

POSITION DESCRIPTION
CHILD SUPPORT REVIEW OFFICER

CHILD SUPPORT ACT 1991

The Child Support Act became law in December 1991 and took effect from 1 July 1992.

The Act affirms the right of children to be maintained by their parents, and the broad principals behind the introduction of the legislation were:

- Children have the right to support (including financial support) from their parents, and parents have an obligation to provide support according to their capacity to provide, irrespective of whether or not they are living with their children;
- The State has a responsibility to ensure an adequate level of financial support for children and families and if necessary to supplement the financial support that parent's can provide; and
- The State has an interest in ensuring that caregivers of children are not left without income. It has a role through a fair child support system in ensuring that parents meet their obligations to provide financial support, thereby limiting dependency on the State.

Inland Revenue, through the Child Support segment, administers the Child Support Act.

Child support liability is generally calculated according to a set administrative formula assessment. This provides a consistent approach that is appropriate in most cases.

The formula contains three components:

- Taxable income of the liable parent;
- A living allowance that is determined by the number of dependants supported by the liable parent; and
- The child support percentage.

DEPARTURE PROVISIONS

The use of a simple formula to assess the amount of child support payable covers the majority of situations, but some circumstances which are not just and equitable for the child, the custodian or the liable parent inevitably arise. It is important that there is an effective review process available to parents to enable them to obtain some relief where strict application of the formula results in an unfair assessment.

From July 1992 until June 1994 the avenue for the variation of a formula assessment had been solely through an application to the Family Court for an order to depart from the assessment. However, significant barriers were seen to be inhibiting parents from applying to the Court.

To overcome the barriers, an administrative review was introduced in July 1994 which operates as the first step of the departure process. The aim of the administrative review process is to provide parents with an inexpensive and readily available means of having their formula assessment reviewed by a person operating independently of Child Support.

Both departure order and administrative review processes use the same criteria against which a formula assessment may be altered.

Section 105 of the Child Support Act sets out the matters which must be satisfied before a formula assessment can be departed from. Three steps are involved in the consideration of an application for a review of an assessment:

- Firstly, one or more of the ten grounds specified in the legislation must be found to exist and "special circumstances" must be present;
- Secondly, it must be "just and equitable" as regards the child, the custodian and the liable parent to grant a departure; and
- Thirdly, it must be "otherwise proper" to grant the departure.

All three steps must be satisfied before a departure can be granted.

ADMINISTRATIVE REVIEW PROCESS

Key features of the administrative review process are:

- Independent review officers are engaged on contract to undertake reviews and recommend to the Commissioner of Inland Revenue whether or not a departure should be granted;
- Review officers use the departure order grounds contained in the Act, and apply the law on the same basis as the Courts;
- Parties to an administrative review can elect to attend a hearing in person, be involved by way of a telephone hearing or have their case considered on the basis of their written submissions;
- No legal representation is allowed at the hearings, although there is provision for some form of representation or support in certain circumstances;
- Neither party can be compelled to appear at a hearing in the presence of the other;
- Either party can apply to the Family Court if they are not satisfied with the Commissioner's determination.

ROLE OF REVIEW OFFICER

Acting on behalf of the Commissioner of Inland Revenue, review officers are required to:

- Conduct administrative review hearings;
- Provide a written determination recommending whether or not there should be a departure from the formula assessment;
- Assist Child Support meet relevant performance standards by providing quality administrative review services in a timely manner.

APPLICATIONS FOR ADMINISTRATIVE REVIEWS

The number of reviews allocated to any review officer cannot be guaranteed. The allocation of review hearings is determined largely by the timing and number of applications received and the availability of review officers to conduct the hearings.

A high percentage of applications are received in the period March to June each year.

REMUNERATION

Remuneration is fixed at a standard fee of \$ s.18(c)(i) (excluding GST) per completed review.

Experience to date indicates that once proficient with the legislation and review process, a review officer can expect to complete an administrative review hearing, including a written determination, within four hours.

RELATIONSHIP WITH INLAND REVENUE DEPARTMENT

Review officers are responsible to the relevant Child Support Manager for the quality and timeliness of their administrative review services. The administrative work involved with arranging review hearings will be carried out by Child Support review staff.

Review officers will also have a functional relationship with the Principal Review Officer.

REVIEW OFFICER QUALIFICATIONS AND ATTRIBUTES

Qualifications

- Preferably a law degree and experience in Family Law.

Attributes

- A demonstrated ability and experience in statutory interpretation.
- The ability to conduct legal analysis, and correctly apply statutory criteria.
- An understanding of evidential matters and onus of proof.
- Familiarity with the child support legislation.
- Integrity, impartiality, and an appreciation of the quasi-judicial nature of the role.
- Excellent interpersonal skills, and the ability to relate well to people from a wide range of social and economic backgrounds.
- Excellent written communication skills.
- Proven ability to provide quality work and meet tight deadlines.