

Part 5A

Exemptions

Part 5A: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

Subpart 1—Outline and definitions

Subpart 1: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

89A Outline

- (1) This Part provides for exemptions from the payment of financial support in the following cases:
 - (a) for hospital patients, in respect of periods of long-term hospitalisation, if certain income criteria are met:
 - (b) for prisoners, in respect of periods of long-term imprisonment, if certain income criteria are met:
 - (c) for liable parents under the age of 16 years, if certain income criteria are met:
 - (d) for victims of sex offences, regardless of income.
- (2) This Part also allows the Commissioner to make determinations in relation to exemptions granted under this Act (except exemptions for victims of sex offences).
- (3) This section is intended only as a guide to the general scheme and effect of this Part.

Section 89A: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

89B Definitions for this Part

In this Part, unless the context otherwise requires,—

exempted person means a person who has, under this Part, been exempted from the payment of financial support

hospital patient means a person who is, for the time being,—

- (a) a patient in a hospital care institution within the meaning of [section 58\(4\)](#) of the Health and Disability Services (Safety) Act 2001; or
- (b) a resident of an institution certified under the [Alcoholism and Drug Addiction Act 1966](#)

income—

- (a) has the same meaning as in [section YA 1](#) of the Income Tax Act 2007; and
- (b) includes gross income (within the meaning of section OB 1 of the Income Tax Act 1994 and the Income Tax Act 2004) and assessable income (within the meaning of the Income Tax Act 1976)

long-term means a period of 13 weeks or more

period of hospitalisation—

- (a) means the continuous period during which a person is a hospital patient; and
- (b) includes any lawful absence of the person from the hospital for not more than 7 days, or any other period that is, in the opinion of the Commissioner, reasonable in the circumstances of the case

period of imprisonment—

- (a) means the continuous period during which a person is a prisoner; and
- (b) includes any lawful absence of the person from the prison for not more than 7 days, or any other period that is, in the opinion of the Commissioner, reasonable in the circumstances of the case

prisoner means a person who is, for the time being,—

- (a)

in the legal custody of the Superintendent of any penal institution as defined in the Penal Institutions Act 1954; or

(b) in legal custody under the Corrections Act 2004

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 domestic maintenance, \$520

social security benefit means any benefit within the meaning of the Social Security Act 1964.

Section 89B: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89B **income** paragraph (a): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 89B **income** paragraph (b): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subpart 2—Exemptions for hospital patients, prisoners, and persons under 16 years

Subpart 2: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Exemption for hospital patients

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89C Exemption for long-term hospital patients

- (1) A liable person is eligible for an exemption from the payment of financial support for the whole, or part, of a long-term period of hospitalisation of that person if—
- (a) the person's income for that whole period, or that part, will be or was nil, or will be or was calculated only from income consisting solely of—
- (i) income from investments; or
- (ii) a social security benefit payable to the person at the rate specified in Schedule 22 of the Social Security Act 1964; and
- (b) the person's income from investments (if any) during that whole period, or that part, did not or will not—
- (i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and
- (ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole period or that part, the relevant minimum annual rate of financial support; and
- (c) the person applies for the exemption in accordance with section 89H.
- (2) This section is subject to sections 89F and 89G.

Section 89C: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Exemption for prisoners

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89D Exemption for long-term prisoners

- (1)

A liable person is eligible for an exemption from the payment of financial support for the whole, or part, of a long-term period of imprisonment of that person if—

- (a) the person's income for that whole period, or that part, will be or was nil, or will be or was calculated only from income consisting solely of income from investments; and
 - (b) the person's income from investments (if any) during that whole period, or that part, did not or will not—
 - (i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and
 - (ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole period or that part, the relevant minimum annual rate of financial support; and
 - (c) the person applies for the exemption in accordance with [section 89H](#).
- (2) This section is subject to [sections 89F](#) and [89G](#).

Section 89D: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

Exemption for persons under 16 years

Heading: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

89E Exemption for persons under 16 years

- (1) A liable parent is eligible for an exemption from the payment of child support for the whole, or part, of the period before that person turned or turns 16 if—
 - (a) the person's income for that whole period, or that part, will be or was nil, or will be or was calculated only from income consisting solely of income from investments; and
 - (b) the person's income from investments (if any) during that whole period, or that part, did not or will not—
 - (i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and
 - (ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole period or that part, the relevant minimum annual rate of financial support; and
 - (c) the person applies for the exemption in accordance with [section 89H](#).
- (2) This section is subject to [sections 89F](#) and [89G](#).

Section 89E: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

Restrictions on application of exemptions

Heading: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

89F Exemption does not apply at any time during child support year if income criteria not met at any time during relevant period

- (1) An exemption under this subpart does not apply at any time during the whole of a child support year if,—
 - (a) at any time during the relevant period,—
 - (i) in the case of an exemption under [section 89C](#), the person receives any income other than from investments or a social security benefit payable at the rate specified in [Schedule 22](#) of the Social Security Act 1964; or
 - (ii)

- in the case of an exemption under section 89D or 89E, the person receives any income other than from investments; or
- (b) the person receives income from investments during the relevant period that—
- (i) exceeds, if the relevant period is less than a full child support year in duration, an average amount per week in the relevant period that is equal to the relevant minimum annual rate of financial support, divided by 52; or
 - (ii) exceeds, if the relevant period is a full child support year in duration, the relevant minimum annual rate of financial support.
- (2) However, in the case of an exemption under section 89C, if a liable person is receiving a higher rate benefit at the start of that person's hospitalisation, that benefit does not prevent the exemption from applying after the person stops receiving that benefit for the whole or a part of the rest of the child support year in which that person became a hospital patient.
- (3) For the purposes of this section,—
- higher rate benefit** means a social security benefit payable at a rate higher than the rate specified in Schedule 22 of the Social Security Act 1964
- relevant period**, in relation to a child support year,—
- (a) in the case of an exemption under section 89C, means the period of hospitalisation that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay financial support; and
 - (b) in the case of an exemption under section 89D, means the period of imprisonment that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay financial support; and
 - (c) in the case of an exemption under section 89E, means the period before the person turns 16 that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay child support.

Section 89F: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89G Other restrictions on application of exemptions

- (1) An exemption under this subpart does not apply at any time after—
 - (a) the day on which the relevant period of hospitalisation ends (in the case of an exemption under section 89C):
 - (b) the day on which the relevant period of imprisonment ends (in the case of an exemption under section 89D):
 - (c) the day on which the person turns 16 (in the case of an exemption under section 89E).
- (2) An exemption under this subpart does not apply to a period if the liable person is not eligible, or ceases to be eligible, for that exemption in relation to that period.
- (3) If an application for an exemption under—
 - (a) section 89C is made under section 89H after the day on which the relevant period of hospitalisation ends, the exemption does not apply at any time before the commencement of this section:
 - (b) section 89E is made under section 89H after the day on which the person turns 16, the exemption does not apply at any time before the commencement of this section.

Section 89G: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Application and grant of exemptions under this subpart

Heading: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42).

89H Applications for exemptions under this subpart

- (1) An application for an exemption under this subpart must—
- (a) be in the appropriate approved form; and
 - (b) be given to the Commissioner before—
 - (i) the expiry of 3 months after the day on which the relevant period of hospitalisation ends (in the case of an application for an exemption under [section 89C](#)); or
 - (ii) the relevant period of imprisonment ends (in the case of an application for an exemption under [section 89D](#)); or
 - (iii) the expiry of 3 months after the day on which the person turns 16 (in the case of an application for an exemption under [section 89E](#)); and
 - (c) specify the person's estimate of his or her weekly and total income for the periods specified on the form; and
 - (d) include the information that the approved form requires to be included.
- (2) An application for an exemption under—
- (a) [section 89C](#) may be made in relation to the whole of the long-term period of hospitalisation or 1 or more parts of that whole period:
 - (b) [section 89D](#) may be made in relation to the whole of the long-term period of imprisonment or 1 or more parts of that whole period:
 - (c) [section 89E](#) may be made in relation to the whole of the period before the person turns 16 or 1 or more parts of that whole period.

Section 89H: inserted, on 26 September 2006, by [section 17\(1\)](#) of the Child Support Amendment Act 2006 (2006 No 42)