



THE NEWFOUNDLAND AND LABRADOR GAZETTE

EXTRAORDINARY

Part II

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**NEWFOUNDLAND AND LABRADOR
REGULATION**

38/06



NEWFOUNDLAND AND LABRADOR REGULATION 38/06

Child Support Guidelines Regulations
(Amendment)
under the
Family Law Act
(O.C. 2006 - 190)

(Filed May 1, 2006)

Under the authority of section 85 of the *Family Law Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, May 1, 2006.

Robert C. Thompson
Clerk of the Executive Council

REGULATIONS

Analysis

- | | |
|---|---|
| 1. S.7 Amdt. Special or extraordinary expenses | 3. Sch. A Amdt. Comparison of Household Standards of Living Test |
| 2. S.18 R&S Non-resident | 4. Commencement. |

NLR 40/98
as amended

1. Second 7 of the *Child Support Guidelines Regulations* is amended by adding immediately after subsection (1) the following:

(1.1) For the purposes of paragraphs (1)(d) and (f), the term "extraordinary expenses" means

- (a) expenses that exceed those that the spouse requesting an amount for the extraordinary expenses can reasonably cover, taking into account that spouse's income and the amount that the spouse would receive under the applicable table or, where the court has determined that the table amount is inappropriate, the amount that the court has otherwise determined is appropriate; or
- (b) where paragraph (a) is not applicable, expenses that the court considers are extraordinary taking into account
 - (i) the amount of the expense in relation to the income of the spouse requesting the amount, including the amount that the spouse would receive under the applicable table or, where the court has determined the table amount is inappropriate, the amount that the court has otherwise determined is appropriate,
 - (ii) the nature and number of the educational programs and extracurricular activities,
 - (iii) special needs and talents of the child or children,
 - (iv) the overall cost of the programs and activities, and
 - (v) other similar factor that the court considers relevant.

2. Section 18 of the regulations is repealed and the following substituted:

Non-resident

18. (1) Where a spouse is a non-resident of Canada, the spouse's annual income is determined as though the spouse were a resident of Canada.

(2) Notwithstanding subsection (1), where a spouse is a non-resident of Canada and resides in a country that has effective rates of income tax that are significantly higher than those applicable in the province in which the other spouse ordinarily resides, the spouse's annual income is the amount that the court determines to be appropriate taking those rates into consideration.

3. Step 1 of the section 2 of Schedule A of the regulations is repealed and the following substituted:

STEP 1

Establish the annual income of each person in each household by applying the formula

$$A - B - C$$

where

A = is the person's income determined under sections 15 to 20 of these guidelines,

B = is the federal and provincial taxes payable on the person's taxable income, and

C = is the person's source deductions for premiums paid under the *Employment Insurance Act* (Canada) and contributions made to the *Canada Pension Plan* (Canada) and the *Quebec Pension Plan*.

Where the information on which to base the income determination is not provided, the court may impute income in the amount it considers appropriate.

Commencement

4. These regulations come into force on May 1, 2006.

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