child support payments

Child support payments collected by Inland Revenue are based on an annual liability. This annual amount is then divided equally into 12 monthly payments due by liable parents. In contrast, benefits are paid on either a weekly or fortnightly basis.

If the monthly child support payment was only treated as income in the week or fortnight it was received, the payment may result in more benefit abatement than if the payment was spread over the length of time it is intended to represent.

The new income rules take the monthly child support payment and turn it into weekly amounts by spreading the payment evenly across the following four or five weeks after the payment is received. This ensures that entitlement to a benefit is assessed in a way that is consistent with the number of weeks the child support payment is intended to support the child.

This means that benefit entitlement will be assessed based on the financial resources available to the receiving carer and debt for families is minimised by ensuring child support payments do not impact benefits that have already been paid.

Example 1: Spreading of income

Jo is receiving a sole parent rate of benefit. Her ex-partner is paying child support of \$180 each month. Previously, the government retained all the child support to offset the cost of Jo's benefit. Child support for periods from July 2023 will be passed on to Jo instead.

The child support for August 2023 is due to be paid to Inland Revenue by 20 September, and Inland Revenue passes the payment on to Jo. Rather than treating the child support as income for August, or as income in the week it is received (which would only abate Jo's benefit in that week), the payment is treated as \$36 of income in each of the following five weeks.

This is different from the general income rules in the Social Security Act 2018. Those rules provide MSD with a discretion to determine the period the income is taken into account for benefit purposes.

How child support will be treated as income for benefit purposes

Whether a person is receiving their benefit weekly or fortnightly will impact the number of weeks their child support payment is treated as income as well as the start and end dates of the income treatment.

Weekly benefits

When the payment starts to be treated as income

The period of entitlement for weekly benefits runs from Monday to Sunday. The benefit payment is made to the beneficiary in the following week.

A child support payment starts to be income from the Monday of the week that the payment is treated as being received (referred to in the Social Security Act 2018 as the “deemed receipt”). A payment is treated as received on the business day after Inland Revenue notifies MSD that the payment has been made to the receiving carer.

Example 2: When payment starts to be income

Inland Revenue notifies MSD that an information share child support payment has been made to a receiving carer on 22 August 2023. The payment would be treated as being received on 23 August (being one business day after Inland Revenue notifies MSD the payment has been made). The payment would start to be treated as income for benefit purposes on 21 August – the Monday of the week the payment is treated as being received.

Mon	Tue	Wed	Thu	Fri	Sat	Sun
21	22	23	24	25	26	27
Payment starts being income	Payment made and MSD notified	Date treated as being received				

If notification is sent to MSD on a Friday, the payment would be treated as being received on the following Monday, and the payment would start to be treated as income on that same Monday.¹

¹ If the day after the payment is made is a public holiday, the payment would be treated as received on the next business day.

Mon	Tue	Wed	Thu	Fri	Sat	Sun
21	22	23	24	25 Payment made and MSD notified	26	27
28 Date treated as being received Payment starts being income	29	30	31	1	2	3

When the payment stops being treated as income

When a child support payment stops being income for weekly benefits depends on whether it is an “in-cycle payment” or an “out-of-cycle payment”.

An in-cycle payment is any child support payment made by Inland Revenue to a receiving carer on the day that is two business days after the 19th of the month. For example, if the 19th of a month is a Saturday, any child support payment that Inland Revenue pays to a receiving carer on Tuesday 22nd would be an in-cycle payment. In-cycle payments generally represent a child support payment that is on time. However, any late child support payments made on this day will also be treated as an in-cycle payment for benefit purposes.

Any child support payments made to a receiving carer on any other day of the month that is not the in-cycle payment date is an out-of-cycle payment. Using the example in the previous paragraph, if the payment was made on Monday 21st or Wednesday 23rd, the payment would be an out-of-cycle payment. Inland Revenue does not make child support payments on non-business days such as weekends or public holidays. Out-of-cycle payments represent payments for an earlier child support period that have not been paid by the due date.

When an in-cycle payment stops being treated as income

For in-cycle payments, the child support payment stops being income on the Sunday before the “expected date of the next in-cycle payment” – this is the third business day after the

19th of the following month. This rule is designed to ensure that an in-cycle payment stops being treated as income before the next payment starts to be treated as income.

Example 3: When an in-cycle payment stops being income

Paul is a receiving carer and is receiving a sole parent rate of main benefit. On 21 June 2024, Inland Revenue makes a \$400 child support payment to Paul's bank account and notifies MSD of the payment.

The payment is treated as being received one business day after MSD is notified. In this case, because 21 June 2024 is a Friday, the payment is treated as being received on Monday 24 June. The child support starts being income on the Monday of the week the payment is treated as being received, which is also 24 June.

The expected date of the next in-cycle payment is the third business day after 19 July, which is Wednesday 24 July. The child support payment therefore stops being income on Sunday 21 July, being the Sunday before the expected date of the next in-cycle payment.

Therefore, the child support payment is income from 24 June to 21 July.

There are four weekly benefit payments between these dates. Therefore, the child support payment of \$400 is divided by four. MSD will treat \$100 of child support as Paul's income for each week during this period.

Mon	Tue	Wed	Thu	Fri	Sat	Sun
17	18	19	20	21 In-cycle payment made and MSD notified	22	23
24 Date treated as being received Payment starts being income	25	26	27	28	29	30
1	2	3	4	5	6	7

8	9	10	11	12	13	14
15	16	17	18	19	20	21 Payment stops being income
22	23	24 Date we expect the next payment to be treated as received	25	26	27	28

When an out-of-cycle payment stops being treated as income

An out-of-cycle child support payment stops being income on the Sunday before the date that is the same date in the next calendar month as the deemed receipt date of the payment.

Example 4: When out-of-cycle payments stops being income

Inland Revenue makes a child support payment of \$100 on 8 November 2023 to Maggie. This is an out-of-cycle payment as the payment is not made on the in-cycle payment date of 21 November (two business days after 19 November). The payment is treated as being received on the next business day, which is 9 November.

The payment starts being income from the Monday of the week the payment is treated as being received – 6 November.

The same date in the next calendar month as the deemed receipt date of the payment is 9 December. The payment stops being income on the Sunday before this date – 3 December. If the same date in the next calendar month is a Sunday, the payment still stops being income on the Sunday the week before this date.

Therefore, the period the child support payment would be treated as income would start on 6 November and end on 3 December.

There are four benefit payments between these dates. Therefore, the child support payment of \$100 would be divided by four. MSD would treat \$25 of child support as Maggie’s income for each week during this period.

Mon	Tue	Wed	Thu	Fri	Sat	Sun
6 Payment starts being income	7	8 Out-of-cycle payment made and MSD notified	9 Date treated as being received	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	1	2	3 Payment stops being income
4	5	6	7	8	9 Same day in the following month	10

If the date in the next calendar month does not exist, the “same” date will be the 1st of the following month.

Example 5: Out-of-cycle payments – no date in the next calendar month

A child support payment is treated as being received on 31 August. As there is no 31 September, the “same” date would be 1 October. The rest of the rules for treating child support as income would apply as described above.

Fortnightly benefits

The period of entitlement for fortnightly benefits runs from Wednesday to Tuesday for two weeks. The benefit payment is made to the beneficiary in the second week of the fortnightly period.

When a child support payment starts to be income depends on whether the child support is treated as being received in the first week or the second week of the fortnight. A payment is treated as received on the business day after Inland Revenue notifies MSD that the payment has been made to the receiving carer.

If the payment is treated as being received in the first week of a fortnight, the payment would be treated as income from the Wednesday on or before the payment is treated as being received.

Example 6: Fortnightly benefits – receipt in the first week

	Wed	Thu	Fri	Sat	Sun	Mon	Tue
Week 1	16 Payment starts being income	17	18 Payment made and MSD notified	19	20	21 Date treated as being received	22
Week 2	23	24	25	26	27	28	29

If the payment is treated as being received in the second week of a fortnight, the payment would be treated as income from the Wednesday following the date the payment is treated as being received – that is, the beginning of the next fortnight.

Example 7: Fortnightly benefits – receipt in the second week

	Wed	Thu	Fri	Sat	Sun	Mon	Tue
Week 1	16	17	18	19	20	21	22
							Payment made and MSD notified

Week 2	23 Date treated as being received	24	25	26	27	28	29
Week 1 (next pay period)	30 Payment starts being income	1	2	3	4	5	6

If a person is paid their benefit fortnightly, the child support payment is treated as income for four weeks only. The child support payment is divided by four to get the weekly income amount. Therefore, when a child support payment is made, MSD will work out when the payment will start to be income and spread the child support payment across the next two fortnightly benefits. Whether a payment is an in-cycle or out-of-cycle child support payment is not relevant when benefits are paid fortnightly.

Example 8: Fortnightly benefits

Kahla receives a fortnightly benefit. One of her benefit payments is for the fortnight from 16 August to 29 August 2023.

Inland Revenue makes a \$400 child support payment to Kahla on 17 August. The payment is treated as received on the next business day – 18 August.

As the payment is treated as received in the first week of the fortnight (16 August to 22 August), the payment is income from 16 August.

The child support payment would be treated as income across two fortnight benefit periods. MSD would treat \$100 as income for each week in the fortnight from 16 August to 29 August, and \$100 for each week in the fortnight from 30 August to 12 September.

	Wed	Thu	Fri	Sat	Sun	Mon	Tue
Week 1	16 Payment starts being income	17 Payment made and MSD notified	18 Date treated as being received	19	20	21	22

Week 2	23	24	25	26	27	28	29
Week 1 (next fortnight)	30	31	1	2	3	4	5
Week 2 (next fortnight)	6	7	8	9	10	11	12 Payment stops being income

Transferring between different benefit frequencies

When a beneficiary transfers from a weekly benefit to a fortnightly benefit, or vice-versa, the above rules could sometimes result in their benefit being abated more than intended.

The amendments include a limited discretion that allows MSD to treat the child support payment as income over a different number of weeks. The intent is for the income to be treated as close as possible to the prescribed rules.

However, sometimes a beneficiary may transfer to a benefit with a different payment frequency part way through the period. This means a child support payment could start being income before the new benefit commences. In those circumstances, the beneficiary would not be paid the correct amount of benefit. MSD is not able to rectify the incorrect payment using the discretion outlined above.

The amendments therefore also exempt child support payments from being income for benefit and other assistances when all of the following occur:

- a beneficiary transfers from a weekly benefit to a fortnightly benefit or vice versa
- the child support payment is treated as being received on or after the day of the new benefit, and
- the child support payment is treated as income before the day of the new benefit.

However, this exemption does **not** apply to information share child support under the Public and Community Housing Management Act. MSD will continue to have discretion to assess whether information share child support is assessable income, or a cash asset, for social housing and income-related rent, as no automated charging is occurring.

Example 9: Transferring between benefits – child support exemption

Barry moves from a fortnightly benefit to a weekly benefit on Tuesday 17 October 2023.

Inland Revenue notifies MSD of a child support payment on Thursday 19 October. The payment would be treated as received on Friday 20 October.

If Barry was on a weekly benefit for the whole period, his child support income would have been treated as income from Monday 16 October. However, Barry’s weekly benefit did not begin until Tuesday 17 October, which means this child support payment would be treated as income before the day the new benefit starts.

The child support payment received by Barry is exempt income and will not be income for benefit purposes.

Mon	Tue	Wed	Thu	Fri	Sat	Sun
16	17	18	19	20	21	22
Payment would normally start being income	New weekly benefit begins		Payment made and MSD notified	Date treated as being received		

How child support payments are treated in specific situations

Temporary break in benefits

Information share child support payments will continue to be treated as income even when there is a temporary break in the receiving carer’s assistance and they resume receiving an assistance in the same income-charging period (that is, in the four- or five-week period the child support is income for). This may be the resumption of the assistance they were receiving prior to the break, or they may be paid a new type of assistance.

The temporary break in the receiving carer’s assistance may be for any reason, whether it is suspended, expired or cancelled.

Example 10: Temporary break in benefits

Tama receives an information share child support payment that is income over four weeks from 25 September to 22 October. On 5 October, Tama's benefit is suspended because he temporarily leaves New Zealand.

Tama returns to New Zealand on 10 October and his benefit resumes.

Tama's information share child support payment continues to be income while he is overseas, but his benefit is suspended during this time, so this income does not affect his entitlement.

Child support received during a benefit suspension or expiry

In the previous scenario, information share child support payments received before a temporary break in a person's assistance continue to be income during the temporary break to ensure the correct amount of child support is income if and when the assistance resumes.

For the same reason, information share child support payments received during a temporary break continue to be income so that the correct amount of child support is taken into account when the assistance resumes.

This will only apply when the assistance is suspended or expired. This is because a cancelled assistance is not an active record with MSD so the child support payment information provided by Inland Revenue cannot be matched to this client.

Example 11: Child support received while an assistance is suspended or expired

Tama receives Jobseeker Support. On 5 October, he temporarily leaves New Zealand and MSD suspends his benefit.

Tama receives an information share child support payment on 11 October, while his benefit is suspended. In line with the new income rules, MSD will divide this child support and allocate the payment as income across the next four weeks till 5 November.

Tama returns to New Zealand on 17 October and his Jobseeker Support resumes. Because the new income rules are applied to Tama's child support while his assistance was suspended, MSD can apply the correct amount of child support income to his assistance.

General provisions child support payments

Child support paid to UCB beneficiaries and mixed child support payments

UCB excess (the amount of child support paid to the receiving carer after the cost of their benefit has been recovered) is only income for Temporary Additional Support, Special Benefit and Childcare Assistance. This is because the cost of the UCB has been recovered by retaining child support.

A “mixed child support payment” refers to when a receiving carer is paid child support and the payment is for a child for whom UCB is paid and another child for whom UCB is not paid (and so child support is not retained). It is not possible to determine the amount of the payment that relates to each child to apply different income rules to the payment. Therefore, MSD will treat the entire child support payment as a UCB excess. This treatment is to ensure the person is not negatively impacted.

Because mixed child support payments would have only been income for some benefits, it is not appropriate to apply the new income rules.

Example 12: Child support payments for more than one child when UCB is paid for some of those children

Hayden is assessed to pay \$200 a month of child support to Jess for Oliver, for whom Jess is also receiving a UCB.

Hayden is also assessed to pay Jess \$200 a month of child support for Liam. Jess is not receiving UCB for Liam.

This month, Hayden only pays \$280 instead of the full \$400. The entire child support payment would be treated as if it were UCB excess. This means the \$280 paid by Hayden would only be treated as income for determining Jess’s entitlement to Temporary Additional Support, Special Benefit and Childcare Assistance.

Other general provisions child support payments

Court-ordered child support payments

Payments ordered by a Family Court and foreign child support payments will continue to be treated as income under the general income rules, which means these payments will be processed manually and MSD will have discretion over which periods to allocate these payments to.

This is because the discretionary rules are considered more appropriate for determining the relevant periods for which these payments should be treated as income.

Backdated benefit payments

An information share child support payment is excluded from being income if the beneficiary has applied for a benefit, and that benefit is backdated to an earlier date, but they were not receiving income-tested assistance from MSD at the time Inland Revenue makes the child support payment to them.

However, this exemption will **not** apply to information share child support under the Public and Community Housing Management Act 1992. MSD will continue to have discretion to assess whether information share child support is assessable income, or a cash asset, for social housing and income-related rent, because no automated charging is occurring.

Example 13: Backdated benefits

Jack receives a child support payment on 6 September 2023. He was not receiving any benefit or assistance from MSD at the time.

Jack decides to apply for financial assistance and does so on 20 September. MSD determines that Jack was entitled to Sole Parent Support from 30 August.

Although Jack received a child support payment on 6 September 2023, and his benefit commenced on 30 August, Jack received this payment before MSD's decision to grant him Sole Parent Support. This child support payment is therefore not income and does not abate his Sole Parent Support.

Child support received from 20 September will be income (unless other exemptions apply) and may abate Jack's Sole Parent Support.

Limited ability to review child support income

Sections 304, 304A and 418 of the Social Security Act 2018

MSD's power to review a past benefit period does not apply to information share child support payments unless a specified circumstance applies.

Background

MSD has broad powers that allow it to review a person's benefit entitlement. This power is necessary for MSD to ensure beneficiaries receive their full and correct entitlement.

Child support amounts assessed by Inland Revenue may change. This may be due to a change in either parent's circumstances coming to light after the fact. In such cases, MSD ordinarily uses its broad powers to review the receiving carer's benefit. However, such reviews increase income uncertainty for beneficiaries and contribute toward families incurring benefit debt.

Key features

The use of MSD's review power for child support payments is limited to specified scenarios. This ensures child support payments are almost always spread forward, which reduces the likelihood of debt, and ensures that child support payments are treated as income in a way that best reflects money that the beneficiary has available.

Example 14: Limited ability to review

Elaine was receiving child support for her two children, Chloe and Claire. When Chloe left her care, Elaine did not tell Inland Revenue immediately. When she finally told Inland Revenue, her child support was recalculated from the date Chloe left her care. Elaine now has a child support debt.

Despite Elaine's child support assessment being reduced, MSD will not go back and change the amount of child support that was previously treated as income for Elaine. This is because Elaine still received and had use of the amount of child support that was treated as income at the time.

However, if Elaine's circumstances result in her child support assessment being increased, the increased child support will only be income when it is received. MSD will not retrospectively review her benefit for periods the child support relates to.

However, there are circumstances under which MSD should be able to review child support income for a past period. Section 304A sets out the circumstances under which MSD is able

to review child support income and amend the amount that was previously treated as income:

- Inland Revenue makes a payment of child support to a beneficiary, and MSD is later notified either by the beneficiary or by Inland Revenue that the beneficiary has not received the payment or not received it by the deemed receipt date.
- MSD is satisfied, in exceptional circumstances, that a person cannot access their child support payment.
- An error has occurred in the administration of how a child support payment has been treated as income. These include situations where the information shared is incorrect due to Inland Revenue error, or where the information is read incorrectly by MSD's system or was input incorrectly due to human error.
- A beneficiary has been incorrectly identified or is not identified at all as the proper recipient of the payment.
- MSD receives the information shared by Inland Revenue late, or the information is provided late.
- When a beneficiary has died and they receive a child support payment after their death, because a beneficiary's benefit entitlement cannot change after they have died. This would allow MSD to amend a beneficiary's entitlement as necessary.

Example 15: Circumstances where MSD will review

Barret receives \$200 child support each month. One month, Inland Revenue makes a payment of child support to Barret's bank account. However, an issue with the bank's processes means Barret did not receive his child support.

Because Inland Revenue has notified MSD of the payment, MSD treats Barret as having received income of \$50 per week for the next four weeks.

Barret notifies MSD that he has not received his child support. After confirming this, MSD can go back and remove the child support income that is on his record. Once MSD has confirmed that the payment has been processed by Barret's bank, the child support income will be added to his record from when it is processed.

New review grounds can be added via regulations if they are identified. This allows new scenarios to be reviewed in a timely manner.

Deprivation of income

Clauses 16 and 17 of schedule 3 of the Social Security Act 2018

A person choosing not to enter into a child support arrangement or to cancel an existing arrangement is not considered to be depriving themselves of income.

Background

One of the principles underlying the Social Security Act 2018 is that people should use the resources available to them before seeking financial support. When someone has changed their position to put themselves at a financial disadvantage, and this leads to them qualifying for assistance, or assistance at a higher rate, this is considered “deprivation”. Deprivation can apply regardless of whether this was intentional.

When MSD is satisfied that deprivation has occurred, it may refuse to grant a benefit, cancel or reduce a benefit already granted, or grant a benefit at a reduced rate.

Key features

The requirement for parents receiving a sole parent rate of main benefit to apply for child support through Inland Revenue has been removed. Therefore, a parent newly eligible for a benefit may choose not to apply for child support. In addition, existing beneficiaries who previously had to apply for child support through Inland Revenue may choose to cancel their child support. Treating these decisions as deprivation would defeat the purpose of the proposed policies.

A person choosing not to apply for child support, or to cancel an existing child support arrangement, will not be considered to be depriving themselves of income.

This exclusion applies to all forms of child support, including private arrangements that Inland Revenue does not administer.

This change does not apply to UCB beneficiaries (see [“Amendments do not apply to people receiving an Unsupported Child’s Benefit”](#) above).

Stand downs

Regulation 182 of the Social Security Regulations 2018

All child support paid to a person under the Child Support Act 1991 (excluding an amount that MSD has determined is capital) will be considered when calculating the person's stand-down period.

Background

Most main benefits are subject to an initial income stand-down period. The stand-down period is either one or two weeks after the date a person becomes entitled to the benefit. The period depends on the person's circumstances and their average income determined over an "average income calculation period".

Key features

All child support paid under the Child Support Act 1991 that a person receives over the relevant period would be included in their "average income" for calculating the stand-down period. This includes excess child support paid to an Unsupported Child's Benefit beneficiary. An amount that MSD determines is capital is excluded.

Cash asset test

Clauses 1 and 2, and Parts 35 to 37 of schedule 8 of the Social Security Act 2018 and regulation 3(1) of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018

Information share child support payments are exempted from being a cash asset for the period the payment is income for benefit purposes. After this period, any unspent child support could be included in a cash asset test.

The initial exemption period could be extended by an additional 28 days in exceptional circumstances.

Background

The Accommodation Supplement and Temporary Additional Support are subject to a cash asset test. This means that MSD considers a person's cash assets (such as savings) when working out their benefit entitlement. If a person has cash assets over a set threshold, they cannot receive these benefits. This test is to ensure that people use the resources available to them before receiving assistance. MSD's practice is generally to treat payments as a cash asset from the time they are received.

Child support payments are intended to support the child for four or five weeks after they are received. Treating child support payments as a cash asset from the time they are received is incompatible with this intent. If the cash asset tests continue to apply to child support payments, receiving carers would be penalised for spending the child support payment over the period it is intended for.

Key features

Child support payments are exempt from the cash asset test for the period the payments are income for benefit purposes. MSD also has the discretion to extend this period by an additional 28 days in exceptional circumstances. After the exemption expires, any unspent child support payment could be included in a cash asset test.

However, the cash asset exemption will not apply to information share child support under the Public and Community Housing Management Act 1992. MSD will continue to have discretion to assess whether information share child support is assessable income, or a cash asset, for social housing and income-related rent, as no automated charging is occurring.

Abatement of youth and young parent payments

Part 6 of schedule 4 of the Social Security Act 2018

The abatement regime of the youth payment (YP) and the young parent payment (YPP) have been amended so that child support passed on continues to abate those payments at the relevant rate instead of causing the recipient to lose their payment altogether.

Background

YP and YPP have an abatement regime where a person's weekly income starts to abate once it exceeds a specified threshold. Once the person's weekly income exceeds a second, higher threshold, the payments stop altogether. This is to encourage the young person to further their education or training.

With child support being passed on, a receiving carer could lose their benefit if their weekly income exceeds the second threshold.

Example 16: Abatement of YP and YPP

Rydia is receiving YPP of \$440.96 a week. Her weekly income is \$298.08 per week. Her YPP is abated \$1 for every \$1 that her weekly income exceeds \$258.08 (the first threshold), meaning her YPP is abated by \$40. This reduces her YPP to \$400.96 per week.

Rydia starts receiving child support of \$20 per week, therefore her weekly income increases to \$318.08. Under previous rules, she would no longer be eligible for YPP as her weekly income now exceeds \$308.08 (the second threshold).

Key features

A person no longer loses their YP or YPP immediately if their weekly income exceeds the second threshold because of a child support payment passed on by Inland Revenue. Rather, the child support income would continue to abate their benefit at the rate of \$1 for every \$1 for single persons, and \$0.50 for every \$1 for couples.

If a person's income from all other sources exceeds the second threshold, they lose their YP or YPP. To achieve this result, income from employment and other sources is considered against the thresholds before any abatement for child support payments passed on by Inland Revenue is undertaken.

Example 17: Proposed YP/YPP abatement rules for child support payments

Kain has \$298.08 weekly income and receives an abated YPP of \$400.96 per week.

Kain starts receiving child support of \$20 per week and his weekly income increases to \$318.08. Kain would have his YPP abated by a further \$20 to \$380.96 per week instead of losing his YPP altogether.

However, the abatement rules only apply to child support payments passed on by Inland Revenue. Therefore, if Kain's weekly income excluding any child support payments (for example, wages) exceeded \$308.08, he would lose his eligibility for YPP.

Child support as an allowable cost

Schedule 1 of the Social Security Act 2018 and regulation 71 of the Social Security Regulations 2018

Child support liabilities assessed by Inland Revenue are an “allowable cost” for determining a liable parent’s Temporary Additional Support (TAS). This amendment also extends to Special Benefit (SpB) through an amendment made to the Ministerial Direction.

People already receiving TAS and SpB on 1 July 2023 can have these costs backdated (taken into account) to the later of 1 July or the date they become liable for child support. They must apply on or before 29 September 2023 to have the costs backdated.

Background

TAS and SpB are forms of hardship assistance paid to people who do not have enough income to meet their “essential costs”. Essential costs are made up of a person’s “allowable costs” and “standard costs”. Allowable costs are regular, essential, and unavoidable expenses that cannot be reduced.

Key features

MSD will consider formula-assessed child support liability as an allowable cost when determining a liable parent’s entitlement to TAS or SpB. This does not extend to voluntary agreements or private arrangements of child support because they do not meet MSD’s standard of regular, essential and unavoidable expenses.

Backdating

Allowable costs usually cannot be backdated. However, to support MSD with the expected increase in contacts from TAS and SpB recipients, MSD is temporarily allowed to backdate formula-assessed child support liabilities as an allowable cost.

Backdating is available for clients who are already receiving TAS or SpB on 1 July 2023 and allows their child support liability to be backdated as an allowable cost to either 1 July 2023 or the date on which they become liable to pay child support – whichever is later. However, these beneficiaries will need to apply to MSD on or before 29 September 2023.

Amendments to the Public and Community Housing Management Act 1992

Child support payments treated as income: housing and income-related rent

Section 2 and 115A of the Public and Community Housing Management Act 1992 and regulation 14 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018

Prescribed types of child support payments are excluded as income when determining a person's eligibility for public housing, rating on the Public Housing Register, and for determining the rate of income-related rent payable.

Background

For public housing (eligibility, rating on the Public Housing Register and rates of income-related rent), child support payments are treated as income, similar to main benefits and assistance under the Social Security Act 2018.

Key features

Prescribed types of child support payments are excluded as income when determining a person's eligibility for public housing, rating on the Public Housing Register, and for determining the rate of income-related rent payable.

The same child support payment types that are excluded as income for main benefits under the Social Security Act 2018 are also excluded as income when determining a person's eligibility for public housing, rating on the Public Housing Register and the rate of income-related rent payable.

When Inland Revenue shares child support payment information with MSD, a person's duty to declare a change in their circumstances is satisfied unless the information is incorrect.

Deprivation of income: income-related rent

Section 112 of the Public and Community Housing Management Act 1992

A person choosing not to enter into a child support arrangement or to cancel an existing arrangement is not considered to be depriving themselves of income.

Background

When someone has changed their financial arrangements to put themselves at a financial disadvantage, and this leads to them paying a lower rate of income-related rent than they otherwise would, this is considered “deprivation of income”. This can apply regardless of whether the change in their position was intentional.

In these situations, MSD is authorised to include all or a portion of the deprived income when determining the rate of income-related rent payable. This is to reflect the income that would have been assessed had the person not deprived themselves of income.

Key features

Parents newly eligible for a benefit can choose not to apply for child support. In addition, existing beneficiaries who previously had to apply for child support through Inland Revenue can choose to cancel their child support. Treating these decisions as deprivation would defeat the purpose of removing the requirement for sole parents to apply for child support (see [“Deprivation of income”](#) above).

This exclusion applies to all forms of child support, including private arrangements that Inland Revenue does not administer.

A person's duty to advise of a change in circumstances

Section 115A of the Public and Community Housing Management Act 1992

A person's duty to declare a change in circumstances is satisfied if a child support payment made to the person is disclosed to MSD by Inland Revenue under their approved information sharing agreement.

Background

Under the Public and Community Housing Management Act 1992, a person is required to promptly advise MSD of any change in household circumstances that is likely to result in:

- the payment of a higher income-related rent
- no longer needing, or being eligible for, public housing.

This ensures a person's income-related rent, eligibility for public housing and priority rating on the Public Housing Register is reflective of their circumstances and current income.

Key features

A person's duty to declare a change in circumstances (such as an increase in their child support income) is satisfied if that change is already being communicated to MSD by Inland Revenue. This prevents a person being at risk of benefit debt if they had not declared their changes (despite the information sharing between MSD and Inland Revenue).

There may be rare circumstances where the payment details in the information share are incorrect, and the person will need to advise MSD of the error. The person's obligation to declare a change in circumstances remains if:

- MSD is notified of the change via the information share, and
- MSD notifies the person of the information share child support payment, and
- the person considers the information share is incorrect and does not promptly dispute the correctness of the information.

This avoids MSD referring to an incorrect amount of child support when determining a person's rate of income-related rent, eligibility for public housing or their rating on the Public Housing Register.

Redundant provisions

Schedule 2 of the Public and Community Housing Management Act 1992

Schedule 2 of the Public and Community Housing Management Act 1992 is repealed.

Background

Schedule 2 of the Public and Community Housing Management Act 1992 was a transitional arrangement that was replaced by regulations in the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 and is no longer operative. The schedule has been repealed.

About this document

Special reports are published shortly after new legislation is enacted or Orders in Council are made to help those who are affected, and their advisors, understand the consequences of the changes. These are published in advance of an article in the *Tax Information Bulletin*.