

Table of Contents

1	Citation
2	Definitions and interpretation Act — Loi Federal Guidelines — lignes directrices fédérales
3	Adoption of Federal Guidelines
4	Interpretation and application of Federal Guidelines
5	Order when child has voluntarily withdrawn from the charge of their parents
6	Interpretation and application of this Regulation
7	Repeal
8	Commencement

Under subsection 88(1) of the *Family Law Act* the Lieutenant-Governor in Council makes the following Regulation:

Citation

1 This Regulation may be cited as the *Child Support Guidelines Regulation – Family Law Act*.

Definitions and interpretation

2(1) The following definitions apply in this Regulation.

“Act” means the *Family Law Act*. (*Loi*)

“Federal Guidelines” means the Federal Child Support Guidelines established under section 26.1 of the *Divorce Act* (Canada), as the Federal Child Support Guidelines read on March 1, 2021. (*lignes directrices fédérales*)

2(2) For the purposes of this Regulation, “child” has the same meaning as in section 9 of the Act.

Adoption of Federal Guidelines

3(1) Subject to subsections (2) and (3), the Federal Guidelines are adopted and established as the child support guidelines.

3(2) Despite section 21 of the Federal Guidelines,

(a) any information required to be provided under section 21 of the Federal Guidelines within 30 days after a request or other event specified in that section shall be provided within 20 days after that request or other specified event, if the person required to provide the information resides in New Brunswick, and

(b) if the parties to an application consent, any information required to be provided under section 21 of the Federal Guidelines in respect of the three most recent taxation years shall be provided only for the taxation year immediately preceding the application.

3(3) Despite the definition “Federal Guidelines” in subsection 2(1), Schedule I of the Federal Guidelines, as that Schedule is amended from time to time, applies for the purposes of this Regulation.

Interpretation and application of Federal Guidelines

4(1) For the purposes of the interpretation and application of the Federal Guidelines, as adopted under section 3, in the context of a child support order under the Act, the Federal Guidelines shall be read with any modifications that the circumstances require, including, but not limited to, the modifications provided for in subsections (2) to (8).

4(2) The following provisions of the Federal Guidelines, as adopted under section 3, do not apply in this regulation:

- (a) the definitions “Act”, “child” and “order assignee” in subsection 2(1);
- (b) subsection 2(4);
- (c) sections 5;
- (d) section 11;
- (e) section 12;
- (f) subsection 21(5); and
- (g) section 26.

4(3) Subsection 2(5) of the Federal Guidelines, as adopted under section 3, shall be read as follows:

Recalculations

(5) For greater certainty, the provisions of these Guidelines that confer a discretionary power on the Court do not apply to recalculations by the child support service under subsection 33(2) of the Act.

4(4) Unless this Regulation or the context otherwise requires, references to “spouse” and “spouses” in the Federal Guidelines, as adopted under section 3, shall be read as “parent” and “parents”, respectively.

4(5) If the applicant and respondent in an application for a child support order are not both parents of the child, sections 6 to 10, subsection 15(2), sections 21 to 25 and Schedules II and III of the Federal Guidelines, as adopted under section 3, apply only to the extent necessary and reasonable to give effect to the spirit and intent of the provisions in the circumstances of the particular application and with any modifications that the circumstances require.

4(6) For the purposes of determining the applicable table, subsection 3(3) of the Federal Guidelines, as adopted under section 3, shall be read as follows:

(3) The applicable table is

(a) if the parent against whom an order is sought resides in Canada,

(i) the table for the province in which that parent habitually resides at the time the application for a child support order or for an order under section 22 of the Act is made,

(ii) if the Court is satisfied that the province in which that parent habitually resides has changed since the time described in subparagraph (i), the table for the province in which the parent habitually resides at the time of determining the amount of support, or

(iii) if the Court is satisfied that, in the near future after determination of the amount of support, that parent will habitually reside in a given province other than the province in which the parent habitually resides at the time of that determination, the table for the given province, and

(a.1) if the parent who is subject to a recalculation under subsection 33(2) of the Act resides in Canada, the table for the province in which that parent habitually resides at the time the amount of child support is to be recalculated under subsection 33(2) of the Act; and

(b) if the parent against whom an order is sought, or who is subject to a recalculation under subsection 33(2) of the Act, resides outside of Canada, or if the residence of that parent is unknown, the table for the province in which the person seeking the order or the recalculation habitually resides at the time the application for a child support order or for an order under section 22 of the Act is made or at the time the amount of child support is to be recalculated under subsection 33(2) of the Act.

4(7) Paragraph 10(2)(d) of the Federal Guidelines, as adopted under section 3, shall be read as follows:

(d) the parent has, under the Act or the *Divorce Act* (Canada), a legal duty to support any other child as defined in those Acts;

4(8) Section 14 of the Federal Guidelines, as adopted under section 3, shall be read as follows:

(a) the reference to subsection 17(4) of the *Divorce Act* (Canada) in the portion preceding paragraph (a) shall be read as a reference to section 22 of the Act; and

(b) paragraph (c) shall be read as “in the case of an order made before May 1, 1998, the commencement of this Regulation.”

Order when child has voluntarily withdrawn from the charge of their parents

5 In the case of an application for a child support order in relation to a child who has voluntarily withdrawn from the charge of their parents, the Court, in its discretion and having regard to all the circumstances of the parties, including any circumstances that may indicate the child has abandoned or should be considered to have abandoned any right to support, may award an amount that is different from the amount determined in accordance with the Federal Guidelines, as adopted under section 3, or may award no amount, as the Court considers appropriate and reasonable.

Interpretation and application of this Regulation

6 This Regulation shall be interpreted and applied, to the extent possible, in a manner that gives effect to the spirit and intent of the Federal Guidelines, as adopted under section 3, for the purpose of making a child support order under the Act.

Repeal

7 *New Brunswick Regulation 98-27 under the Family Services Act, chapter F-2.2 of the Acts of New Brunswick, 1980, is repealed.*

Commencement

8 *This Regulation comes into force on March 1, 2021.*