

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 10 December 1991

CHILD SUPPORT BILL

Proposed Amendments

Hon. WYATT CREECH, in Committee, to move the following amendments:

Clause 41: To omit subclause (1) (lines 7 to 14 on page 39), and substitute the following subclause:

(1) Subject to **section 44** of this Act, if an election is made by a person in accordance with **section 40** of this Act in relation to a child support year, the annual rate of child support payable by the person under a formula assessment (in this section referred to as the "specified formula assessment") in relation to any day in the election period shall be the greater of \$520 or the amount determined in accordance with the following formula:

$$(a - b) \times \frac{c}{d}$$

where—

- a is the amount of child support that, but for the provisions of this subsection, would be payable by the person in respect of the days in the child support year in respect of which child support is payable by that person under one or more formula assessments if the person's child support income amount in relation to that child support year were the amount of the person's estimate of his or her taxable income for the child support year as specified in the election;
- b is the amount, if any, of child support payable by the person under one or more formula assessments in respect of the days in the child support year preceding the commencement of the day in the election period on which the specified formula assessment commences to apply;
- c is the number of days in the child support year;
- d is the number of days in the election period that fall on or after the day on which the specified formula assessment commences to apply.

Clause 44: To omit subclause (1) (line 39 on page 40 to line 14 on page 41), and substitute the following subclause:

(1) Notwithstanding **section 41** of this Act, if the Commissioner makes under any provision of the Income Tax Act 1976 (other than **section 21**) an assessment of the taxable income of any person for any income year (being an income year that corresponds with a child support year in which at least one election made by that person under **section 40** of this Act has applied), the person's child support income amount that is to be used in any formula assessment for that child support year is to be taken to be, and always to have been, the lesser of—

- (a) The amount of the taxable income derived by that person in that child support year; or
- (b) An amount equal to twice the yearly equivalent of the average weekly earnings amount for the last relevant income year, inflated by the inflation percentage for that child support year.

Clause 45: To omit subclauses (1) and (2) (line 23 on page 41 to line 13 on page 42), and substitute the following subclauses:

(1) If—

- (a) One or more elections made by a person under **section 40** of this Act has or have applied in any child support year; and
- (b) The provisions of **section 44** of this Act apply to that person in relation to that child support year; and
- (c) The sum of the amounts of child support that would, but for the provisions of **section 44** of this Act, be payable by the person for that child support year under one or more formula assessments made under this Act is less than 80 percent of the sum of the amounts that are payable by the person for the child support year under one or more formula assessments made in accordance with the provisions of **section 44** of this Act,—

the person shall, subject to **subsection (3)** of this section, be liable to pay to the Commissioner, by way of penalty, an amount calculated in accordance with **subsection (2)** of this section.

(2) The amount of penalty payable under this section, in relation to any child support year, shall be an amount calculated in accordance with the following formula:

$$(a - b) \times 10\%$$

where—

- a is the sum of the amounts of child support that are payable by the person for the child support year under one or more formula assessments made in accordance with the provisions of **section 44** of this Act;
- b is the sum of the amounts of child support that would, but for the provisions of **section 44** of this Act, have been payable by the person for that child support year under one or more formula assessments made under this Act.

To omit subclause (3) (d) (line 38 on page 42 to line 6 on page 43).

Clause 46: To omit from subclause (1) the definition of "amount of underestimated child support" (lines 23 to 33 on page 43), and substitute the following definition:

“Amount of underestimated child support”, in relation to any child support year, means the amount calculated in accordance with the following formula:

$$a - b$$

where—

- a is the sum of the amounts of child support that are payable by the person for the child support year under one or more formula assessments made in accordance with the provisions of **section 44** of this Act:
- b is the sum of the amounts of child support that would, but for the provisions of **section 44** of this Act, have been payable by the person for that child support year under one or more formula assessments made under this Act:

To omit subclause (5) (c) (lines 3 to 14 on page 45).

Clause 107 (2) (c): To add, after line 43 on page 80, the following subparagraph:

- (iii) An entitlement of the custodian to the continued occupancy of a property in which the liable person has a financial interest.

Clause 219: To omit paragraph (b) (lines 6 and 7 on page 147), and substitute the following paragraph:

- (b) The amount paid in excess has—
 - (i) Not been paid to the payee under this Act; or
 - (ii) Been paid to the payee under this Act and the person neither has, nor is known to have at some future time, any liability to make any further payments of financial support under this Act,—

To omit from lines 11 to 13 on page 147 the words “the amount paid in excess, or that part thereof that has not been paid to the payee, as the case may be”, and substitute the following:

- (c) In a case to which **paragraph (b) (i)** of this section applies, so much of the amount paid in excess that has not been paid to the payee:
- (d) In a case to which **paragraph (b) (ii)** of this section applies, the amount paid in excess.

Clause 245: To omit the word “subparagraph” from line 5 on page 161, and substitute the word “subparagraphs”.

To add the following subparagraph:

- (viii) Any money received by the Commissioner of Inland Revenue by way of child support which is paid to the person under **section 143** of the Child Support Act 1991:

EXPLANATORY NOTE

This Supplementary Order Paper is intended to—

- (a) Ensure that the child support liability for any period after an election to estimate income has been made is calculated on the basis of the annual liability on the estimated income, reduced by the amounts of child support so far assessed for the child support year. This amount is to be spread over the balance of the year. For the purposes of the end-of-year “square-up” the end-of-year child support liability will be the lesser of—
 - (i) The amount of the taxable income derived by that person in that child support year; or
 - (ii) An amount equal to twice the yearly equivalent of the average weekly earnings amount for the last relevant income year, inflated by the inflation percentage for that child support year:
- (b) Extend the grounds for application for departure orders from a formula assessment to cover the situation where the custodian continues to live in the family home:
- (c) Provide that child support payments, in excess of the benefit payable, which are passed on to the custodian should not be counted for the purpose of calculating the benefit payable:
- (d) Provide that where a liable person has made an overpayment of child support that has been passed on to the payee, the person is not denied a refund where the person has no further liability under the Act.