



Fleury, Comery LLP
Barristers & Solicitors

NEW CHILD SUPPORT REGIME

In 1997 there came into effect significant changes to the *Divorce Act*, the *Income Tax Act* and the *Family Law Act* which should be reviewed and understood by all payers and payees of child support. This memorandum is meant to be a very brief overview of these changes.

DIVORCE ACT AND FAMILY LAW ACT CHANGES

On May 1, 1997 the federal government amended the *Divorce Act* to require that all child support orders made after April 30, 1997 be made in accordance with certain very rigid child support guidelines based on the income of the payer. Although initially the guidelines applied only to child support orders made under the *Divorce Act*, Ontario's *Family Law Act* was amended effective December 1, 1997 to establish the guidelines as the criterion for non-divorce child support orders as well.

INCOME TAX CHANGES

The income tax treatment of all child support has been changed so that any child support order or agreement made after April 30, 1997 will require that the payment be made in "after tax" dollars, i.e. the receiving parent no longer pays tax on the child support and the paying parent no longer obtains a tax deduction. Note that child support orders or agreements made before May 1, 1997 do not receive this treatment unless the parties sign and file a new form with Revenue Canada stating that the new tax rules will apply as of the implementation date, or if either party to the order or agreement applies to the Court after April 30, 1997 to vary the order to have the new tax treatment apply to it.

EXAMPLES OF FEDERAL CHILD SUPPORT AMOUNTS

The following examples should give some idea of the federal child support amounts (revised as of May 1, 2006):

Payer's Income	Monthly Support for	
	One Child	Two Children
\$25,000.00	\$211.00	\$375.00
\$35,000.00	\$325.00	\$521.00
\$45,000.00	\$415.00	\$680.00

DO THE GUIDELINES APPLY TO EVERY CASE?

There are very limited circumstances in which the guidelines will not apply. Firstly, if the payer has the children in his or her care at least 40% of the time over the course of the year, the Court may vary the amount payable to take into account the increased costs of such shared custody arrangements. Secondly, special expenses (especially daycare expenses) are not included in the guideline amount and must be added on top. Finally, in very limited circumstances a payer may obtain a reduction on the basis of undue hardship.

GOVERNMENT INFORMATION

More detailed information on the guidelines can be obtained from the government by calling 1-888-373-2222. Department of Justice Canada's publications on child support are available on the Internet at the government website at: <http://www.justice.gc.ca/eng/pi/fcy-fea/lib-bib/legis/fcsg-lfpa e/index.html>.

LEGAL CONSULTATION

If you have not already done so, we suggest that you consult us regarding the impact of these changes on any child support obligations in which you are either payer or payee. Our fee for the consultation will be \$150 which will be waived in the event we are retained by you to negotiate or bring a Court application to vary the child support to bring it into compliance with the guidelines.

©FLEURY, COMERY
#1 New Child Support Regime.wpd
rev. Aug/06

Edward R. Fleury, Q.C. ♦ William F. Comery, Q.C. (1930-2008) ♦ Gregory E. McConnell, M.A., LL.B.
Stephen P. Fleury, B.Sc., LL.B. ♦ Peter J. Sialtsis, B.B.A., B.A., LL.B. ♦ Daniel S. Savoie, Hon. B.A., LL.B.

215 Morrish Road, Suite 104, Scarborough, Ontario, M1C 1E9
Telephone (416) 282-5754 Telecopier (416) 282-9906 E-mail gmccconnell@fleurcom.on.ca