

Child Support Amendment Bill

Supplementary commentary on proposed amendments to:

- *Repeal incremental penalties, and*
- *Simplify write-off provisions*

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Child Support Amendment Bill – Supplementary commentary on proposed amendments to repeal incremental penalties and simplify write-off provisions.

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Child support penalties

REPEAL OF CHILD SUPPORT INCREMENTAL PENALTIES

(Clause 42)

Summary of proposed amendment

Late payment penalties are imposed on a liable parent if they do not pay on time. Initial penalties are applied in two stages in the first month, and if the amount is not paid incremental penalties are imposed each month the amount is outstanding. The proposal is to no longer charge incremental penalties.

Application date

The proposed amendment would apply from 1 April 2021.

Key features

Incremental penalties would no longer be charged on child support amounts not paid on time.

The change would apply to unpaid amounts on or after 1 April 2021. That is, penalties will not be applied to:

- new debt arising on or after 1 April 2021; and
- existing unpaid amounts due before 1 April 2021.

Penalties imposed before 1 April 2021 would remain.

Background

Currently, late payment penalties are imposed on a liable parent if they do not pay on time. Initial penalties are imposed as well as incremental penalties. Incremental penalties are applied at:

- 2% of the outstanding amount including penalties from one month after the due date for the next 11 months; and
- 1% of the outstanding amount including penalties each month from 13 months after the due date.

The penalties compound and create further debt for customers. The compounding nature of incremental penalties can result in liable parents disengaging with their child support obligations. When a payment is made, it is allocated to the core amount first and then to any penalties. Write-off rules mean that in most cases incremental penalties are written off.

Initial penalties are being retained. As child support is due each month, if a person is late paying month-after-month, Inland Revenue is able to take appropriate follow up action with the person when initial penalties are imposed.

SIMPLIFICATION OF THE CHILD SUPPORT PENALTIES WRITE-OFF RULES

(Clauses 43A, 43B, 43C, 43D, 43E, 43F, 43G, and 44A)

Summary of proposed amendment

It is proposed that the child support penalty write-off rules be simplified.

Application date

The proposed amendment would apply from 1 April 2021.

Key features

The child support penalty write-off rules would be simplified to allow for the write-off of penalties when:

- there was a reasonable cause for the late payment;
- the late payment was due to the failure of another person to make a deduction;
- the late payment was due to an honest mistake by the liable parent;
- an error was made by Inland Revenue;
- a person is in serious hardship;
- it is an inefficient use of Inland Revenue's resources to collect the penalty; and
- the receiving carer has uplifted the debt, or waived the right to the payment, to which the penalty relates and a write-off would be fair and reasonable.

To ensure parents who are charged penalties on or before 31 March 2021 are not worse off under the new rules, a "fair and reasonable" penalty write-off provision would be retained that would only be used to write-off penalties charged on or before 31 March 2021.

Background

The current penalty write-off provisions are complex and difficult for customers to understand and Inland Revenue to administer. Most of the incremental penalties imposed can be written off. Table 1 outlines the current write-off provisions.

Table 1: Current write-off provisions

Section	Mandatory or discretionary	Type of penalties	Explanation
135A	-	-	The Commissioner may grant relief by writing off in part or in full. If an amount has been paid and the Commissioner writes off a penalty, the amount paid can be refunded.
135B	Discretionary	Initial and incremental (but does not refer to either)	Reasonable cause.
135C	Discretionary	Initial and incremental	Failure of another person to make a deduction.
135D	Discretionary	Initial and incremental	Honest oversight by liable person with no history of default.
135E	Discretionary	Initial and incremental	Error made by Inland Revenue.
135F	Discretionary	Initial and incremental	Debt waived or uplifted.
135FA	Discretionary	Incremental	Unpaid before agreement entered into on or after 1 April 2016.
135G	Discretionary	Incremental	Relief if some or all of the debt has been paid and recovery of incremental penalties would place the liable parent in serious hardship or it would be fair and reasonable to grant relief.
135GA	Discretionary	Initial and incremental	Residual penalty only debt (including when core written off when owed to the Crown).
135GB	Mandatory	Initial late payment penalty	Relief if full or substantial compliance with payment arrangement entered into or made on or after 1 April 2016 and within 3-month period.
135H	Mandatory	Initial late payment penalty	Relief if full compliance with payment arrangement entered into or made before 1 April 2016 and within 3-month period.
135I	Mandatory	Initial late payment penalty	Amount of the penalty is no more than \$5 and the amount of the financial support that the penalty relates to is less than the amount of the penalty and no history of default.
135J	Mandatory	Incremental	Relief from incremental penalties unpaid before agreement entered into on or after 26 September 2006 (26 weeks).
135JA	Mandatory	Incremental	Relief from incremental penalties unpaid before deduction plan made on or after 1 April 2016 (26 weeks).

Section	Mandatory or discretionary	Type of penalties	Explanation
135K	Mandatory	Incremental	Relief from incremental penalties in relation to arrangements entered into or made before 26 September 2006 (26 weeks).
135L	Mandatory	Incremental	Writing off of incremental penalties if non-compliance with arrangement (if at review date the Commissioner is satisfied that the circumstances relating to the failure would, if related to payment of debt to which penalty relates, entitle the Commissioner to grant relief under any of sections 135B to 135E).
135M	Mandatory	Incremental	Relief if payment agreement in force.
135N	Mandatory	Incremental	Relief if deduction notice in force.