



# **Child Support (Registration and Collection) Act 1988**

## **Act No. 3 of 1988 as amended**

This compilation was prepared on 17 December 2012  
taking into account amendments up to Act No. 180 of 2012

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act to make provision for the collection of certain periodic maintenance payments, and for other purposes**

## **Part I—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Child Support (Registration and Collection) Act 1988*.

### **2 Commencement** [see Note 1]

This Act shall come into operation on a day to be fixed by Proclamation.

### **3 Objects of Act**

- (1) The principal objects of this Act are to ensure:
  - (a) that children receive from their parents the financial support that the parents are liable to provide; and
  - (b) that periodic amounts payable by parents towards the maintenance of their children are paid on a regular and timely basis; and
  - (c) that Australia is in a position to give effect to its obligations under international agreements or arrangements relating to maintenance obligations arising from family relationship, parentage or marriage.
- (2) It is the intention of the Parliament that this Act shall be construed and administered, to the greatest extent consistent with the attainment of its objects, to limit interferences with the privacy of persons.

### **3A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

## 4 Interpretation

- (1) In this Act, unless the contrary intention appears:

**AAT** means the Administrative Appeals Tribunal.

**Account** means the Child Support Account continued in existence by section 73.

**administrative assessment** has the same meaning as in the Assessment Act.

**affecting event**, in relation to an enforceable maintenance liability, means any event the happening of which operates, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, to vary or otherwise affect the liability or any of the particulars included in the entry in the Child Support Register in relation to the liability, and includes a terminating event in relation to the liability, but does not include:

- (a) the making by, or registration in, a court of an order; or
- (b) the registration in, or approval by, a court of a maintenance agreement.

**agency reimbursement liability** means a liability in circumstances where:

- (a) a parent or step-parent of a child is liable to pay a periodic amount for the maintenance of the child; and
- (b) an amount has been paid by an overseas authority for the maintenance of the child to the person who has the care of the child; and
- (c) the overseas authority seeks reimbursement of the amount mentioned in paragraph (b) from the parent or step-parent.

**appealable collection refusal decision** means a decision resulting in the failure of the Registrar to collect an amount payable under an enforceable maintenance liability, being an amount that has become due and payable and remained unpaid for at least 6 months, if:

- (a) proceedings have not been instituted in a court for recovery of the amount; or
- (b) proceedings have been instituted in a court for recovery of the amount and at least 3 months have elapsed since the proceedings were instituted.



***appealable refusal decision*** means:

- (a) a decision under section 22 or subsection 24(1), 24A(1), or 25(2) refusing to register a registrable maintenance liability; or
- (aaaa) a decision under section 25A refusing to enter the particulars of a liability; or
- (aaa) a decision under subsection 26B(3) or section 65B refusing to register an elected period; or
- (aa) a decision under paragraph 28A(5)(d) or (e); or
- (b) a decision under section 36, 37A, 37B, 38A, 39, 39B or 44 refusing to vary particulars entered in the Child Support Register; or
- (ba) a decision under subsection 37B(4) determining, or refusing to determine, a day; or
- (bb) a decision under paragraph 39A(6)(b) or (c); or
- (c) a decision under section 71, 71A or 71C refusing to credit an amount against the amount payable under a liability to the Commonwealth; or
- (ca) a decision under subsection 72AB(3).

***applicable Rules of Court*** has the same meaning as in the *Family Law Act 1975*.

***Assessment Act*** means the *Child Support (Assessment) Act 1989*.

***Australia*** includes the external Territories.

***care percentage decision*** means a decision as to the particulars of an administrative assessment, or as to the particulars of a notional assessment, to the extent that the decision involves (wholly or partly):

- (a) a determination of a person's percentage of care for a child that was made under a provision of Subdivision B of Division 4 of Part 5 of the Assessment Act; or
- (b) a determination relating to a person that has effect, under section 54K of that Act, as if it were a determination made under such a provision.

***Chief Executive Centrelink*** has the same meaning as in the *Human Services (Centrelink) Act 1997*.

Section 4

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**Chief Executive Medicare** has the same meaning as in the *Human Services (Medicare) Act 1973*.

**child of a marriage** has the same meaning as in the *Family Law Act 1975*.

**child support** means financial support under the Assessment Act, including financial support by way of lump sum payment or by way of transfer or settlement of property.

**child support agreement** has the same meaning as in the Assessment Act.

**child support assessment** means an assessment (other than a notional assessment) made under the Assessment Act.

**child support debt** means an amount that is a debt due to the Commonwealth under section 30.

**child support enforcement period**, in relation to a registered maintenance liability, means:

- (a) the period commencing on the day on which the liability first becomes enforceable under this Act and ending on the day on which the liability first ceases to be so enforceable; and
- (b) if the liability ceases to be enforceable under this Act and again becomes so enforceable (whether on one occasion or more than one occasion)—each period commencing on a day on which the liability again becomes so enforceable and ending on the day on which the liability next ceases to be so enforceable.

**Child Support Register** means the Child Support Register established by this Act.

**closing day**, in relation to a calendar month, means the day 9 days, or such lesser number of days as is prescribed for the purposes of this definition, before the first Wednesday in the following calendar month.

**collection agency maintenance liability**, in relation to a State or Territory, means a liability:

- (a) that is a liability of:
  - (i) a parent of a child to pay a periodic amount for the maintenance of the child; or

- (ii) a step-parent of a child to pay a periodic amount for the maintenance of the child; or
  - (iii) a party to a marriage to pay a periodic amount for the maintenance of the other party to the marriage; or
  - (iv) a party to a de facto relationship to pay a periodic amount for the maintenance of the other party to the de facto relationship;
- whether or not the liability arises under a court order or court registered maintenance agreement; and
- (b) in relation to which collection or recovery action is being conducted by or under the control or supervision of, or that has been lodged for collection or recovery action by, an authority, or the person holding an office, established under the law of the State or Territory.

**Commissioner** means the Commissioner of Taxation.

**company** includes any body or association, corporate or unincorporate, but does not include a partnership.

**court exercising jurisdiction under this Act** does not include a court exercising jurisdiction in a proceeding under subparagraph 113(c)(i).

**court having jurisdiction under this Act** does not include a court that has jurisdiction under this Act only in relation to the recovery of amounts of child support.

**court order** means an order:

- (a) that was made by, or registered in, a court under this Act, the Assessment Act, the *Family Law Act 1975*, the *Matrimonial Causes Act 1959* or the law of a State or Territory; and
- (b) that has not been set aside or discharged and has not expired or otherwise ceased to be in force.

**court registered maintenance agreement** means a maintenance agreement:

- (a) that has been:
  - (i) registered in, or approved by, a court under the *Family Law Act 1975*;
  - (ii) sanctioned by a court under paragraph 87(1)(k) of the *Matrimonial Causes Act 1959*; or

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- (iii) registered in, or approved by, a court under the law of a State or Territory;
- (b) that has not been set aside, and has not expired or otherwise ceased to be in force; and
- (c) the registration, approval or sanction of which has not been revoked or cancelled, and that has not otherwise ceased to be in force.

**decree** has the same meaning as in the *Family Law Act 1975*.

**Deputy Commissioner** means a Deputy Commissioner of Taxation.

**employee**, when used in Part IV, VI or IX, means a person who receives, or is entitled to receive, work and income support related withholding payments.

**employer** means a person who makes, or is liable to make, work and income support related withholding payments.

**enforceable maintenance liability** means a registered maintenance liability that is enforceable under this Act.

**Family Court** means the Family Court of Australia.

**Family Court of a State** means a court to which section 41 of the *Family Law Act 1975* applies.

**Family Law Act 1975** includes regulations under that Act.

**Family Law Magistrate of Western Australia** has the same meaning as in the *Family Law Act 1975*.

**final:**

- (a) in relation to a decision of the SSAT—has the meaning given by subsection 110W(1); and
- (b) in relation to a decision of a court—has the meaning given by subsections 110W(2) and (3); and
- (c) in relation to a decision of the Registrar—has the meaning given by subsection 110W(4).

**Full Court** has the same meaning as in the *Family Law Act 1975*.

**government body** means the Commonwealth, a State, a Territory or an authority of the Commonwealth or a State or Territory.

***Human Services Department*** means the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*.

***Immigration Department*** means the Department administered by the Minister administering the *Migration Act 1958*.

***income tested pension, allowance or benefit*** has the same meaning as in the *Family Law Act 1975*.

***initial period***, in relation to a registrable maintenance liability or a registered maintenance liability, means the period entered in the Child Support Register under paragraph 26(2)(a).

***instalment of parental leave pay*** means an instalment of parental leave pay under the *Paid Parental Leave Act 2010*.

***international maintenance arrangement*** means:

- (a) an international treaty; or
- (b) a non-treaty arrangement between Australia and a reciprocating jurisdiction that relates to maintenance obligations arising from family relationship, parentage or marriage.

***international treaty*** means a treaty that relates to maintenance obligations arising from family relationship, parentage or marriage and whose parties are:

- (a) Australia and a foreign country; or
- (b) Australia and 2 or more foreign countries.

***Judge*** means a Judge of the Family Court (including the Chief Judge or a Senior Judge).

***maintenance*** includes child support.

***maintenance agreement*** means an agreement in writing (whether made within or outside Australia) that makes provision in relation to the maintenance of a child, a party to a marriage or a party to a de facto relationship (whether or not it also makes provision in relation to other matters), and includes such an agreement that varies an earlier maintenance agreement, and also includes a financial agreement, or Part VIIIAB financial agreement, within the meaning of the *Family Law Act 1975*.

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Note: A parenting plan under the *Family Law Act 1975* which deals with the maintenance of a child will come within this definition (see in particular section 63C of that Act).

***Matrimonial Causes Act 1959*** includes the rules made under that Act.

***medicare program*** has the same meaning as in the *Human Services (Medicare) Act 1973*.

***modifications*** includes additions, omissions and substitutions.

***non-parent carer*** has the meaning given by section 5 of the Assessment Act.

***order*** includes:

- (a) an interim order; and
- (b) an order (including an interim order) made under the law of a foreign country.

***overseas authority*** means a judicial or administrative authority of a reciprocating jurisdiction that is responsible for giving effect to an international maintenance arrangement.

***overseas maintenance liability*** means a liability that arises under:

- (a) a maintenance order made by a judicial authority of a reciprocating jurisdiction; or
- (b) a maintenance agreement registered by a judicial or administrative authority of a reciprocating jurisdiction; or
- (c) a maintenance assessment issued by an administrative authority of a reciprocating jurisdiction.

***party to a de facto relationship*** has the same meaning as in the *Family Law Act 1975*.

***party to a marriage*** has the same meaning as in Part VIII of the *Family Law Act 1975*.

***payee***:

- (a) means:
  - (i) in relation to a registrable maintenance liability or an overseas maintenance liability—the person who is entitled, or would, but for the registration of the liability

under this Act, be entitled, to receive payments under the liability; and

- (ii) in relation to an agency reimbursement liability—the overseas authority seeking reimbursement under that liability; and
- (b) for the purposes of section 42C and Parts VII and VIIA, in relation to a registrable overseas maintenance liability, also includes an overseas authority.

***payer***, in relation to a registrable maintenance liability, means the person who is liable to make payments under the liability.

***payment period***, except in section 76, means one of the following periods:

- (a) a week;
- (b) a fortnight;
- (c) a 4 week period;
- (d) a month;
- (e) a calendar month.

***periodic amount*** means a weekly, monthly, yearly or other periodic amount.

***person*** includes a company.

***protected earnings rate*** means a weekly rate prescribed for the purposes of this definition.

***reciprocating jurisdiction*** means:

- (a) a foreign country; or
- (b) a part of a foreign country;

that is prescribed by the regulations to be a reciprocating jurisdiction.

***reconsideration*** of a decision has the meaning given by section 110Q.

***registered maintenance liability*** means a registrable maintenance liability that is registered under this Act.

***registrable maintenance liability*** means a liability that is, under section 17, 17A, 18 or 18A, a registrable maintenance liability.

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**registrable overseas maintenance liability** means a registrable maintenance liability mentioned in section 18A.

**Registrar** means the Child Support Registrar.

**regular care** has the meaning given by subsection 5(2) of the Assessment Act.

**related Federal Magistrates Rules** has the same meaning as in the *Family Law Act 1975*.

**relative** has a meaning affected by subsection (5).

**remaining lump sum payment** has the meaning given by subsection 69A(4).

**resident of a reciprocating jurisdiction** means a person who is habitually resident in the reciprocating jurisdiction.

**resident of Australia:**

- (a) means a person who is a resident of Australia for the purposes of the *Income Tax Assessment Act 1936* otherwise than because of subsection 7A(2) of that Act; and
- (b) does not include a resident of a reciprocating jurisdiction.

**resumption determination** means a determination made by the Registrar under subsection 79A(3) or 79B(3).

**salary or wages** means:

- (a) work and income support related withholding payments other than:
  - (i) payments of an income tested pension, allowance or benefit; or
  - (ii) payments prescribed, or included in a class of payments prescribed, for the purposes of this paragraph; and
- (b) payments prescribed, or included in a class of payments prescribed, for the purposes of this paragraph.

**Second Commissioner** means a Second Commissioner of Taxation.

**Secretary** means the Secretary of the Department.



**SSAT** means the Social Security Appeals Tribunal.

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

**SSAT member** means a member of the SSAT (and includes the SSAT Principal Member).

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

**SSAT Principal Member** means the Principal Member of the SSAT.

Note: Schedule 3 to the *Social Security (Administration) Act 1999* deals with the constitution and membership of the SSAT.

**standard Rules of Court** has the same meaning as in the *Family Law Act 1975*.

**step-parent** has the same meaning as in the *Family Law Act 1975*.

**suspension determination** means a determination made by the Registrar under subsection 79A(1) or 79B(1).

**terminating event**, in relation to an enforceable maintenance liability, means:

- (a) the death of the payer unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the death of the payer;
- (b) the death of the person to whose maintenance the liability relates;
- (c) in a case where the liability relates to the maintenance of a child—the happening of any of the following events:
  - (i) the child attaining 18 years of age unless:
    - (A) under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the child attains that age; or
    - (B) section 151D of the Assessment Act applies in relation to the child;

Note: Section 151D of the Assessment Act modifies the normal rules about terminating events in relation to certain children who turn 18 during a year in which the child is in full-time secondary education.

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- (ii) the adoption or marriage of the child unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the adoption or marriage of the child;
  - (ca) in a case where section 151D of the Assessment Act applies to the child because of an application made under section 151B of that Act—the last day of the secondary school year (within the meaning of that Act) to which the application relates; or
- Note: Section 151B of the Assessment Act provides for a person to apply to continue an administrative assessment or child support agreement under that Act in force after a child's 18th birthday. If the application is granted, section 151D of that Act modifies the normal rules about terminating events.
- (cb) if the liability is of a kind mentioned in section 18A and one only of the payer and payee is a resident of Australia—the payer or payee ceases to be a resident of Australia; or
  - (cc) if the liability is of a kind mentioned in section 18A and both the payer and the payee are residents of Australia—both cease to be residents of Australia; or
  - (cd) if the liability is of a kind mentioned in section 18A and either the payer or the payee is a resident of a reciprocating jurisdiction—the payer or the payee (as the case may be) ceases to be a resident of the reciprocating jurisdiction and does not, immediately after so ceasing, become a resident of another reciprocating jurisdiction or of Australia; or
  - (ce) if the liability is of a kind mentioned in section 18A and either the payer or the payee is a resident of a reciprocating jurisdiction—the reciprocating jurisdiction is declared in regulations made for the purposes of section 30A to be an excepted reciprocating jurisdiction in which enforcement of a liability would be inconsistent with the international maintenance arrangement with the jurisdiction; or
  - (d) in a case where the liability relates to the maintenance of a party to a marriage—the re-marriage of the person unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the re-marriage of the person; or
  - (daa) in a case where the liability relates to the maintenance of a party to a de facto relationship—the marriage of the person

unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the marriage of the person; or

- (e) any other event the happening of which operates, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, to end the liability;

but does not include:

- (f) the making by, or registration in, a court of an order; or
- (g) the registration in, or approval by, a court of a maintenance agreement.

**this Act** includes the regulations.

**transferred maintenance liability** means a collection agency maintenance liability that has, under arrangements made under section 20 or 21, been transferred to the Child Support Register.

**trustee** includes:

- (a) a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law; or
- (b) an executor, administrator or other personal representative of a deceased person; or
- (c) a guardian or committee; or
- (d) a receiver or receiver and manager; or
- (e) a liquidator of a company; or
- (ea) an administrator, within the meaning of the *Corporations Act 2001*, of a company; or
- (eb) an administrator of a deed of company arrangement executed by a company under Part 5.3A of that Act; or
- (f) a person:
  - (i) having or taking on himself or herself the administration or control of any real or personal property affected by any express or implied trust;
  - (ii) acting in any fiduciary capacity; or
  - (iii) having the possession, control or management of any real or personal property of a person under any legal or other disability.

**vary**, in relation to the particulars entered in the Child Support Register in relation to a registered maintenance liability, includes

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the addition of a particular, and the omission of a particular and the substitution of another particular.

***Veterans' Affairs Department*** means the Department administered by the Minister administering the *Veterans' Entitlements Act 1986*.

***weekly deduction rate***, in relation to an enforceable maintenance liability, means the weekly rate of payment specified in the particulars of the entry in the Child Support Register in relation to the liability.

***work and income support related withholding payments*** means:

- (a) payments from which an amount must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D or Division 13 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld); or
- (b) payments from which an amount would be required to be withheld under a provision mentioned in paragraph (a) (other than section 12-55) apart from subsection 12-1(1A) in Schedule 1 to that Act.

Note: The payments covered are: payments to employees and company directors, payments to office holders, return to work payments, payments under labour hire arrangements, payments of annuities, payments of superannuation benefits, payments for termination of employment, payments for unused leave, benefit payments, compensation payments, payments specified by regulations and alienated personal services payments.

***year of income***, in relation to a person, means:

- (a) a year of income (within the meaning of the *Income Tax Assessment Act 1936*); or
  - (b) an income year (within the meaning of the *Income Tax Assessment Act 1997*).
- (3) A reference in this Act to the payer or payee of a registrable maintenance liability is, in relation to an entry in the Child Support Register that does not relate to a registrable maintenance liability, a reference to the person named in the entry as payer or payee, as the case requires.
- (4) Where:

- (a) the Registrar is required, under section 22, subsection 24(1), 24A(1) or 25(2), or section 36, 37A, 37B, 38A, 39, 39B or 44, to do an act within a specified period; and
  - (b) the Registrar does not either do that act or refuse to do that act;
- the Registrar shall, for the purposes of that definition, be deemed:
- (c) in a case where the Registrar within that period, by notice in writing served on a person, requires the person to provide information necessary to the Registrar to make a decision to do or refuse to do that act—at the end of the period of 28 days after the receipt by the Registrar of the information; or
  - (d) in any other case—at the end of that period;
- to have refused to do that act.
- (5) For the purposes of this Act, the relatives of a person are taken to include the following (without limitation):
- (a) a partner (within the meaning of the Assessment Act) of the person;
  - (b) someone who is the parent of the person, or someone of whom the person is a parent, because of the definition of *parent* in the Assessment Act;
  - (c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a relative of the person.

#### **4A Use of computer programs to make decisions**

- (1) The Secretary of the Department of which the Registrar is an employee may arrange for the use, under the Registrar's control, of computer programs for any purposes for which the Registrar may make decisions under this Act.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Registrar.

### **5 Extension and application of Act in relation to maintenance of exnuptial children**

*Extension of Act to States (except Western Australia)*

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- (1) Subject to subsections (4) and (5), this Act in so far as it relates to the maintenance of exnuptial children extends to New South Wales, Victoria, Queensland, South Australia and Tasmania.

*Extension of Act to Western Australia*

- (2) If:
- (a) the Parliament of Western Australia refers to the Parliament of the Commonwealth the matter of the maintenance of exnuptial children or matters that include that matter; or
  - (b) Western Australia adopts this Act in so far as it relates to the maintenance of exnuptial children;
- then, subject to subsections (4), (5), (5A) and (5B), this Act in so far as it relates to the maintenance of exnuptial children also extends to Western Australia.

*Application of Act to Territories*

- (3) This Act in so far as it relates to the maintenance of exnuptial children applies in and in relation to the Territories.

*Limitations on extension of Act to States*

- (4) This Act extends to a State by virtue of subsection (1) or (2) only for so long as there is in force:
- (a) an Act of the Parliament of the State by which there is referred to the Parliament of the Commonwealth:
    - (i) the matter of the maintenance of exnuptial children; or
    - (ii) matters that include that matter; or
  - (b) a law of the State adopting this Act in so far as it applies in relation to the maintenance of exnuptial children.

Note: See subsections (5A) and (5B) for the extension of this Act to Western Australia if the Act is amended in relation to the maintenance of exnuptial children.

- (5) This Act extends to a State at any time by virtue of subsection (1) or paragraph (2)(a) only in so far as it makes provision with respect to:
- (a) the matters that are at that time referred to the Parliament of the Commonwealth by the Parliament of the State; or

- (b) matters incidental to the execution of any power vested by the Constitution of the Parliament of the Commonwealth in relation to those matters.
  - (5A) The Parliament of the Commonwealth intends that this Act, so far as it is amended by one or more other Acts in relation to the maintenance of exnuptial children, not extend to Western Australia, unless and until one of the following events occurs:
    - (a) the Parliament of Western Australia refers to the Parliament of the Commonwealth the matter of the maintenance of exnuptial children or matters that include that matter;
    - (b) Western Australia adopts this Act, as so amended.
  - (5B) The Parliament of the Commonwealth also intends that, unless and until one of those events occurs, this Act continue to extend to Western Australia in relation to the maintenance of exnuptial children as if those amendments had not been made.
- Note: If this Act is amended by one or more other Acts in relation to the maintenance of exnuptial children, unless and until one of the events mentioned in subsection (5A) occurs, there are effectively 2 versions of this Act that apply in Australia. This Act, as amended, applies:
- (a) in all States and Territories in relation to children of marriages; and
  - (b) in all States and Territories, except Western Australia, in relation to exnuptial children.
- This Act continues to apply in Western Australia in relation to exnuptial children as if those amendments had not been made.
- (6) Nothing in this section affects the operation of the provisions of this Act to the extent that they give effect to an international maintenance arrangement.

## **6 Additional application of Act in relation to maintenance of children of marriages**

- (1) Without prejudice to its effect apart from this section, this Act in so far as it relates to the maintenance of children also has effect as provided by this section.
- (2) By virtue of this subsection, the provisions of this Act (other than subparagraph (a)(ii) of the definition of ***collection agency maintenance liability*** in subsection 4(1) or subparagraph 17(a)(ii)) in so far as they relate to the maintenance of children have the effect that they would have if:

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- (a) each reference to a child were, by express provision, confined to a child of a marriage; and
  - (b) each reference to the parents of the child were, by express provision, confined to the parties to the marriage;
- and have that effect only in so far as they make provision with respect to the rights and duties of the parties to the marriage in relation to the child, including, without limiting the generality of the foregoing, provision with respect to the rights and duties of those parties in relation to the maintenance of the child.
- (3) Nothing in this section affects the operation of the provisions of this Act to the extent that they give effect to an international maintenance arrangement.

## 7 Corresponding State laws

- (1) Where the Minister is satisfied that a law of a State relating to the collection of periodic amounts payable for the maintenance of children makes adequate and appropriate provision for the collection of those amounts on a regular and timely basis, the Minister may, by notice published in the *Gazette*, declare the law to be a corresponding State law for the purposes of this section.
- (2) If at any time the Minister becomes satisfied that the State law no longer makes adequate and appropriate provision for the collection of periodic amounts payable for the maintenance of children on a regular and timely basis, the Minister may, by notice published in the *Gazette*, revoke the declaration of the law as a corresponding State law for the purposes of this section.
- (3) It is the intention of the Parliament that the Registrar, the Secretary, the SSAT and the AAT should have and be subject to the powers, functions, rights, liabilities and duties conferred or imposed on the Registrar, the Secretary, the SSAT or the AAT, as the case may be, by a corresponding State law that are additional to those conferred or imposed by this Act.

## 8 Act to bind Crown

- (1) This Act binds the Crown in right of the Commonwealth and of each of the States, the Northern Territory and Norfolk Island.



- (2) Nothing in this Act renders the Crown in right of the Commonwealth or of a State, the Northern Territory or Norfolk Island liable to be prosecuted for an offence.

## **9 External Territories**

- (1) This Act extends to each of the external Territories.
- (2) This Act applies in relation to an external Territory to which the *Family Law Act 1975* does not extend with such modifications as are prescribed.

## **Part II—Administration**

### **10 Child Support Registrar**

- (1) There shall be a Child Support Registrar.
- (2) The Child Support Registrar is to be a person who is:
  - (a) an SES employee in the Department; and
  - (b) specified in a written instrument made by the Secretary.
- (3) A person must not be specified in an instrument under paragraph (2)(b) if the person is, or is acting as:
  - (a) the Chief Executive Centrelink; or
  - (b) the Chief Executive Medicare.
- (4) An instrument under paragraph (2)(b) is not a legislative instrument.

#### **10A Acting Child Support Registrar**

- (1) The Secretary may appoint an SES employee in the Department to act as the Child Support Registrar:
  - (a) during a vacancy in the position of Child Support Registrar (whether or not an appointment has previously been made to the position); or
  - (b) during any period, or during all periods, when the Child Support Registrar:
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the position.
- (2) A person must not be appointed under subsection (1) if the person is, or is acting as:
  - (a) the Chief Executive Centrelink; or
  - (b) the Chief Executive Medicare.
- (3) Anything done by or in relation to a person purporting to act under an appointment under subsection (1) is not invalid merely because:
  - (a) the occasion for the appointment had not arisen; or

- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.

Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

## **11 Secretary to have general administration of Act**

The Secretary has the general administration of this Act.

## **13 Child Support Register**

- (1) The Registrar shall keep a register, to be known as the Child Support Register.
- (2) The Child Support Register shall be kept in such form (whether or not in a documentary form) as the Registrar considers appropriate.

## **14 Annual report**

- (1) The Secretary shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the working of this Act.
- (2) The Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
- (3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by subsection (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.

## **15 Delegation**

- (1) The Registrar may, in writing, delegate all or any of the Registrar's powers or functions under this Act to an officer or employee of the Department.
- (1A) The Registrar may, in writing, delegate all or any of his or her powers or functions under this Act to the Chief Executive Centrelink.

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- (1B) Without limiting subsection (1) or (1A), the Registrar may, in writing, delegate all or any of his or her powers or functions under this Act to a person engaged (whether as an employee or otherwise) by:
- (a) the Registrar; or
  - (b) an Agency (within the meaning of the *Public Service Act 1999*); or
  - (c) another authority of the Commonwealth; or
  - (d) an organisation that performs services for the Commonwealth.
- (1C) Any information provided to a person as a result of a delegation by the Registrar under subsection (1B) must be retained, processed and stored in Australia at all times and must not in any way be transmitted outside Australia.
- (2) A delegation may be made subject to a power of review and alteration by the Registrar, within a period specified in the instrument of delegation, of acts done under the delegation.
- (3) A delegation continues in force even though there has been a change in the occupancy of, or there is a vacancy in, the office of Registrar, but, for the purposes of the application of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to such a delegation, nothing in any law shall be taken to preclude the revocation or variation of the delegation by the same or a subsequent holder of the office.

## 16 Secrecy

- (1) In this section:

**court** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

**person to whom this section applies** means a person who is or has been:

- (a) the Minister; or
- (b) appointed or employed by, or a provider of services for, the Commonwealth; or
- (c) a person to whom protected information has been communicated under subsection (3), (4) or (4G); or

- (d) a person to whom protected information is communicated by:
  - (i) a person to whom the information was communicated under subsection (3) or (4); or
  - (ii) a person mentioned in this paragraph; or
- (e) a person to whom this section applied immediately before the commencement of Schedule 5 to the *Child Support Legislation Amendment Act 2001*.

***produce*** includes permit access to.

***protected document*** means:

- (a) a document that:
  - (i) contains information that concerns a person; and
  - (ii) is obtained or made by another person in the course of, or because of, the other person's duties under or in relation to this Act; or
- (b) a document to which paragraph (a) applied that is communicated to a person in circumstances authorised by this section.

***protected information*** means:

- (a) information that:
  - (i) concerns a person; and
  - (ii) is disclosed to or obtained by another person in the course of, or because of, the other person's duties under or in relation to this Act; or
- (b) information to which paragraph (a) applied that is communicated to a person in circumstances authorised by this section.

***relevant Minister*** means:

- (a) a Minister who administers this Act; or
- (b) the Prime Minister.

- (2) Subject to this section, a person to whom this section applies must not:
  - (a) make a record of any protected information; or
  - (b) whether directly or indirectly, communicate to a person any protected information concerning another person.

Penalty: Imprisonment for 1 year.

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- (2A) Subsection (2) does not apply if the record is made, or the information is communicated:
  - (a) under or for the purposes of this Act; or
  - (b) in the performance of duties, as a person to whom this section applies, under or in relation to this Act; or
  - (c) for the purpose for which the information was communicated under this section.
- (2AAA) Subsection (2) does not apply to the making of a record of information with the express or implied authorisation of the person to whom the information relates.
- (2AA) Subsection (2) does not prevent:
  - (a) the SSAT from communicating the reasons for a decision of the SSAT under Part VIIA to the Secretary or a person authorised by the Secretary; or
  - (b) the Secretary from communicating the reasons for a decision of the SSAT under Part VIIA to a person authorised by the Secretary.
- (2AB) Subsection (2) does not prevent the Secretary, or a person authorised by the Secretary, from publishing in written or electronic form the reasons for a decision of the SSAT under Part VIIA if the publication does not identify:
  - (a) a party to the review concerned (other than the Registrar); or
  - (b) a person (other than the Registrar) who is related to, or associated with, a party to the review concerned or is, or is alleged to be, in any other way concerned in the matter to which the review concerned relates; or
  - (c) a witness in the review concerned.
- (2AC) Without limiting subsection (2AB), a publication of reasons for a decision of the SSAT under Part VIIA is taken to identify a person if it contains any particulars of:
  - (a) the name, title, pseudonym or alias of the person; or
  - (b) the address of any premises at which the person resides or works, or the locality in which any such premises are situated; or
  - (c) the physical description or the style of dress of the person; or

- (d) any employment or occupation engaged in, profession practised or calling pursued, by the person or any official or honorary position held by the person; or
  - (e) the relationship of the person to identified relatives of the person or the association of the person with identified friends or identified business, official or professional acquaintances of the person; or
  - (f) the recreational interests, or the political, philosophical or religious beliefs or interests, of the person; or
  - (g) any real or personal property in which the person has an interest or with which the person is otherwise associated;
- and the particulars are sufficient to identify that person to a member of the public, or to a member of the section of the public to which the publication is disseminated, as the case requires.
- (3) Subsection (2) does not prevent the Registrar, or a person authorised by the Registrar, from communicating any protected information:
- (a) to the Secretary, or an officer or employee of the Department, for the purpose of the administration of this Act; or
  - (b) to the Secretary of the Department or the Veterans' Affairs Department, or an officer or employee of either Department, for the purpose of the administration of any law of the Commonwealth relating to pensions, allowances or benefits; or
- (ba) to:
- (i) the Chief Executive Centrelink; or
  - (ii) a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*);
- for the purpose of the administration of this Act or of any other law of the Commonwealth relating to pensions, allowances or benefits; or
- (bb) to:
- (i) the Chief Executive Medicare; or
  - (ii) a Departmental employee (within the meaning of the *Human Services (Medicare) Act 1973*);
- for the purpose of the performance of functions, or the exercise of powers, in connection with a medicare program; or

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- (c) to a person performing, as a person to whom this section applies, duties under or in relation to this Act or the Assessment Act, or under regulations made under either Act, for the purpose of enabling the person to perform the duties; or
  - (ca) to a person performing, as a person to whom this section applies, duties under or in relation to an Act of which the Commissioner has the general administration, or under regulations made under such an Act, for the purpose of enabling the person to perform those duties; or
  - (d) to the Secretary of the Attorney-General's Department, or an officer or employee of that Department, for the purpose of:
    - (i) the enforcement outside Australia of registrable maintenance liabilities; or
    - (ii) the enforcement within Australia of maintenance liabilities that arose under the law of a foreign country; or
  - (e) to any person, if the information concerns a credible threat to the life, health or welfare of a person and either of the following applies:
    - (i) the Registrar, or the person authorised by the Registrar, believes on reasonable grounds that the communication is necessary to prevent or lessen the threat;
    - (ii) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against a person and the information is communicated for the purpose of preventing, investigating or prosecuting such an offence; or
  - (f) to a person who is authorised to obtain the information by the person to whom the information relates.
- (3A) Subsection (2) does not prevent an SSAT member from communicating any protected information to a person, if the information concerns a threat to the life, health or welfare of a person and either of the following applies:
- (a) the member believes on reasonable grounds that the communication is necessary to prevent or lessen the threat;
  - (b) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against a person and the member communicates the information for the



purpose of preventing, investigating or prosecuting such an offence.

- (4) Subsection (2) does not prevent the Registrar, or a person authorised by the Registrar, from communicating any protected information to a person if:
- (a) the information cannot reasonably be obtained from a source other than the Department; and
  - (b) the person to whom the information will be communicated has sufficient interest, within the meaning of subsection (4A), in the information; and
  - (c) the Registrar, or a person authorised by the Registrar, is satisfied that the communication is for the purpose of subsection (4B), (4C), (4D), (4E) or (4F).
- (4A) A person has *sufficient interest* in protected information if:
- (a) the Registrar, or the person authorised by the Registrar, is satisfied that, in relation to the purpose of the communication, the person has a genuine and legitimate interest in the information; or
  - (b) the person is a relevant Minister.
- (4B) A communication of protected information is for the purpose of this subsection if:
- (a) the communication is necessary to correct a mistake of fact in relation to the administration of this Act; and
  - (b) the integrity of that administration will be at risk if the mistake of fact is not corrected.
- (4C) A communication of protected information is for the purpose of this subsection if the communication is necessary:
- (a) to brief a relevant Minister so that the Minister can consider or respond to complaints or issues raised with the Minister by or on behalf of a person (in writing or orally); or
  - (b) to brief a relevant Minister for a meeting or forum that the Minister is to attend; or
  - (c) to brief a relevant Minister in relation to issues raised or proposed to be raised publicly by or on behalf of the person to whom the information relates so that the Minister can respond by correcting a mistake of fact, a misleading

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- perception or impression, a misleading statement or an incorrectly held opinion; or
- (d) to brief a relevant Minister about a possible error or delay on the part of the Registrar or an officer or employee of the Department; or
  - (e) to brief a relevant Minister about an instance of an anomalous or unusual operation of this Act.
- (4D) A communication of protected information is for the purpose of this subsection if:
- (a) the information is about a missing person; and
  - (b) the communication is necessary:
    - (i) to assist a court, coronial enquiry, Royal Commission, department or authority, of the Commonwealth, a State or a Territory, in relation to the whereabouts of the missing person; or
    - (ii) to locate a person (including the missing person); and
  - (c) there is no reasonable ground to believe that the missing person would not want the information communicated.
- (4E) A communication of protected information is for the purpose of this subsection if:
- (a) the information is about a deceased person; and
  - (b) the communication:
    - (i) is necessary to assist a court, coronial enquiry, Royal Commission, department or authority, of the Commonwealth, a State or a Territory, in relation to the death of the person; or
    - (ii) is necessary to help a person locate a relative or beneficiary of the deceased person; or
    - (iii) is in relation to the administration of the estate of the deceased person; and
  - (c) there is no reasonable ground to believe that the deceased person would not have wanted the information communicated.
- (4F) A communication of protected information is for the purpose of this subsection if the information is to establish:
- (a) the death of a person; or
  - (b) the place where the death of a person is registered.

- (4G) Subsection (2) does not prevent the Registrar, or a person authorised by the Registrar, from communicating any protected information to a person if:
- (a) the person to whom the information will be communicated is a payee of a registered maintenance liability who has notified the Registrar, in accordance with section 113A, of the payee's intention to institute a proceeding in accordance with that section; and
  - (b) the information is communicated for the purpose of the proceeding.
- (5) A person to whom this section applies is not required:
- (a) to communicate protected information to a court; or
  - (b) to produce a protected document in court;
- except where it is necessary to do so for the purposes of this Act.
- (5A) Subsections (2) and (5) apply to information communicated under paragraph (3)(d) or (e) as if the purposes referred to in those paragraphs were purposes of this Act.
- (6) Nothing in an Act of which the Commissioner has the general administration is to be taken to prohibit the Commissioner, a Second Commissioner, a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from communicating any information to a person performing, as a person to whom this section applies, duties under or in relation to this Act for the purpose of enabling the person to perform the duties.
- (7) Nothing in an Act of which the Commissioner has the general administration is to be taken to prohibit the Commissioner, a Second Commissioner, a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from:
- (a) communicating to a court any information obtained under or for the purposes of such an Act; or
  - (b) producing in court a document obtained or made under or for the purposes of such an Act;
- where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

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- (8) A person to whom this section applies must, if and when required by the Registrar to do so, make an oath or declaration, in a manner and form specified by the Registrar in writing, to maintain secrecy in accordance with this section.
- (9) This section has effect subject to subsection 67N(10) of the *Family Law Act 1975*.

**16AA Offence of unauthorised use of information**

- (1) A person commits an offence if:
  - (a) the person:
    - (i) makes a record of information; or
    - (ii) communicates information to a person; or
    - (iii) otherwise makes use of information; and
  - (b) at the time the person does so, the person is not a person to whom this section applies (within the meaning of subsection 16(1)); and
  - (c) the information is relevant information.

Penalty: Imprisonment for 1 year.

- (2) If:
  - (a) the relevant information was communicated to a person under subsection 16(4G); and
  - (b) that person makes a record of, or communicates, the information for the purpose of a proceeding under section 113A;subsection (1) of this section does not apply to any further recording, communication or use of that information by a person who is not a person to whom this section applies.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) In this section:

***relevant information*** means:

- (a) information about a person obtained from the records of the Department or the former Child Support Agency; or
- (b) information to the effect that there is no information about a person held in the records of the Department or the former Child Support Agency.

**16AB Multiple secrecy provisions***Scope*

- (1) This section applies to particular information if:
- (a) the information is subject to a regulatory regime under a designated program Act (the ***first program Act***); and
  - (b) the information is also subject to a regulatory regime under another designated program Act (the ***second program Act***).

For the purposes of this subsection, in determining whether particular information is subject to a regulatory regime under a designated program Act, disregard whether the information is subject to a regulatory regime under any other designated program Act.

*Disclosure or use of information etc.*

- (2) If:
- (a) the Secretary, the Registrar or an officer or employee of the Department:
    - (i) discloses the information; or
    - (ii) uses the information; or
    - (iii) makes a record of the information; and
  - (b) the Secretary, the Registrar or the officer or employee of the Department, as the case may be, does so without contravening the first program Act;
- the disclosure, use, or making of the record, as the case may be, does not contravene the second program Act.

*Definitions*

- (3) In this section:

***designated program Act*** means:

- (a) this Act; or
- (b) the *A New Tax System (Family Assistance) (Administration) Act 1999*; or
- (c) the *Aged Care Act 1997*; or
- (d) the *Child Support (Assessment) Act 1989*; or
- (e) the *Dental Benefits Act 2008*; or
- (f) the *Disability Services Act 1986*; or

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- (g) the *Health Insurance Act 1973*; or
- (h) the *Medical Indemnity Act 2002*; or
- (i) the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010*; or
- (j) the *National Health Act 1953*; or
- (k) the *Paid Parental Leave Act 2010*; or
- (l) the *Private Health Insurance Act 2007*; or
- (m) the *Social Security (Administration) Act 1999*; or
- (n) the *Student Assistance Act 1973*; or
- (o) an Act specified in a legislative instrument made by the Minister for the purposes of this paragraph.

*disclose* means disclose, divulge or communicate.

**16A Applications, notices, elections to be in the manner specified by the Registrar**

- (1) The Registrar may specify the manner in which an application, notice or election required or able to be made or given under this Act is to be made or given.
- (2) Without limiting subsection (1), in respect of an application, notice or election, the Registrar may specify any or all of the following matters:
  - (a) the content of the application, notice or election;
  - (b) that the content is to be made or given in a particular form approved by the Registrar under subsection (4);
  - (c) that the content is to be made or given orally;
  - (d) that specified documents are to accompany it;
  - (e) that the content is to be verified or that a document accompanying it is to be verified;
  - (f) that it may be given on a specified kind of data processing device, or by way of electronic transmission, including specifying that it may be given in accordance with certain software requirements.

- (3) In relation to an application, notice or election, if the Registrar specifies that it, or a document accompanying it, must be signed, the Registrar may also specify that, if it is given to the Registrar on a data processing device, or by way of electronic transmission, the process may contain the electronic signature of the person concerned.

- (4) The Registrar may in writing approve a form of application, notice or election for the purposes of a particular section of this Act.

Note: Strict compliance with the form is not required—see section 25C of the *Acts Interpretation Act 1901*.

- (5) In this section:

***electronic signature***, in relation to a person, means a unique identification in an electronic form that is approved by the Registrar.

### **16B Registrar's power to request tax file numbers**

- (1) This section applies to a person in Australia if the person is a payer or a payee in relation to a registrable maintenance liability.
- (2) The Registrar may request, but not compel, the person:
- (a) to give the Registrar a written statement of the person's tax file number; or
  - (b) if the person does not have a tax file number—to apply to the Commissioner for a tax file number and to give to the Registrar a written statement of the person's tax file number after the Commissioner has issued it.
- (3) A person is taken to have complied with a request under subsection (2) if the person gives to the Registrar a statement of a kind mentioned in subsection (4) or (5) of this section.
- (4) The person may give to the Registrar a statement that the person:
- (a) has a tax file number but does not know what it is; and
  - (b) has asked the Commissioner to inform the person of the person's tax file number; and
  - (c) authorises the Commissioner to tell the Registrar:
    - (i) whether the person has a tax file number; and
    - (ii) if the person has a tax file number—that number.

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- (5) The person may give to the Registrar a statement that the person:
  - (a) has an application for a tax file number pending; and
  - (b) authorises the Commissioner to tell the Registrar:
    - (i) if a tax file number is issued to the person—that number; or
    - (ii) if the application is refused—that the application has been refused; or
    - (iii) if the application is withdrawn—that the application has been withdrawn.

**16C Registrar may require Commissioner to provide information**

- (1) The Registrar may require the Commissioner to provide the Registrar with information about people, including tax file numbers, being information that is in the possession of the Commissioner.
- (2) Information provided to the Registrar under a requirement made under subsection (1) may be used only for the following purposes:
  - (a) to facilitate the recovery of debts due to the Commonwealth under this Act;
  - (b) to identify a person for purposes related to the purpose mentioned in paragraph (a).



## **Part III—Registration of maintenance liabilities**

### **Division 1—Registrable maintenance liabilities**

#### **17 Liabilities in relation to children that are registrable maintenance liabilities**

- (1) Subject to section 19, a liability is a registrable maintenance liability if:
  - (a) it is a liability of:
    - (i) a parent of a child to pay a periodic amount to a parent or non-parent carer of the child for the maintenance of the child; or
    - (ii) a step-parent of a child to pay a periodic amount to a parent or non-parent carer of the child for the maintenance of the child; and
  - (b) either of the following subparagraphs applies:
    - (i) it arises under a court order or court registered maintenance agreement;
    - (ii) it is a collection agency maintenance liability.
- (2) Subject to section 19, a liability is a registrable maintenance liability if it arises under a child support assessment.

#### **17A Liabilities in relation to persons who have paid amounts where no liability to pay because the person is not the parent**

- (1) Subject to section 19, a liability is a registrable maintenance liability if:
  - (a) it is a liability of a person (the *payer*) to pay an amount to another person (the *payee*); and
  - (b) it arises under a court order made under section 143 of the Assessment Act; and
  - (c) the court made the order in response to a declaration under section 107 of that Act that the payee should not be assessed in respect of the costs of the child because the payee is not a parent of the child.

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- (2) Subsection (1) does not apply to the extent that a liability to pay an amount is a liability to pay any costs incurred in respect of proceedings instituted under section 143 of the Assessment Act.

**18 Liabilities in relation to parties to marriages, or parties to de facto relationships, that are registrable maintenance liabilities**

- (1) Subject to section 19, a liability is a registrable maintenance liability if:
  - (a) it is a liability of a party to a marriage to pay a periodic amount for the maintenance of the other party to the marriage; and
  - (b) either of the following subparagraphs applies:
    - (i) it arises under a court order or court registered maintenance agreement;
    - (ii) it is a collection agency maintenance liability.
- (2) Subject to section 19, a liability is a registrable maintenance liability if:
  - (a) it is a liability of a party to a de facto relationship to pay a periodic amount for the maintenance of the other party to the de facto relationship; and
  - (b) either of the following subparagraphs applies:
    - (i) it arises under a court order or court registered maintenance agreement;
    - (ii) it is a collection agency maintenance liability.

**18A Liability in relation to registrable overseas maintenance liabilities**

- (1) A liability is a registrable overseas maintenance liability if it is:
  - (a) a liability of a parent or step-parent of a child to pay a periodic amount for the maintenance of the child; and
  - (b) an overseas maintenance liability.
- (2) A liability is a registrable overseas maintenance liability if it is:
  - (a) a liability of a party to a marriage to pay a periodic amount for the maintenance of the other party to the marriage; and
  - (b) an overseas maintenance liability.

- (3) A liability is a registrable overseas maintenance liability if it is:
  - (a) an agency reimbursement liability; or
  - (b) a penalty, within the meaning of a provision that is prescribed by the regulations, of an international treaty that is so prescribed, that is payable under the law of a foreign country that is a party to the treaty.
- (4) A liability is a registrable overseas maintenance liability if it is an amount that is in arrears under a liability mentioned in subsection (1) or (2) or paragraph (3)(a).
- (5) This section is subject to section 19.

### **19 Exclusion of liabilities by regulation**

- (1) The regulations may provide that specified liabilities, or liabilities included in specified classes of liabilities, are not registrable maintenance liabilities.
- (2) Without limiting the generality of subsection (1), the regulations may:
  - (a) make different provision for the purposes of section 17, 17A, 18 or 18A; and
  - (b) specify liabilities, or a class of liabilities, by reference to all or any of the following:
    - (i) when the assessments, orders or agreements under which the liabilities arose were made, registered, approved or sanctioned, as the case may be;
    - (ii) characteristics of the persons to whom the liabilities relate, including:
      - (A) if those persons are children, their dates of birth and, if applicable, when their parents separated;
      - (B) if those persons are not children, their ages and whether or not they are in receipt of an income tested pension, allowance or benefit;
    - (iii) whether or not the liabilities are collection agency maintenance liabilities of a State or Territory;
    - (iv) whether or not the liabilities arose under orders made under section 139 of the Assessment Act or section 66Q or 77 of the *Family Law Act 1975*.

## **Division 2—Registration of maintenance liabilities**

### **20 Arrangements with States, Northern Territory and Norfolk Island for transfer of liabilities**

The Governor-General may make arrangements with the Governor of a State or the Administrator of the Northern Territory or Norfolk Island for the transfer to the Child Support Register of collection agency maintenance liabilities of the State or Territory.

### **21 Arrangements in relation to Territories (other than the Northern Territory or Norfolk Island) for transfer of liabilities**

The Registrar may make arrangements for the transfer to the Child Support Register of collection agency maintenance liabilities of a Territory (other than the Northern Territory or Norfolk Island).

### **22 Registrar to register transferred liabilities in Child Support Register**

Where, under arrangements made under section 20 or 21, a collection agency maintenance liability is transferred to the Child Support Register, the Registrar shall, within 28 days after the transfer of the liability, register the liability under this Act by entering particulars of liability in the Child Support Register.

### **23 Payer and payee to notify Registrar when registrable maintenance liability arises etc.**

- (1) This section applies where:
  - (a) under this Act, the Assessment Act, the *Family Law Act 1975* or the law of a State or Territory:
    - (i) an order is made by, or registered in, a court; or
    - (ii) a maintenance agreement is registered in, or approved by, a court; and
  - (b) either of the following subparagraphs applies:
    - (i) a registrable maintenance liability arises under the order or agreement;

- (ii) the order or agreement varies or otherwise affects a registrable maintenance liability that is not registered under this Act.
- (1A) This section does not apply to a registrable overseas maintenance liability.
- (2) The payee of the registrable maintenance liability shall, within 14 days after the day (in subsection (5) called the **relevant day**) on which the order is made by, or registered in, the court or the agreement is registered in, or approved by, the court, give notice to the Registrar in relation to the order or agreement.
- (3) The payee is not required to give the Registrar notice under subsection (1) if the payee, within that period of 14 days, elects, by giving the Registrar a notice, not to have the registrable maintenance liability enforced under this Act.
- (5) Subject to subsection (6), the payer of the registrable maintenance liability shall, within 14 days after the relevant day, give notice to the Registrar in relation to the order or agreement.
- (6) The payer is not required to give the notice to the Registrar if the payee elects under subsection (3) not to have the registrable maintenance liability enforced under this Act.
- (6A) The notices under subsections (2), (3) and (5) must be given in the manner specified by the Registrar.
  - Note: Section 16A provides for the Registrar to specify the manner in which a notice may be given.
- (7) A person who contravenes subsection (2) or (5) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.
- (7A) Subsection (7) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against subsection (7) if the person charged proves that the person furnished the relevant form to the Registrar as soon as reasonably practicable after becoming aware of the making or registration of the relevant order or of the registration or approval of the relevant maintenance agreement, as the case may be.

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**24 Registrar to register liability in Child Support Register on receipt of notification etc.**

- (1) Where the Registrar receives under subsection 23(2) a notice from the payee of a registrable maintenance liability, the Registrar shall, within 28 days after receipt of the notice, register the liability under this Act by entering particulars of the liability in the Child Support Register.
- (2) Where the payee of a registrable maintenance liability who is required by subsection 23(2) to give notice to the Registrar fails to do so within the period specified in that subsection, the Registrar may, even though the notice has not been given within that period or has not been given at all, register the liability under this Act by entering particulars of the liability in the Child Support Register.

**24A Registrar to register liability in Child Support Register on making of child support assessment**

- (1) Subject to subsection (2), where the Registrar makes a child support assessment under which a registrable maintenance liability arises, the Registrar must immediately register the liability under this Act by entering particulars of the liability in the Child Support Register.
- (2) Subsection (1) does not apply in relation to a registrable maintenance liability if:
  - (b) the payee elected in the relevant application for assessment of child support or the relevant application for acceptance of a child support agreement, as the case requires, not to have the liability enforced under this Act; or
  - (c) the application giving rise to the child support assessment was made by the parent by whom child support is payable.

Note: Section 25 allows a payee in this situation to apply for the liability to be registered.

- (3) Despite subsection (1), if the Registrar makes a child support assessment in a case where either the payer or the payee is a resident of a reciprocating jurisdiction, the Registrar must register the liability under this Act as soon as practicable, rather than immediately, after making the assessment.

## **25 Application for registration of registrable maintenance liability**

- (1) The payee of a registrable maintenance liability that is not registered under this Act may apply to the Registrar, in the manner specified by the Registrar, for the registration of the liability under this Act.
- (1A) If:
- (a) the payee is a resident of a reciprocating jurisdiction; and
  - (b) the registrable maintenance liability is a registrable overseas maintenance liability that arises under an order made by, or registered in, a court of the reciprocating jurisdiction;
- an application for the registration of the liability:
- (c) made by the payee and given to the Registrar by an overseas authority of the reciprocating jurisdiction; or
  - (d) made by such an overseas authority on behalf of the payee;
- is taken to be an application under subsection (1) if the Registrar is satisfied that it is appropriate to do so.
- (1B) If:
- (a) the payee is a resident of a reciprocating jurisdiction; and
  - (b) the registrable maintenance liability is a registrable overseas maintenance liability that does not arise under an order made by, or registered in, a court of the reciprocating jurisdiction;
- an application for the registration of the liability is not taken to be an application under subsection (1) unless it is:
- (c) made by the payee and given to the Registrar by an overseas authority of the reciprocating jurisdiction; or
  - (d) made by such an overseas authority on behalf of the payee.
- (1C) If either the payer or the payee of a registrable maintenance liability that is not registered under this Act is a resident of a reciprocating jurisdiction, the payer may apply to the Registrar, in a manner specified by the Registrar, for the registration of the liability under this Act.
- (1D) If the payer is a resident of a reciprocating jurisdiction, the application mentioned in subsection (1C) must be either:
- (a) made by the payer and given to the Registrar by an overseas authority of the reciprocating jurisdiction; or
  - (b) made directly to the Registrar.

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- (2) Subject to subsection (3), if the Registrar receives an application from the payee or payer the Registrar must, within 28 days after receiving the application, register the liability under this Act by entering particulars of the liability in the Child Support Register.
  - (2A) However, if either the payer or the payee is a resident of a reciprocating jurisdiction, the Registrar has 90 days to register the liability, instead of 28 days.
  - (2B) The Registrar may refuse to register a registrable overseas maintenance liability if the Registrar is satisfied that the liability arises in a manner that is inconsistent with the international maintenance arrangement on which the payee relies.
  - (2C) If:
    - (a) a registered maintenance liability relates to a particular child, a particular payer and a particular payee; and
    - (b) a registrable maintenance liability:
      - (i) that relates to the same child, payer and payee; and
      - (ii) that arose before the registered maintenance liability arose;first comes to the notice of the Registrar after the registration of the registered maintenance liability;  
the Registrar must not register the registrable maintenance liability except for the purpose of facilitating the recovery of arrears under it.
  - (2D) A registrable maintenance liability that is registered to facilitate the recovery of arrears under it is to be treated for all other purposes as if it had not been registered.
  - (3) The Registrar must not register the liability if the payee has given notice, or is required to give notice, under subsection 23(2) in relation to the liability.
  - (4) The regulations may provide that this section applies in relation to collection agency maintenance liabilities only if specified conditions or restrictions are complied with or only in specified circumstances.
- Note: In relation to applications made under subsection (1) or (1C), section 16A provides for the Registrar to specify the manner in which the application may be made.



## **25A Inclusion of certain liabilities in the Child Support Register**

- (1) A payee may apply to the Registrar for entry, in the Child Support Register, of the particulars of an overseas maintenance liability that is not a registrable overseas maintenance liability.
- (2) An application must be made in the manner specified by the Registrar.
- (3) In the absence of an application made in accordance with subsection (2), a document or documents given by the payee may be taken to be an application for entry of the particulars of an overseas maintenance liability if the Registrar is satisfied that it is appropriate to do so.
- (4) The Registrar must, within 90 days after receiving an application, enter the particulars of the liability in the Child Support Register if the Registrar is satisfied that to do so would be consistent with the international maintenance arrangement on which the payee relies.
- (5) The Registrar may refuse to register a maintenance assessment, order or agreement issued, made or registered in a foreign country that is a party to an international treaty and that is prescribed by the regulations if the payee is habitually resident in that country.
- (6) For the purposes of this Act, a decision under this section is taken to be a decision in relation to a registrable maintenance liability.

## **25B Effect of inclusion**

- (1) If the particulars of an overseas maintenance liability are entered in the Child Support Register under section 25A, an amount payable under the maintenance assessment, order or agreement that gives rise to the liability is a debt due to the payee.
- (2) A debt due under this section is recoverable in a court of competent jurisdiction by the payee from the person who is liable to make payments under the liability.

## **25C Limitation on inclusion of liabilities in Register**

Despite anything else in this Division, the Registrar must not register a liability if neither the payee nor the payer is a resident of Australia.

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**26 Particulars of liability to be entered in Child Support Register**

*Particulars of the child support assessment, court order or maintenance agreement*

- (1) The entry in the Child Support Register in relation to a registered maintenance liability must include particulars from the child support assessment, court order or maintenance agreement under which the liability arose. Those particulars are as follows:
  - (a) the name of the payer;
  - (b) the name of the payee;
  - (c) particulars of the child support assessment, court order or maintenance agreement under which the liability arose and each assessment, court order and maintenance agreement varying or otherwise affecting the first-mentioned assessment, order or agreement, being particulars that are, in the opinion of the Registrar, sufficient to adequately identify the basis of the liability;
  - (d) the name and date of birth of each child to whose maintenance the entry relates;
  - (e) the name of any other person to whose maintenance the entry relates;
  - (f) the periodic amount, or the aggregate of the periodic amounts that are:
    - (i) stipulated in the child support assessment, court order or maintenance agreement under which the liability arose; and
    - (ii) payable by the payer in relation to the entry;
  - (g) if the entry relates to the maintenance of 2 or more persons—the periodic amount attributable to each of them;
  - (h) the period specified in the child support assessment, court order or maintenance agreement as the period at which amounts are payable under the liability;
  - (i) particulars of any terms and conditions of the court order or agreement that the Registrar considers necessary or desirable to include in the entry to ensure that all the terms and conditions of the order or agreement relating to the liability are fully given effect to under this Act.
- (1A) To avoid doubt, the reference to 2 or more persons in paragraph (1)(g) does not include a reference to 2 or more children

in relation to whom a single administrative assessment applies (see section 67 of the Assessment Act).

*Particulars as to the payment period and payment rate*

- (2) The entry in the Register must also include particulars relating to the payment rate and payment period in respect of the liability. Those particulars are as follows:
- (a) the initial period (determined under section 26C) (if any) at which an amount is payable in respect of the liability;
  - (b) the payment period (determined under section 26A, 26B or 42A or Part IV), after the initial period (if any), at which amounts are payable in respect of the liability, and the start day of the period;
  - (c) if employer withholding is to apply in relation to a liability—a weekly rate of payment in relation to the periodic amount, or the aggregate of the periodic amounts;
  - (d) the rate of payment (weekly, fortnightly, 4 weekly or monthly) in relation to the periodic amount, or the aggregate of the periodic amounts, payable by the payer in relation to the entry and the amount of the rate of payment.

Note 1: For *payment period* see subsection 4(1).

Note 2: Section 28B requires the Registrar to convert the periodic amount payable in respect of a registrable maintenance liability to a rate of payment depending upon the payment period determined in respect of the liability.

*Particulars relating to enforceability of the liability*

- (3) The entry in the Register must also include particulars relating to the enforceability of the liability. Those particulars are as follows:
- (a) the day on which the liability first becomes enforceable under this Act;
  - (b) if the liability ceases to be enforceable under this Act (whether on one occasion or more than one occasion)—each day on which the liability ceases to be so enforceable;
  - (c) if the liability ceases to be enforceable under this Act and again becomes so enforceable (whether on one occasion or more than one occasion)—each day on which the liability again becomes enforceable under this Act;
  - (d) particulars of any suspension of the liability.

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*Other particulars that the Register may include*

- (4) The entry in the Register may also include the following particulars in relation to the liability:
  - (a) the daily rate of payment in relation to the periodic amount, or the aggregate of the periodic amounts, payable by the payer in relation to the entry;
  - (b) a statement of whether or not employer withholding applies in relation to the liability;
  - (c) such other matters as the Registrar considers necessary or desirable to be included in the Child Support Register.

*Registrable overseas maintenance liabilities*

- (5) In the case of a registrable overseas maintenance liability, the entry in the Child Support Register must include the particulars mentioned in this section that are relevant to the liability.

**26A Payment period to be entered in Register under paragraph 26(2)(b) if Registrar to collect by deduction from salary or wages**

*Application of section*

- (1) This section applies to a registrable maintenance liability or an enforceable maintenance liability if the Registrar is to collect amounts due to the Commonwealth under, or in relation to, the liability by deduction from the salary or wages of the payer of the liability.

*Object of section*

- (2) This section deals with the determination, in relation to a liability, of:
  - (a) the payment period the Registrar must enter in the Child Support Register under paragraph 26(2)(b) as the period at which amounts are payable in respect of the liability (see subsection (3)); and
  - (b) the day that the Registrar must enter in the Register under paragraph 26(2)(b) as the day from which a payment period (see subsection (4)) starts.

Note: For *payment period* see subsection 4(1).

*Period that must be registered where liability to be collected by deduction from salary or wages*

- (3) If the Registrar is going to collect amounts due to the Commonwealth under a liability, or in relation to the liability, by deduction from the salary or wages of the payer, the period that the Registrar must enter in the Register is the payment period that reflects the payer's pay cycle.

Example: If a payer is paid weekly, the payment period the Registrar must enter in the Child Support Register will be a week. Similarly, if the payer is paid monthly, the payment period the Registrar must enter in the Register will be a calendar month or a month.

Note: Part IV deals with collection by deduction from salary or wages.

*Day from which a payment period starts*

- (4) The start day of the payment period referred to in subsection (3) in respect of the liability, is a day specified by the Registrar. The day that the Registrar must specify is the first day of the first of the payment periods in which deduction from the salary or wages of the payer will occur.

## **26B Payment period to be entered in Register under paragraph 26(2)(b) if payer makes voluntary payments**

*Application of section*

- (1) This section applies to a registrable maintenance liability or an enforceable maintenance liability if the Registrar is not going to collect amounts due to the Commonwealth under, or in relation to, the liability by deduction from the salary or wages of the payer of the liability.

*Object of section*

- (2) This section deals with the determination, in relation to a liability of:
- (a) the payment period that the Registrar must enter in the Child Support Register under paragraph 26(2)(b) as the period at which amounts are payable in respect of the liability (see subsections (3) and (5)); and

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- (b) the day that the Registrar must enter in the Register under paragraph 26(2)(b) as the day from which an elected period (see subsection (4)) starts.

Note: For *payment period* see subsection 4(1).

*Period that must be registered when liability to be paid voluntarily and election made*

- (3) If:
  - (a) the Registrar is not going to collect amounts due to the Commonwealth under, or in relation to, a liability by deduction from the salary or wages of the payer of the liability; and
  - (b) the payer makes an election that a payment period be entered in the Register as the period at which amounts are payable in respect of the liability; and
  - (c) the Registrar is satisfied that the payment period elected by the payer will be a convenient payment period for the payer to accrue debts;

the Registrar must enter in the Register the elected period as the period at which amounts are payable in respect of the liability.

*Day from which elected period starts*

- (4) In making an election under subsection (3), the payer must specify the day from which the payment period starts. The Registrar must enter in the Register the specified day as the day from which the elected period starts.

Example 1: The payer elects a 4 week period as the payment period. The payer elects that the start day of the period will be 8 July which is a Wednesday. Therefore the period will end 4 weeks later on a Tuesday.

Example 2: The payer elects a period of a month as the payment period. The payer elects that the start day will be 16 October. Therefore the period will end on 15 November. If the payer elects that the start day will be 31 January the period will end on 28 February.

*Period that must be registered when liability to be paid voluntarily and no election is made or election is rejected*

- (5) If:
  - (a) the Registrar is not going to collect amounts due to the Commonwealth under, or in relation to, a liability by

deduction from the salary or wages of the payer of the liability; and

(b) either:

- (i) the payer does not make an election under subsection (3); or
- (ii) the Registrar is not satisfied that the payment period elected by the payer will be a convenient payment period for the payer to accrue debts;

the Registrar must enter in the Register any payment period determined by the Registrar to be a convenient payment period for the payer to accrue debts as the period at which amounts are payable in respect of the liability.

*Manner in which election is to be made*

- (6) An election made under subsection (3) must be made in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which an election may be made.

## **26C Initial period that may be registered under paragraph 26(2)(a)**

- (1) If the Registrar is about to enter a period in the Child Support Register under subsection 26A(3) or 26B(3) in respect of a registrable maintenance liability or an enforceable maintenance liability, the Registrar may also enter in the Register an initial period under paragraph 26(2)(a) in respect of the liability.

*When will the initial period start and end—Registrar about to enter liability*

- (2) If the Registrar is about to register the liability, the initial period starts on the day on which the liability first becomes enforceable under this Act and ends:
- (a) in the case of the Registrar entering in the Register a payment period under subsection 26A(3)—on the day before the start day specified by the Registrar under subsection 26A(4) in respect of the liability; or
  - (b) in the case of the Registrar entering in the Register a payment period under subsection 26B(3)—on the day before the start day specified by the payer of the liability under subsection 26B(4).

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Note: Section 28 deals with when a liability first becomes enforceable under this Act.

*When will the initial period start and end—Registrar varies Register under subsection 37B(7) to again make a registered maintenance liability enforceable*

(3) If:

- (a) a low-income non-enforcement period in relation to a registered maintenance liability ends; and
- (b) the Registrar has varied the particulars of the Register as required by paragraph 37B(7)(1)(a) by specifying the end of the low-income non-enforcement period as the time at which the liability again becomes enforceable under this Act;

the initial period, in respect of the liability, starts on the day the Registrar has entered in the Register as the time at which the liability again becomes enforceable under this Act and ends:

- (c) in the case of the Registrar entering in the Register a payment period under subsection 26A(3)—on the day before the start day specified by the Registrar under subsection 26A(4) in respect of the liability; or
- (d) in the case of the Registrar entering in the Register a payment period under subsection 26B(3)—on the day before the start day specified by the payer of the liability under subsection 26B(4).

*When will the initial period start and end—Registrar receives an application under subsection 39(1) to again make a registered maintenance liability enforceable*

(4) If:

- (a) the Registrar receives an application under subsection 39(1) for a registered maintenance liability to again become enforceable under this Act; and
- (b) the Registrar has varied the particulars of the Child Support Register as required by paragraph 39(6)(a) by specifying a day as the day on which the liability again becomes enforceable under this Act;

the initial period, in respect of the liability, starts on the day the Registrar has entered in the Register as the day on which the liability again becomes enforceable under this Act and ends:



- (c) in the case of the Registrar entering in the Register a payment period under subsection 26A(3)—on the day before the start day specified by the Registrar under subsection 26A(4) in respect of the liability; or
- (d) in the case of the Registrar entering in the Register a payment period under subsection 26B(3)—on the day before the start day specified by the payer of the liability under subsection 26B(4).

## **27 Single entry in relation to all liabilities with same payer and payee**

Where the payer and payee of a registrable maintenance liability are the same as the payer and payee of another registrable maintenance liability (whether or not the liabilities arise under the same child support assessment, court order or maintenance agreement and whether or not the liabilities are in relation to the maintenance of the same person), the Registrar may include particulars of the liabilities in the same entry in the Child Support Register.

## **28 Day on which liability first becomes enforceable under Act**

- (1) A registered maintenance liability first becomes enforceable under this Act on whichever of the following days is applicable in relation to the liability:
  - (a) if the liability is a transferred maintenance liability—the day on which the liability is transferred to the Child Support Register;
  - (b) if the liability is registered under subsection 24(1)—the day on which the liability arose under, or was varied or otherwise affected by, the court order or maintenance agreement by virtue of which the liability is registered under that subsection;
  - (baa) if the liability is registered under subsection 24(2)—such day as is determined, in writing, by the Registrar (being a day not earlier than the day on which the liability arose under, or was varied or otherwise affected by, the court order or maintenance agreement by virtue of which the liability is registered under that subsection);

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- (ba) if the liability arose under a child support assessment and is registered under subsection 24A(1)—the day on and from which child support is payable under the assessment;
  - (c) if the liability is registered under subsection 25(2)—such day as is determined, in writing, by the Registrar (being a day not later than 60 days after the day on which the Registrar receives, under subsection 25(1), the relevant duly completed form from the payee of the liability);
  - (d) if the liability is of a kind mentioned in subsection 18A(1), (2) or (3)—the day on which the Registrar receives the application for the liability to be registered under this Act;
  - (e) if the liability is an amount in arrears under a liability mentioned in subsection 18A(1) or (2) or paragraph 18A(3)(a)—the day on which the Registrar received the application for registration under this Act of the liability to which the arrears relate.
- (2) If the Registrar registers a liability referred to in paragraph (1)(e), this Act has effect as if the amounts in arrears were payable under the liability in relation to the child support enforcement period that began on the day on which the liability first became enforceable under this Act as a result of the operation of that paragraph.

**28A Reversal of subsection 23(3) or 24A(2) election—collection of arrears**

*When section applies*

- (1) This section applies if:
- (a) a payee applies under subsection 25(1) for registration of a registrable maintenance liability; and
  - (b) the payee has, at any time before the making of the application, made an election under subsection 23(3) or 24A(2) in relation to the liability.
- (1A) This section applies if:
- (a) a payee applies under subsection 25(1) for registration of a registrable maintenance liability; and
  - (b) the registrable maintenance liability arises under a child support assessment made because of an application by the payer.

*Maximum arrears period*

- (2) For the purposes of this section, the ***maximum arrears period*** is the period:
- (a) beginning at whichever is latest of the following times:
    - (i) 9 months before the liability first becomes enforceable under this Act as a result of the operation of paragraph 28(c);
    - (ii) the beginning of the period to which the liability relates;
    - (iii) the commencement of this section; and
  - (b) ending at the time when the liability first becomes enforceable under this Act as a result of the operation of paragraph 28(c).

*Application by payee for enforcement of arrears*

- (3) The payee may apply to the Registrar, in the manner specified by the Registrar, for any unpaid amounts payable under the liability in relation to a specified period to be treated as arrears amounts for the purposes of this section. The specified period must:
- (a) consist of, or be included in, the maximum arrears period; and
  - (b) end at the end of the maximum arrears period.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

*Registrar's decision—arrears for 3 months or less*

- (4) If:
- (a) the specified period does not exceed 3 months; and
  - (b) the Registrar registers the liability under subsection 25(2);
- the Registrar must grant the payee's application.

*Registrar's decision—arrears for more than 3 months*

- (5) If:
- (a) the specified period exceeds 3 months; and
  - (b) the Registrar registers the liability under subsection 25(2);
- then:

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- (c) if the Registrar is satisfied that there are exceptional circumstances—the Registrar must grant the payee’s application; or
- (d) if:
  - (i) the Registrar is not satisfied that there are exceptional circumstances; and
  - (ii) unpaid amounts are payable under the liability in relation to the period of 3 months that ended at the end of the maximum arrears period;the Registrar must:
  - (iii) treat the payee’s application as if the specified period were the period of 3 months that ended at the end of the maximum arrears period; and
  - (iv) grant the payee’s application; or
- (e) if:
  - (i) the Registrar is not satisfied that there are exceptional circumstances; and
  - (ii) no unpaid amounts are payable under the liability in relation to the period of 3 months that ended at the end of the maximum arrears period;the Registrar must refuse to grant the payee’s application.

*Consequences of successful application*

- (6) If the Registrar grants the payee’s application:
  - (a) this Act has effect as if:
    - (i) the unpaid amounts were payable under the liability in relation to the child support enforcement period that began on the day on which the liability first became enforceable under this Act as a result of the operation of paragraph 28(c); and
    - (ii) the unpaid amounts became child support debts at the time when the liability became enforceable as a result of the operation of paragraph 28(c); and
  - (b) the Registrar must make such variations to the particulars entered in the Child Support Register in relation to the liability as the Registrar considers necessary or desirable to give effect to this subsection.

*Amounts that would have been credited under section 71C*

- (7) To avoid doubt, a reference in this section to an unpaid amount payable under a liability does not include a reference to any amount that would have been credited against that unpaid amount under section 71C if the liability had been an enforceable maintenance liability at all relevant times.

## **28B Conversion of periodic amounts into payment rates in respect of payment periods**

- (1) The Registrar must convert a periodic amount payable under a registered maintenance liability arising under a court order or a maintenance agreement to:
- (a) a daily rate of payment; and
  - (b) one of the following rates of payment:
    - (i) weekly;
    - (ii) fortnightly;
    - (iii) 4 weekly;
    - (iv) monthly.

Note: An amount payable under a registrable maintenance liability is entered on the Child Support Register under paragraph 26(1)(f).

- (2) The Registrar must convert an amount payable under a registered maintenance liability arising under a child support assessment in respect of a day into one of the rates of payment set out in paragraph (1)(b).
- (3) If the Registrar is to collect amounts due to the Commonwealth under, or in relation to, a liability by deduction from the salary or wages of the payer of the liability, the Registrar must convert the periodic amount or daily amount (as the case may be) to a weekly rate of payment.
- (4) The rate of payment to which the Registrar must convert a periodic amount payable under a registered maintenance liability, is the rate that reflects the payment period entered in the Register under paragraph 26(2)(b) in respect of the liability.

Note 1: For *payment period* see subsection 4(1).

Note 2: Sections 26A, 26B and 42A and Part IVA deal with the determination of the period, and the start day for the period, that may be entered in the Child Support Register under paragraph 26(2)(b).

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Note 3: The particulars entered in the Child Support Register in respect of a liability must include the rates of payment provided for in this section (see paragraphs 26(2)(c) and (d)).

**29 Conversion of amounts payable under registrable maintenance liability into daily rates etc.**

The regulations may make provision with respect to the conversion of amounts payable under registrable maintenance liabilities into daily, weekly, fortnightly, 4 weekly and monthly rates of payment.

**30 Effect of registration**

- (1) If a registrable maintenance liability is registered under this Act, amounts payable under the child support assessment, court order, maintenance agreement, maintenance order or maintenance assessment under which the liability arises are debts due to the Commonwealth by the payer in accordance with the particulars of the liability entered in the Child Support Register.
- (2) In particular, the amounts are payable by the payer at the payment rate entered in the Register under paragraph 26(2)(d) in respect of the periods entered in the Register under paragraphs 26(2)(a) and (b).

Note: Section 28B requires the Registrar to convert the periodic amount payable in respect of a registrable maintenance liability to a rate of payment depending upon the payment period determined in respect of the liability.

- (3) If a registrable maintenance liability is registered under this Act, the payee of the liability is not entitled to, and may not enforce payment of, amounts payable under the liability other than by instituting a proceeding under section 113A to recover a debt due in relation to the liability.

**30AA Rule to avoid dual liabilities**

- (1) If:
  - (a) a registrable maintenance liability (the *first liability*) relating, in whole or in part, to a particular child, and also relating to a particular payer and a particular payee, is registered; and
  - (b) at any time after the registration of the first liability, a subsequent registrable maintenance liability relating, in

whole or in part, to the same child, and also relating to the same payer and the same payee, is registered;  
the first liability ceases, at the time the subsequent liability is registered, to have effect to the extent only that it relates to the particular child.

- (2) Despite subsection (1), the first liability is treated, for the sole purpose of facilitating the recovery of arrears in respect of any period ending on or before it ceases to have effect, as if it had not ceased to have effect as provided in subsection (1).

### **30A Enforcement of Australian liabilities overseas**

- (1) A payee may apply to the Registrar to have a maintenance order or agreement, or a child support assessment, enforced in a reciprocating jurisdiction (other than an excepted reciprocating jurisdiction in relation to such an order, agreement or assessment).
- (2) For the purpose of having a maintenance order or agreement, or a child support assessment, enforced in a reciprocating jurisdiction (other than an excepted reciprocating jurisdiction in relation to such an order, agreement or assessment) the Registrar may, at any time, and must, as soon as practicable after a payee makes an application under subsection (1):
- (a) request, in writing, a judicial or administrative authority in the reciprocating jurisdiction to enforce the liability; and
  - (b) in a case where there is an application by a payee under subsection (1)—give the application to the authority; and
  - (c) give the authority such other documentation and information as is required by the authority for enforcement proceedings in that jurisdiction.
- (3) Without limiting the generality of paragraph (2)(c), the Registrar must give to the judicial or administrative authority a certificate signed by the Registrar stating the amounts that are due or payable under the liability.
- (4) In this section:

***excepted reciprocating jurisdiction***, in relation to a maintenance order or agreement, or a child support assessment, means a reciprocating jurisdiction that is declared by the regulations to be

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an excepted reciprocating jurisdiction in respect of such an order, agreement or assessment.

- (5) For the purposes of subsection (4), a jurisdiction may be declared to be an excepted reciprocating jurisdiction, in relation to a maintenance order or agreement, or a child support assessment, only if the enforcement in the jurisdiction of such an order, agreement or assessment would not be permitted by the law of the jurisdiction.
- (6) A request under subsection (2) is not a legislative instrument.

**31 Effect of registration on existing garnishment and attachment of earnings orders**

Where, on the day on which a registered maintenance liability first becomes enforceable under this Act or again becomes enforceable under this Act, a garnishment or attachment of earnings order made by a court under the *Family Law Act 1975*, the *Matrimonial Causes Act 1959* or the law of a State or Territory is in force in relation to the liability, the order ceases to have effect in so far as it relates to amounts payable under the liability in relation to the child support enforcement period.

**32 Payer and payee to be given copy of entry in Child Support Register on application**

- (1) The payer or payee of a registered maintenance liability may apply to the Registrar requesting that a copy of the entry in the Child Support Register in relation to the liability be provided to him or her.
- (2) The application must be made in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

- (3) The Registrar must comply with the request.



## **Division 3—Variations to entries in Child Support Register**

### **33 Payee to notify Registrar of court order varying registered maintenance liability etc.**

(1) Where:

(a) under this Act, the Assessment Act, the *Family Law Act 1975* or the law of a State or Territory:

- (i) an order is made by, or registered in, a court; or
- (ii) a maintenance agreement is registered in, or approved by, a court; and

(b) the order or agreement varies or otherwise affects a registered maintenance liability (other than a registered maintenance liability that is not enforceable under this Act because of an election made under section 38A or a decision of the Registrar under section 38B);

the payee of the registered maintenance liability shall, within 14 days after the day on which the order is made by, or registered in, the court or the agreement is registered in, or approved by, the court, give notice to the Registrar, in the manner specified by the Registrar, in relation to the order or agreement.

Note: Section 16A provides for the Registrar to specify the manner in which a notice may be given.

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

(2A) Subsection (2) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (2) if the person charged proves that the person gave the notice to the Registrar as soon as reasonably practicable after becoming aware of the making or registration of the relevant order or of the registration or approval of the relevant maintenance agreement, as the case may be.

### **34 Payee to notify Registrar of happening of affecting event**

(1) The payee of an enforceable maintenance liability shall, within 14 days after the happening of an affecting event in relation to the

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liability (other than, in a case where the liability relates to the maintenance of a child, the child attaining 18 years of age), give notice to the Registrar, in the manner specified by the Registrar, of the affecting event.

Note: Section 16A provides for the Registrar to specify the manner in which a notice may be given.

- (2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.
- (2A) Subsection (2) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (2) if the person charged proves that the person notified the Registrar of the happening of the relevant affecting event as soon as reasonably practicable after becoming aware of the happening of the event.
- (4) This section does not apply in relation to a liability that arises under a child support assessment.
- (5) This section does not apply to an enforceable maintenance liability that is a registrable overseas maintenance liability.

**35 Payer may apply to Registrar for variation of Child Support Register**

- (1) The payer of a registered maintenance liability may apply to the Registrar, in the manner specified by the Registrar, for the variation of particulars entered in the Child Support Register in relation to the liability to enable a court order or court registered maintenance agreement that varies or otherwise affects the liability to be given effect to under this Act.
- (2) The payer of an enforceable maintenance liability may apply to the Registrar, in the manner specified by the Registrar, for the variation of particulars entered in the Child Support Register in relation to the liability to take account of the happening of an affecting event in relation to the liability.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

- (3) This section does not apply in relation to a liability that arises under a child support assessment.

**36 Registrar to vary Child Support Register on receipt of notification or application**

- (1) When the Registrar receives under subsection 33(1), 34(1) or 35(1) or (2) an application or notice (as the case may be) from the payee or payer of a registrable maintenance liability, the Registrar must, within 28 days after receipt of the application or notice, make such variations (if any) to the particulars entered in the Child Support Register in relation to the liability as the Registrar considers necessary or desirable to:
  - (a) enable the relevant order or maintenance agreement to be given effect to under this Act; or
  - (b) take account of the happening of the relevant affecting event; as the case requires.
- (2) However, if either the payer or the payee is a resident of a reciprocating jurisdiction, the Registrar has 90 days to make the variations, instead of 28 days.

**37 Registrar may vary Child Support Register to give effect to court order etc.**

Where the Registrar is of the opinion (otherwise than because of the receipt of an application or notice (as the case may be) under subsection 33(1), 34(1) or 35(1) or (2)):

- (a) that, under this Act, the Assessment Act, the *Family Law Act 1975* or the law of a State or Territory:
  - (i) an order has been made by, or registered in, a court; or
  - (ii) a maintenance agreement has been registered in, or approved by, a court;and the order or agreement varies or otherwise affects a registered maintenance liability; or
- (b) that an affecting event in relation to an enforceable maintenance liability has happened;

the Registrar shall make such variations (if any) to the particulars entered in the Child Support Register in relation to the liability as the Registrar considers necessary or desirable to enable the order or agreement to be given effect to under this Act or to take account of the happening of the event, as the case may be.

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**37A Registrar to vary Child Support Register on amendment of child support assessment**

Where the Registrar amends a child support assessment under which a registrable maintenance liability arose, the Registrar must immediately make such variations (if any) to the particulars entered in the Child Support Register in relation to the liability as the Registrar considers necessary or desirable to enable the amendment to be given effect to under this Act.

**37B Registered maintenance liability not to be enforced if payer is a low-income recipient of a social security pension or a social security benefit**

*Object*

- (1) The object of this section is to provide for the non-enforcement of certain registered maintenance liabilities during the subsistence of a ***low-income non-enforcement period***.

*Payer may apply to have liability no longer enforced under Act*

- (2) If the payer of an enforceable maintenance liability covered by subsection 17(1) or arising under a maintenance order made by, or a maintenance agreement registered by, a judicial authority of a reciprocating jurisdiction:
- (a) is in receipt of a social security pension or a social security benefit; or
  - (b) has made a claim for a social security pension or a social security benefit;

the payer may apply to the Registrar, in the manner specified by the Registrar, to have the liability no longer enforced under this Act.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

*Court orders etc. dealing with unemployment etc.*

- (3) The payer is not entitled to make an application under subsection (2) if:
- (a) the liability is covered by subparagraph 17(1)(b)(i); and

- (b) the court order or court registered maintenance agreement concerned provides, either directly or indirectly, for the reduction of amounts payable under the liability during periods when:
  - (i) the payer is unemployed; or
  - (ii) the payer's income is substantially reduced.

*Start of low-income non-enforcement period*

- (4) For the purposes of this section, if the payer of a registered maintenance liability:
  - (a) makes an application under subsection (2); and
  - (b) is taken, under the regulations, to satisfy the prescribed income test in relation to the first instalment of a social security pension or a social security benefit paid to the payer after the day on which the application was made;a ***low-income non-enforcement period*** in relation to the liability:
  - (c) begins on whichever of the following days is applicable:
    - (i) the day on which the application was made;
    - (ii) an earlier day determined by the Registrar, being a day that is on or after the day on which the payer commences to receive a social security pension or a social security benefit; and
  - (d) continues until the time worked out under subsection (5).

*End of low-income non-enforcement period*

- (5) For the purposes of this section, a ***low-income non-enforcement period*** in relation to a registered maintenance liability ends at whichever is the earliest of the following:
  - (a) when the payer of the liability ceases to receive a social security pension or a social security benefit;
  - (b) if the payer of the liability is taken, under the regulations, not to satisfy the prescribed income test in relation to an instalment of a social security pension or a social security benefit paid to the payer for a particular fortnight—the beginning of that fortnight;
  - (c) when the liability ends.

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*Non-enforcement of liability—variation of Child Support Register*

- (6) If a low-income non-enforcement period in relation to a registered maintenance liability begins, the Registrar must, as soon as practicable, vary the particulars entered in the Child Support Register in relation to the liability by specifying the beginning of the low-income non-enforcement period as the time at which the liability ceases to be enforceable under this Act. However, this rule does not apply if, immediately before the low-income non-enforcement period, the liability had already ceased to be enforceable under this Act because of section 38A, 38B or 39B.

*Resumption of enforcement of liability—variation of Child Support Register*

- (7) If a low-income non-enforcement period in relation to a registered maintenance liability ends, the Registrar:
- (a) must, as soon as practicable, vary the particulars entered in the Child Support Register in relation to the liability by specifying the end of the low-income non-enforcement period as the time at which the liability again becomes enforceable under this Act; and
  - (b) may make such variations (if any) to those particulars as the Registrar considers necessary or desirable:
    - (i) to enable a court order or court registered maintenance agreement that varies or otherwise affects the liability to be given effect to under this Act; or
    - (ii) to take account of the happening of an affecting event in relation to the liability.

However, these rules do not apply if, immediately before the low-income non-enforcement period, the liability had ceased to be enforceable under this Act because of section 38A, 38B or 39B.

*Section not to prevent payee recovery of a debt*

- (7A) This section does not prevent a payee of a registered maintenance liability from instituting a proceeding under section 113A during a low-income non-enforcement period to recover a debt due in relation to the liability.

*Definitions*

(8) In this section:

*social security benefit* has the same meaning as in the *Social Security Act 1991*.

*social security pension* has the same meaning as in the *Social Security Act 1991*.

**38 Variation of Register to have enforceable maintenance liability no longer enforced under Act**

The Registrar must vary the particulars in the Child Support Register in relation to an enforceable maintenance liability so that the liability is no longer enforced under this Act if:

- (a) the payee of the liability makes an election under section 38A; or
- (b) the payee and payer of the liability jointly make an election under section 38A; or
- (c) the Registrar makes a decision under section 38B.

**38A Election by payee or by payee and payer jointly**

- (1) The payee of an enforceable maintenance liability, or the payee and payer jointly, may make an election to have the liability no longer enforced under this Act.
- (2) An election under this section must be made in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which an election may be made.

- (3) Within 28 days after receiving the election, the Registrar must:
  - (a) vary the particulars relating to the liability in the Child Support Register by specifying a day (not later than 60 days after the day on which the Registrar received the election) as the day on which the liability ceases to be enforceable under this Act (the *terminating day*); and
  - (b) if the payee, or the payee and payer jointly, have elected to have amounts payable under the liability in relation to the child support enforcement period that are unpaid on the terminating day also no longer enforced under this

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Act—vary the particulars so as to ensure that, in spite of section 30, those amounts cease to be debts due by the payer to the Commonwealth.

- (3A) However, if either the payer or the payee is a resident of a reciprocating jurisdiction, the Registrar has 90 days to vary the relevant particulars, instead of 28 days.
- (4) The Registrar must not make a variation under paragraph (3)(a) by specifying a day that is included in a period that is a low-income non-enforcement period under section 37B in relation to the liability. If that day is included in that period, the Registrar must not take action under paragraph (3)(b) in relation to that day.

**38B Decision by Registrar based on payment record and other factors**

- (1) The Registrar may decide that an enforceable maintenance liability should no longer be enforced under this Act if all the following conditions are met:
  - (a) the payer is taken, under the regulations, to have a satisfactory payment record in relation to the previous 6 months;
  - (b) the Registrar is satisfied that the payer is likely to continue to have a satisfactory payment record;
  - (c) the Registrar is satisfied that a decision under this section is appropriate in relation to the liability.
- (2) If the Registrar makes a decision under subsection (1), the Registrar must vary the particulars relating to the liability in the Child Support Register by specifying a day (not earlier than 28 days after the day on which the Registrar makes the decision) as the day on which the liability ceases to be enforceable under this Act.
- (3) If, before the day specified in a variation under subsection (2), the Registrar decides to revoke the decision that gave rise to the variation, the Registrar must vary the particulars concerned in the Child Support Register to give effect to the revocation.
- (4) The revocation takes effect on the day the Registrar varies the particulars concerned.



**38C Election not to enforce—registered maintenance liability**

- (1) If a registered maintenance liability of a kind mentioned in section 18A is not enforceable because of an election under section 38A, an amount unpaid under the relevant maintenance assessment, order or agreement is a debt due and payable by the payer to the payee.
- (2) A debt due under this section is recoverable by the payee from the payer in a court of competent jurisdiction.

**39 Application for variation to enable liability to again become enforceable under Act**

- (1) If a registered maintenance liability is not enforceable under this Act because of an election made under section 38A or a decision by the Registrar under section 38B, the payee may apply to the Registrar for the liability to again become enforceable under this Act.

- (2) The application must be made in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

- (3) An application cannot be made in relation to a liability during a period that is a low-income non-enforcement period under section 37B in relation to the liability.
- (4) Within 28 days after receiving an application under subsection (1), the Registrar must grant or refuse the application.
- (4A) However, if either the payer or the payee is a resident of a reciprocating jurisdiction, the Registrar has 90 days to grant or refuse the application, instead of 28 days.
- (5) The Registrar must grant the application unless the Registrar is satisfied that:
  - (a) the payer of the liability has been complying with his or her child support obligations in relation to the payee; or
  - (b) the payer of the liability has satisfactorily explained and rectified a failure to comply with his or her child support obligations in relation to a payee; or

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- (c) there are special circumstances that exist in relation to the liability that make it appropriate to refuse the application.
- (6) If the Registrar grants the application, the Registrar must:
  - (a) vary the particulars relating to the liability in the Child Support Register by specifying a day (not later than 60 days after the day on which the Registrar received the application) as the day on which the liability again becomes enforceable under this Act; and
  - (b) may make any variations to those particulars that the Registrar considers necessary or desirable:
    - (i) to enable a court order or court registered maintenance agreement that varies or otherwise affects the liability to be given effect under this Act; or
    - (ii) to take account of the happening of an affecting event in relation to the liability.
- (7) The Registrar must not make a variation under subsection (6) by specifying a day that is included in a period that is a low-income non-enforcement period under section 37B in relation to the liability. If that day is included in that period, the Registrar must not take action under paragraph (6)(b) in relation to that day.

**39A Reversal of section 38A election or 38B decision—collection of arrears**

*When section applies*

- (1) This section applies if a payee applies under subsection 39(1) for a liability to again become enforceable under this Act.

*Section 38A or 38B non-enforcement period*

- (2) For the purposes of this section, the ***section 38A or 38B non-enforcement period*** is the period:
  - (a) beginning when the liability ceased to be enforceable under this Act as a result of the operation of section 38A or 38B; and
  - (b) ending when the liability again becomes enforceable under this Act as a result of the operation of section 39.

*Maximum arrears period*

- (3) For the purposes of this section, the ***maximum arrears period*** is the period:
- (a) beginning at whichever is the latest of the following times:
    - (i) 9 months before the end of the section 38A or 38B non-enforcement period;
    - (ii) the start of the section 38A or 38B non-enforcement period;
    - (iii) the commencement of this section; and
  - (b) ending at the end of the section 38A or 38B non-enforcement period.

*Application by payee for enforcement of arrears*

- (4) The payee may apply to the Registrar, in the manner specified by the Registrar, for any unpaid amounts payable under the liability in relation to a specified period to be treated as arrears amounts for the purposes of this section. The specified period must:
- (a) consist of, or be included in, the maximum arrears period; and
  - (b) end at the end of the maximum arrears period.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

*Registrar's decision—arrears for 3 months or less*

- (5) If the specified period does not exceed 3 months, the Registrar must grant the payee's application.

*Registrar's decision—arrears for more than 3 months*

- (6) If the specified period exceeds 3 months, then:
- (a) if the Registrar is satisfied that there are exceptional circumstances—the Registrar must grant the payee's application; or
  - (b) if:
    - (i) the Registrar is not satisfied that there are exceptional circumstances; and

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- (ii) unpaid amounts are payable under the liability in relation to the period of 3 months that ended at the end of the maximum arrears period;  
the Registrar must:
  - (iii) treat the payee's application as if the specified period were the period of 3 months that ended at the end of the maximum arrears period; and
  - (iv) grant the payee's application; or
- (c) if:
  - (i) the Registrar is not satisfied that there are exceptional circumstances; and
  - (ii) no unpaid amounts are payable under the liability in relation to the period of 3 months that ended at the end of the maximum arrears period;the Registrar must refuse to grant the payee's application.

*Consequences of successful application*

- (7) If the Registrar grants the payee's application:
  - (a) this Act has effect as if:
    - (i) the unpaid amounts were payable under the liability in relation to the child support enforcement period that began immediately after the end of the section 38A or 38B non-enforcement period; and
    - (ii) the unpaid amounts became child support debts immediately after the end of the section 38A or 38B non-enforcement period; and
  - (b) the Registrar must make such variations to the particulars entered in the Child Support Register in relation to the liability as the Registrar considers necessary or desirable to give effect to this subsection.

*Amounts that would have been credited under section 71C*

- (8) To avoid doubt, a reference in this section to an unpaid amount payable under a liability does not include a reference to any amount that would have been credited against that unpaid amount under section 71C if the liability had been an enforceable maintenance liability at all relevant times.

**39B Amounts not enforceable under this Act during periods when the payee is not the main provider of ongoing daily care for a child**

*When this section applies*

- (1) This section applies if:
- (a) at a particular time after the commencement of this section, the payee of an enforceable maintenance liability covered by subsection 17(1) is the main provider of ongoing daily care for a particular child covered by the liability; and
  - (b) at a later time (the ***cessation time***) the payee ceases to be the main provider of ongoing daily care for the child.

*Overall non-care period*

- (2) For the purposes of this section, the ***overall non-care period*** is the period:
- (a) beginning at the cessation time; and
  - (b) ending at whichever is the earlier of the following:
    - (i) when the payee next resumes being the main provider of ongoing daily care for the child;
    - (ii) when the liability ends.

*Joint election by payer and payee*

- (3) During the overall non-care period, the payer and payee may jointly elect, by applying to the Registrar in the manner specified by the Registrar, to have so much of the liability as is attributable to the child no longer enforced under this Act. The election takes effect at whichever of the following times is applicable:
- (a) if the election is made within 28 days after the start of the overall non-care period—the start of the overall non-care period;
  - (b) in any other case—when the election is made.

However, the election does not take effect if the applicable time is included in a period that is a low-income non-enforcement period in relation to the liability for the purposes of section 37B.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

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*Consequences of election under subsection (3)*

- (4) If an election is made under subsection (3):
- (a) if the child is the only child covered by the liability—the liability ceases to be enforceable under this Act after the applicable time; or
  - (b) in any other case—this Act has effect in relation to the liability, after the applicable time, as if a reference in this Act to amounts payable under the liability did not include a reference to an amount attributable to the child.

Note: Paragraph (4)(b) could result in the liability becoming partially unenforceable under this Act.

*Reversal of election*

- (5) If:
- (a) so much of the liability as is attributable to the child is not enforceable under this Act because of an election made under subsection (3); and
  - (b) the overall non-care period ends;
- the payer or the payee may elect, by applying to the Registrar in the manner specified by the Registrar, to have so much of the liability as is attributable to the child again become enforceable under this Act.

*When reversal of election takes effect*

- (6) An election under subsection (5) takes effect at whichever of the following times is applicable:
- (a) if the election is made within 28 days after the end of the overall non-care period—the end of the overall non-care period;
  - (b) in any other case—when the election is made.

However, the election does not take effect if the applicable time is included in a period that is a low-income non-enforcement period in relation to the liability for the purposes of section 37B.

*Consequences of reversal of election*

- (7) An election under subsection (5) has effect accordingly.

*Registrar to vary Register*

- (8) If an election is made under this section, the Registrar must, as soon as practicable, make such variations to the particulars entered in the Child Support Register in relation to the liability as the Registrar considers necessary or desirable to give effect to subsection (4) or (7), as the case requires.

*Election form may include declaration*

- (9) A form of election made by a person or persons under this section may require the person or persons, as the case requires, to make a declaration about the circumstances relating to the beginning or end of the overall non-care period.

*Partial unenforceability*

- (10) A reference in this Act to a liability that is enforceable under this Act includes a reference to a liability that is partially unenforceable under this Act as a result of paragraph (4)(b).

#### **40 Entry wrongly existing in Child Support Register**

Where the Registrar is satisfied that an entry wrongly exists in the Child Support Register, the Registrar shall delete the entry from the Child Support Register.

#### **41 Obsolete entries in Child Support Register**

Where the Registrar is satisfied (whether because of the happening of a terminating event in relation to an enforceable maintenance liability or the length of time that has elapsed since a registered maintenance liability was an enforceable maintenance liability) that the entry in the Child Support Register in relation to the liability is obsolete, the Registrar may delete the entry from the Child Support Register.

#### **42 Correction of clerical errors and other mistakes in Child Support Register**

Where the Registrar is satisfied that a clerical error or other mistake exists in particulars entered in the Child Support Register in relation to a registered maintenance liability, the Registrar may

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vary the particulars for the purpose of correcting the error or mistake.

**42A Registrar may vary Child Support Register to change period entered under paragraph 26(2)(b) to reflect pay cycle**

(1) If:

- (a) the Registrar is collecting amounts due to the Commonwealth under, or in relation to a registered maintenance liability, by deduction from the salary or wages of the payer of the liability; and
- (b) the Registrar becomes aware, other than by means of a notice referred to in paragraph 42B(1)(a) or (b), that the period of the payer's pay cycle is different from the payment period entered in the Child Support Register under paragraph 26(2)(b) in respect of the payer;

the Registrar may vary the particulars in the Child Support Register by deleting the period in the Register and substituting another payment period and start day of the period.

- (2) The period that the Registrar must register in substitution is the payment period that reflects the payer's pay cycle. The start day that the Registrar must register is the day specified by the Registrar as the start day of the period.

Note: For *payment period* see subsection 4(1).

**42B Registrar may vary Child Support Register if payer's pay cycle changes**

(1) If:

- (a) the Registrar receives:
  - (i) a notice under subsection 47(1) from an employer who is making deduction from a payer's salary or wages; or
  - (ii) a notice from an payer under subsection 111(1) (Notification of commencement of employment); and
- (b) the notice indicates that the period of the payer's pay cycle is different from the payment period entered in the Child Support Register under paragraph 26(2)(b) in respect of the payer;

the Registrar must, within 28 days of receiving the notice, vary the particulars in the Child Support Register by deleting the period and

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start day in the Register and substituting another payment period and start day.

- (2) The period that the Registrar must register in substitution is the payment period that reflects the payer's pay cycle. The start day that the Registrar must register is the day specified by the Registrar as the start day.

Note: For *payment period* see subsection 4(1).

## **Division 4—Notices in respect of registration decisions**

### **42C Notices must be given to payers and payees in relation to registration decisions**

#### *Notices must be given*

- (1) As soon as practicable after the Registrar:
  - (a) registers a registrable maintenance liability under this Act; or
  - (b) varies particulars entered in the Child Support Register in relation to a registrable maintenance liability;the Registrar must serve on the payer and payee of the liability a notice in writing of the particulars entered in the Child Support Register in relation to the liability, unless notice of those particulars has already been given to the payer and the payee under the Assessment Act.
- (2) As soon as practicable after the Registrar deletes an entry in relation to a registrable maintenance liability from the Child Support Register, the Registrar must serve a notice of the decision on the payer and payee.
- (3) As soon as practicable after the Registrar makes an appealable refusal decision in relation to a registrable maintenance liability, the Registrar must serve a notice in writing of the decision on the payer and payee.

#### *Content of notices*

- (4) Subject to section 42D (notices in relation to registrable overseas maintenance liabilities), a notice served on a person under this section in relation to a decision (the **original decision**) must include, or be accompanied by, a statement to the effect that:
  - (a) the person may, subject to this Act, object to the original decision; and
  - (b) if the person is dissatisfied by a later decision of the Registrar on an objection to the original decision (no matter who lodges the objection), the person may, subject to this Act, apply to the SSAT for review of the later decision.

- (5) A contravention of subsection (4) in relation to a decision does not affect the validity of the decision.

**42D Content of notices in relation to registration decisions for registrable overseas maintenance liabilities**

- (1) In the case of a registrable overseas maintenance liability, a notice served on a person under section 42C must, if the reciprocating jurisdiction in which the liability arose provides for review of the liability, include, or be accompanied by, a statement to the effect that a person aggrieved by the decision notified under that section may seek review of the liability by a judicial or administrative authority of the jurisdiction.
- (2) If the registrable maintenance liability:
- (a) arises under a maintenance order made by a judicial authority of a reciprocating jurisdiction (other than a prescribed reciprocating jurisdiction); or
  - (b) arises under a maintenance assessment issued by an administrative authority of a reciprocating jurisdiction (other than a prescribed reciprocating jurisdiction);
- subsections (3) and (4) also apply in relation to the notice given under section 42C.
- (3) The notice served under section 42C on a person against whom the maintenance order or assessment was made must also include, or be accompanied by:
- (a) if the person:
    - (i) did not have notice of the proceedings giving rise to the maintenance order or assessment; and
    - (ii) did not appear in those proceedings; and
    - (iii) did not consent to the making of the maintenance order or assessment;a statement to the effect that, if the person makes an application under subregulation 36(2) of the *Family Law Regulations 1984*, the person may raise any matter that the person could have raised under Part VII or VIII of the *Family Law Act 1975* if the proceedings giving rise to the maintenance order or assessment had been heard in Australia; or

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- (b) in any other case—a statement to the effect that the person may make an application under subregulation 36(2) of the *Family Law Regulations 1984*.
- (4) The notice served under section 42C on a person for whose benefit the maintenance order or assessment referred to in subsection (2) was made must also include, or be accompanied by, a statement to the effect that the person may make an application under subregulation 36(2) of the *Family Law Regulations 1984*.
- (5) If the registrable maintenance liability arises under a maintenance agreement that has been registered by a judicial or administrative authority of a reciprocating jurisdiction (other than a prescribed reciprocating jurisdiction), subsection (6) also applies in relation to the notice given under section 42C.
- (6) The notice served under section 42C on a person who is the payer or payee under a maintenance agreement must also include, or be accompanied by, a statement to the effect that the person may make an application under subregulation 36(2) of the *Family Law Regulations 1984*.

Note: Regulation 38 of the *Family Law Regulations 1984* affects the order that may be made under regulation 36 of those regulations.

## **Part IV—Collection by deduction from salary or wages**

### **Division 1—Employer withholding**

#### **43 General rule of collection by automatic withholding in case of employees**

- (1) Subject to subsection (2), where the payer of an enforceable maintenance liability is an employee, the Registrar shall, as far as practicable, collect amounts due to the Commonwealth under or in relation to the liability by deduction from the salary or wages of the payer under this Part.
- (2) Subsection (1) applies in relation to an enforceable maintenance liability whether or not the particulars in the entry in the Child Support Register in relation to the liability contain a statement that employer withholding applies in relation to the liability, but does not apply in relation to the liability if, by virtue of section 44, the particulars contain a statement that employer withholding does not apply in relation to the liability.

#### **44 Cases in which employer withholding not applicable**

- (1) If:
  - (a) the payer of an enforceable maintenance liability elects that employer withholding is not to apply in relation to the liability; and
  - (b) the Registrar is satisfied that the payer is likely to make timely payments to the Registrar under the liability;the Registrar must, within 28 days after receiving the election, vary the particulars of the entry in the Child Support Register in relation to the liability so that they contain a statement that employer withholding does not apply in relation to the liability.
- (2) If:
  - (a) the Registrar is about to register a registrable maintenance liability; and

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- (b) either before or after becoming the payer, the person who is the payer elected that employer withholding is not to apply in relation to the liability; and
  - (c) the Registrar is satisfied that the payer is likely to make timely payments to the Registrar under the liability;

the Registrar must, when registering the liability, include a statement that employer withholding does not apply in relation to the liability.
- (3) An election under subsection (1) or (2) must be made to the Registrar in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which an election may be made.
- (5) If:
  - (a) because of subsection (1) or (2), the particulars of the entry in the Child Support Register in relation to an enforceable maintenance liability contain a statement that employer withholding does not apply in relation to the liability; and
  - (b) the payer does not make timely payments to the Registrar under the liability;

the Registrar must vary those particulars so that they contain a statement that employer withholding applies in relation to the liability.
- (5A) The Registrar is not required to vary particulars under subsection (5) if the Registrar is satisfied that:
  - (a) the collection of payments due under the liability by deduction from the salary or wages of the payer under this Part would not be an efficient method of collecting those payments; or
  - (b) the payer is likely to recommence timely payments to the Registrar under the liability in the near future.
- (6) Where the Registrar is satisfied that, in the special circumstances of a particular case, the collection of payments due under an enforceable maintenance liability by deduction from the salary or wages of the payer under this Part would not be an efficient method of collecting those payments, the Registrar may include in the particulars of the entry in the Child Support Register in relation to the liability a statement that employer withholding does not

apply in relation to the liability or may vary those particulars so that they contain such a statement, as the case requires.

(7) If:

- (a) because of subsection (6), the particulars of the entry in the Child Support Register in relation to an enforceable maintenance liability contain a statement that employer withholding does not apply in relation to the liability; and
- (b) the payer does not make timely payments to the Registrar under the liability;

the Registrar must vary those particulars so that they contain a statement that employer withholding applies in relation to the liability.

(7A) The Registrar is not required to vary particulars under subsection (7) if the Registrar is satisfied that:

- (a) the collection of payments due under the liability by deduction from the salary or wages of the payer under this Part would not be an efficient method of collecting those payments; or
- (b) that the payer is likely to recommence timely payments to the Registrar under the liability in the near future.

(7B) A payer of an enforceable maintenance liability may not make an election under subsection (1) if, within the previous 6 months, employer withholding started to apply in relation to the liability because of a variation made under subsection (5) or (7).

(7C) If a payer of an enforceable maintenance liability has made an election under subsection (1) or (2) in relation to the liability that has been rejected by the Registrar, the payer may not make an election under subsection (1) in relation to the liability within 2 months after that rejection.

(8) Where:

- (a) by virtue of subsection (6), the particulars of the entry in the Child Support Register in relation to an enforceable maintenance liability contain a statement that employer withholding does not apply in relation to the liability; and
- (b) the Registrar becomes satisfied that the collection of payments due under the liability by deduction from the salary

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or wages of the payer under this Part would be an efficient method of collecting those payments;

the Registrar shall vary those particulars so that they contain a statement that employer withholding applies in relation to the liability.

- (9) In determining for the purposes of subsections (5) to (8) (inclusive) whether the collection of payments due under an enforceable maintenance liability by deduction from the salary or wages of the payer under this Part would be an efficient method of collecting those payments, the Registrar shall have regard in particular to the need to ensure that the payments are received by the Registrar on a timely basis.
- (10) If the period at which amounts are payable under an enforceable maintenance liability exceeds one calendar month or one month, the Registrar shall include in the particulars of the entry in the Child Support Registrar in relation to the liability a statement that employer withholding does not apply in relation to the liability.

**45 Notification to be given to employer and employee**

- (1) The Registrar may, for the purpose of collecting amounts due to the Commonwealth under or in relation to an enforceable maintenance liability by deduction from the salary or wages of the payer under this Part, give a notice in writing to an employer of the payer:
  - (a) specifying the name of the payer and other particulars of the payer sufficient to enable the payer to be identified by the employer; and
  - (b) instructing the employer:
    - (i) to make in accordance with section 46, as from a specified day, periodic deductions in accordance with the specified weekly deduction rate from salary or wages paid by the employer to the payer; and
    - (ii) to pay to the Registrar in accordance with subsection 47(1) amounts so deducted.
- (2) Where:
  - (a) particulars entered in the Child Support Register in relation to an enforceable maintenance liability are varied; and



- (b) the Registrar is of the opinion that the revocation or variation of a notice in force under subsection (1) in relation to the liability is necessary or desirable to take account of the variations made to those particulars;  
the Registrar shall forthwith give a notice in writing to the employer to whom the notice was given varying or revoking accordingly the earlier notice given to the employer.
- (2A) Where the Registrar thinks that the variation of a notice in force under subsection (1) in relation to an enforceable maintenance liability is necessary or desirable for the purpose of collecting amounts already due to the Commonwealth under or in relation to the liability by deduction from the salary or wages of the payer under this Part, the Registrar must immediately give a written notice to the employer to whom the notice was given varying the notice accordingly.
- (3) Where the Registrar gives a notice under subsection (1), (2) or (2A) to an employer in relation to the payer of an enforceable maintenance liability, the Registrar shall forthwith give a copy of the notice to the payer.

#### **46 Duty of employer to make deductions from salary or wages**

- (1) Subject to this section, where an employer pays salary or wages to an employee in relation to whom a notice given to the employer under subsection 45(1) is in force, the employer shall, at the time of paying the salary or wages, make a deduction from the salary or wages in accordance with this section.
- (2) Subject to subsection (4), the amount of the deduction is the amount ascertained by applying the weekly deduction rate specified in the notice to the period in relation to which the salary or wages are paid.
- (4) Where the amount of the salary or wages exceeds the amount of the deduction that would, but for this subsection, be required to be made from the salary or wages by less than the amount (the ***protected earnings amount***) ascertained by applying the protected earnings rate to the period in relation to which the salary or wages are paid, the amount of the deduction is the amount by which the amount of the salary or wages exceeds the protected earnings amount.

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(4A) An employer commits an offence if:

- (a) the employer is required to make a deduction under subsection (1) in relation to an employee; and
- (b) the employer refuses or fails to make the deduction.

Penalty: 10 penalty units.

(4B) Subsection (4A) does not apply if the amount of the employee's salary or wages is less than the protected earnings amount.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4B) (see subsection 13.3(3) of the *Criminal Code*).

(4C) An offence against subsection (4A) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(5) Where a person (in this subsection called the **convicted person**) is convicted before a court of an offence against subsection (4A) in relation to the refusal or failure of the convicted person or another person to make a deduction from salary or wages in accordance with this section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Registrar, as a debt due to the Commonwealth, an amount not exceeding the amount of the deduction.

(6) For the purposes of this section, where an employer pays an amount of salary or wages to an employee, then:

- (a) if the amount is paid in relation to piece-work performed by the employee or in relation to services rendered under a contract that is wholly or principally for the labour of the employee—the amount shall be taken to be paid in relation to the period:
  - (i) that began when the work or services began; and
  - (ii) that ended when the work or services ended;
- (b) if the amount is paid in relation to any other work performed or services rendered, but not in relation to a particular period—the amount shall be taken to be paid in relation to the period of 52 weeks preceding the day on which the amount is paid; and
- (c) if the employee is entitled to be paid the amount in relation to a period of longer than one week—the employer shall be deemed to have paid an amount of salary or wages to the employee in relation to each week or part of a week in the

period, being the amount ascertained by dividing the amount of salary or wages in fact paid by the number of days in the period and multiplying the resultant amount:

- (i) in the case of each week—by 7; and
  - (ii) in the case of a part of a week—by the number of days in the part of the week.
- (7) Where salary or wages for a week or part of a week is or are paid by an employer in 2 or more separate amounts, all the amounts shall, for the purposes of this section, be aggregated, and the employer may make the deduction wholly from one amount or partly from 2 or more amounts.
- (8) For the purposes of subsections (4) and (4B), the amount of any salary or wages shall be taken to be the amount of the salary or wages after amounts (if any) that are required to be withheld from the salary or wages under Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953* have been withheld.
- (9) Subsection (1) has, and is taken to have had, no effect to the extent (if any) that it is inconsistent with paragraph 72(iii) or 103(iii) of the Constitution.

#### **47 Additional duties of employers**

- (1) An employer who has during any calendar month made deductions under this Part shall, not later than the seventh day of the following calendar month:
- (a) pay to the Registrar the amounts so deducted; and
  - (b) give notice to the Registrar in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which a notice may be given.

- (1A) Where:
- (a) a notice given to an employer under subsection 45(1) in relation to an employee is in force at any time during a calendar month; and
  - (b) the employer does not during the calendar month make deductions under this Part in relation to the employee;

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the employer must, not later than the seventh day of the following calendar month, give to the Registrar notice in the manner specified by the Registrar.

- (2) When an employer makes a payment of salary or wages to an employee in relation to whom a notice given to the employer under subsection 45(1) is in force, the employer shall notify the employee, in writing:

- (a) of the amount of the deduction made under this Part from the salary or wages; or
- (b) that no deduction has been made under this Part from the salary or wages;

as the case requires.

- (3) Where, in any calendar month, an employee in relation to whom a notice given to an employer under subsection 45(1) is in force ceases to be an employee of the employer, the employer shall, not later than the seventh day of the following calendar month, notify the Registrar in the manner specified by the Registrar.

- (3A) An employer commits an offence if:

- (a) the employer is subject to a requirement under subsection (1); and
- (b) the employer refuses or fails to comply with the requirement.

Penalty: 50 penalty units, or 12 months imprisonment, or both.

- (3B) An employer commits an offence if:

- (a) the employer is subject to a requirement under subsection (1A) or (2); and
- (b) the employer refuses or fails to comply with the requirement.

Penalty: 10 penalty units.

- (3C) An employer commits an offence if:

- (a) the employer is subject to a requirement under subsection (3); and
- (b) the employer refuses or fails to comply with the requirement.

Penalty: 5 penalty units.

- (3D) An offence against subsection (3B) or (3C) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (4) The Registrar may, by notice in writing served on an employer, vary in relation to the employer, in such instances and to such extent as the Registrar thinks fit, any of the requirements of subsections (1), (1A), (2) and (3).

#### **48 Two or more employers in relation to one employee**

Where a person who is the payer of an enforceable maintenance liability is in receipt of salary or wages from 2 or more employers, the Registrar may:

- (a) treat any one of the employers as the only employer for the purposes of this Part; or
- (b) apply sections 46 and 47 in relation to any 2 or more of the employers with such modifications as the Registrar considers appropriate, being modifications made for the purpose of ensuring that the amounts collected under this Part in relation to the liability are, in the aggregate, the same as those that would be collected in relation to the liability if the payer had only one employer.

#### **49 Discharge of payer's liability to Registrar and employer's liability to payer**

Where an employer deducts an amount under this Part from the salary or wages of the payer of an enforceable maintenance liability:

- (a) the payer is, to the extent of the amount deducted, discharged from the payer's liability to make payments to the Registrar under or in relation to the liability, as the case requires; and
- (b) the employer is discharged from liability to pay the amount to any person other than the Registrar.

#### **50 Payment by trustees of deducted amounts**

- (1) Where:
- (a) an amount is payable to the Registrar by an employer under subsection 47(1) (including that subsection as varied under subsection 47(4)); and

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- (b) the property of the employer has become vested in, or the control of the property of the employer has passed to, a trustee;  
the trustee is liable to pay the amount to the Registrar.
  - (2) Notwithstanding any other law of the Commonwealth or any law of a State or Territory:
    - (a) an amount payable to the Registrar by a trustee under subsection (1) has priority over all other debts (other than amounts payable under former subsection 221YHZD(3) of the *Income Tax Assessment Act 1936*), whether preferential, secured or unsecured;
    - (b) where an amount is payable by a trustee to the Registrar under former subsection 221YHZD(3) of the *Income Tax Assessment Act 1936*, an amount payable by the trustee under subsection (1) of this section ranks equally with the amount payable under whichever of those subsections is applicable in priority to all other debts, whether preferential, secured or unsecured.
- Note: The subsection of the *Income Tax Assessment Act 1936* referred to in paragraphs (a) and (b) do not apply to liabilities arising after 30 June 1993.
- (3) Where a trustee, being a trustee of an estate of a bankrupt or a liquidator of a company that is being wound up, is liable to pay an amount to the Registrar under subsection (1), subsection (2) does not have the effect that the amount is payable in priority to any costs, charges or expenses of the administration of the estate or of the winding up of the company (including costs of a creditor or other person on whose petition the sequestration order or the winding up order (if any) was made and the remuneration of the trustee) that are lawfully payable out of the assets of the estate or of the company except where, in the case of the winding up of a company, the Crown in right of a State or of the Northern Territory or Norfolk Island or any other creditor is entitled to payment of a debt by the liquidator, in priority to all or any of those costs, charges and expenses and has not waived that priority.

## **Division 2—Penalties**

### **51 Penalty for late remittance of deductions**

Where an amount (in this section called the *principal amount*) payable to the Registrar by an employer other than the Commonwealth under subsection 47(1) (including that subsection as varied under subsection 47(4)) remains unpaid after the time by which it is required to be paid:

- (a) the principal amount continues to be payable by the employer to the Registrar; and
- (b) the employer is liable to pay to the Registrar, by way of penalty:
  - (i) in a case where the employer is a government body—an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid, computed from that time; and
  - (ii) in any other case:
    - (A) an amount (in this subparagraph called the *relevant penalty amount*) equal to 20% of the principal amount; and
    - (B) an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid and so much of the relevant penalty amount as remains unpaid, computed from that time.

### **52 Penalty for failure etc. to make deductions from salary or wages**

Where an employer other than the Commonwealth contravenes subsection 46(1) in relation to a payment of salary or wages, the employer is liable to pay to the Registrar, by way of penalty:

- (a) an amount equal to 20% per annum of so much of the amount that the employer refused or failed to deduct from the payment (in this section called the *undeducted amount*) as remains unpaid, computed from the end of the period within which, had the employer deducted the undeducted amount, the employer would have been required to pay the undeducted amount to the Registrar; and

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- (b) in the case of an employer other than a government body—an amount equal to the undeducted amount.

**53 Penalty in relation to certain unexplained remittances by employers**

Where:

- (a) the Registrar receives an amount under paragraph 47(1)(a) from an employer other than the Commonwealth in relation to a calendar month;
- (b) the employer contravenes paragraph 47(1)(b) in relation to the calendar month; and
- (c) an amount (in this section called the *appropriated amount*) is required to be credited to the Account under paragraph 78(3)(d) in relation to the employer in relation to the calendar month;

the employer is liable to pay to the Registrar, by way of penalty, an amount equal to the appropriated amount.

**54 Remission of certain penalty amounts**

- (1) Where an amount (in this section called the *late payment penalty*) is payable by an employer under subparagraph 51(b)(i), sub-subparagraph 51(b)(ii)(B) or paragraph 52(a) in relation to another amount (in this subsection called the *principal amount*) that has not been paid and:
  - (a) the Registrar is satisfied that:
    - (i) the circumstances that contributed to the delay in payment of the principal amount were not due to, or caused directly or indirectly by, an act or omission of the employer; and
    - (ii) the employer has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;
  - (b) the Registrar is satisfied that:
    - (i) the circumstances that contributed to the delay in payment of the principal amount were due to, or caused directly or indirectly by, an act or omission of the employer;
    - (ii) the employer has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and



- (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; or
  - (c) the Registrar is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; the Registrar may remit the late payment penalty or part of the late payment penalty.
- (2) The Registrar may remit the whole or part of any amount payable by an employer under sub-subparagraph 51(b)(ii)(A), paragraph 52(b) or section 53.

*Notices of decisions*

- (3) If the Registrar makes a decision under subsection (1) or (2):
  - (a) to remit only part of a penalty; or
  - (b) not to remit any part of a penalty;the Registrar must serve written notice of the decision on the person by whom the penalty is, or but for the remission would be, payable.
- (4) The notice must include, or be accompanied by, a statement to the effect that:
  - (a) the person may, subject to this Act, object to the decision (the **original decision**); and
  - (b) if the person is dissatisfied by a later decision of the Registrar on an objection to the original decision, the person may, subject to this Act, apply to the SSAT for review of the later decision.
- (5) A contravention of subsection (4) in relation to a decision does not affect the validity of the decision.

**55 Reduction of late payment penalty where judgment debt carries interest**

- (1) Where judgment is given by, or entered in, a court for the payment of:
  - (a) the whole or a part of a principal amount; or
  - (b) an amount that includes the whole or a part of a principal amount;

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then:

- (c) the principal amount or the part of the principal amount, as the case may be, shall not be taken, for the purposes of subparagraph 51(b)(i), sub-subparagraph 51(b)(ii)(B) or paragraph 52(a), as the case may be, to have ceased to be due and payable merely because of the giving or entering of the judgment; and
  - (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable under whichever of those provisions is applicable in relation to the principal amount or the part of the principal amount shall, by force of this paragraph, be reduced by:
    - (i) in a case to which paragraph (a) applies—the amount of the interest; or
    - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount, or the part of the principal amount, bears to the amount of the judgment debt.
- (2) In subsection (1), ***principal amount*** means:
- (a) an amount of the kind referred to in section 51 as the principal amount;
  - (b) an amount of the kind referred to in subparagraph 51(b)(ii) as the relevant penalty amount; or
  - (c) an amount of the kind referred to in section 52 as the undeducted amount.

**56 Penalty to be alternative to prosecution for certain offences against Part**

- (1) Where:
- (a) but for this subsection, an amount is payable, by way of penalty, by a person to the Registrar under this Part because of an act or omission of the person; and
  - (b) a prosecution is instituted against the person for an offence against this Part constituted by the act or omission;
- the amount is not payable unless and until the prosecution is withdrawn.

(2) Where:

- (a) a person is liable to pay, by way of penalty, an amount (in this subsection called the ***penalty amount***) to the Registrar under this Part because of an act or omission of the person;
- (b) an amount (in this subsection called the ***credited amount***) is paid, or applied by the Registrar, in total or partial discharge of the liability; and
- (c) a prosecution is instituted against the person for an offence against this Part constituted by the act or omission;

the credited amount shall be refunded to the person, or applied by the Registrar in total or partial discharge of a debt due to the Commonwealth by the person under this Act, but, if the prosecution is withdrawn, the person again becomes liable to pay the penalty amount.

## **Division 3—Provisions applicable to employers**

### **57 Employers not to prejudice employees because of registrable maintenance liabilities etc.**

(1) An employer who:

- (a) refuses to employ, or to pay salary or wages to, another person;
- (b) dismisses, or threatens to dismiss, another person from the other person's employment;
- (c) terminates, or threatens to terminate, the payment of salary or wages to another person;
- (d) prejudices, or threatens to prejudice, another person in the other person's employment or otherwise in the receipt of salary or wages; or
- (e) intimidates or coerces, imposes any pecuniary or other penalty on, or takes any other disciplinary action in relation to, another person;

because the other person:

- (f) is the payer of a registrable maintenance liability; or
- (g) is an employee in relation to whom a notice has been given to the employer under subsection 45(1);

is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.

(1A) Strict liability applies to the element of an offence against subsection (1) that a notice is a notice given under subsection 45(1).

(2) In a prosecution for an offence against subsection (1), it is not necessary for the prosecutor to prove the reason for the defendant's action, but it is a defence to the prosecution if the defendant proves, on the balance of probabilities, that the action was not motivated (either in whole or in part) by a reason specified in that subsection.

(3) Where an employer is convicted of an offence against subsection (1) constituted by an act done in relation to a person, the court may:

- (a) order the payment of compensation to the person for loss or damage suffered as a result of the act; and
- (b) order the taking of action to remedy or reduce the loss or damage suffered by the person as a result of the act.

## **58 Employers not to disclose information etc.**

- (1) Any person who is or has been:
  - (a) an employer; or
  - (b) a person employed by, or performing services for, an employer;must not, directly or indirectly, divulge or communicate to a second person any information in relation to the affairs of a third person, being information disclosed or obtained under or for the purposes of this Part and acquired by the person because of, or in the course of, the performance of the employer's duties under this Part.  
  
Penalty: \$1,000.
- (2) Subsection (1) does not apply if the information is divulged or communicated for the purposes of this Part or otherwise in connection with the performance of the employer's duties under this Part or in connection with the carrying on of the employer's affairs.
- (3) Strict liability applies to the element of an offence against subsection (1) that a disclosure or obtaining of information is a disclosure or obtaining under or for the purposes of this Part.

## **59 Records to be kept and preserved by employers**

- (1) An employer shall:
  - (a) keep records that record and explain:
    - (i) all amounts deducted, or required to be deducted, from salary or wages under section 46; and
    - (ii) other acts engaged in by the employer, or required to be engaged in by the employer, under this Part; and
  - (b) retain those records for a period of 5 years.

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- (2) An employer who is required by subsection (1) to keep records must keep the records:
  - (a) in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language; and
  - (b) so as to enable the matters and acts referred to in paragraph (1)(a) to be readily ascertained.
- (3) An employer commits an offence if:
  - (a) the employer is subject to a requirement under subsection (1) or (2); and
  - (b) the employer refuses or fails to comply with the requirement.

Penalty: 20 penalty units.

- (4) Subsection (3) does not apply if:
  - (a) the Registrar has notified the employer that the retention of records under subsection (1) is not required; or
  - (b) the employer is a company that has gone into liquidation and has been finally dissolved.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) An offence against subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

**60 Incorrectly keeping records etc.**

- (1) Where an employer who is required by section 59 to keep records keeps them in such a way that they do not correctly record and explain the matters or acts to which they relate, the employer is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.
- (1A) Subsection (1) is an offence of strict liability.
- (2) In a prosecution of an employer for an offence against subsection (1), it is a defence if the employer proves that the employer:
  - (a) did not know; and
  - (b) could not reasonably be expected to have known;

that the record to which the prosecution relates did not correctly record and explain the matter or act to which the record relates.

## **61 Access to premises etc.**

- (1) For the purposes of the application of this Part in relation to an employer, an officer authorised in writing by the Registrar to exercise powers under this section:
  - (a) may, at all reasonable times, enter and remain on any land or premises;
  - (b) is allowed free access at all reasonable times to all documents; and
  - (c) may inspect, examine, make copies of, or take extracts from, any document.
- (2) An officer is not entitled to enter or remain on any land or premises under this section if, on being requested by the occupier of the land or premises for proof of authority, the officer does not produce an authority in writing signed by the Registrar stating that the officer is authorised to exercise powers under this section.
- (3) A person is guilty of an offence if:
  - (a) the person is an occupier of land or premises entered or proposed to be entered by an officer; and
  - (b) the person does not provide the officer with all reasonable facilities and assistance that the occupier is reasonably capable of providing; and
  - (c) the person does not do so in circumstances where the officer is exercising his or her powers under this section.

Penalty: \$1,000.

- (4) Strict liability applies to paragraph (3)(c).

## **62 Public officer of company**

- (1) The person who is, from time to time, the public officer of a company for the purposes of the *Income Tax Assessment Act 1936* is the public officer of the company for the purposes of this Act, and the address for service of the public officer under that Act is the address for service under this Act.

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- (2) Service of any document or requisition at the address for service of the public officer, or on the public officer, is sufficient service on the company for the purposes of this Act, but, if at any time there is not a public officer of the company, service on any person acting or appearing to act in the business of the company is sufficient.

Note: See section 62A for alternative ways to give a notice to, or serve a process on, a company (through its officers, attorneys or agents).

- (3) The public officer is answerable for the doing of all acts required to be done by the company under this Act, and in case of default is liable to the same penalties.
- (4) Everything done by the public officer that the public officer is required to do in that capacity shall be deemed to have been done by the company.
- (5) If, at any time, there is not a public officer of the company, this Act applies in relation to the company as if there were no requirement to appoint a public officer of the company.
- (6) Any proceedings under this Act (including proceedings for an offence against this Act) taken against the public officer shall be deemed to have been taken against the company, and the company is liable jointly with the public officer for any penalty imposed on the public officer.

**62A Notifying and serving companies**

For the purposes of this Act, if the Registrar thinks fit, a notice or process may be given to, or served on, a company by giving the notice to, or serving the process on:

- (a) a director, the secretary or another officer of the company; or
- (b) an attorney or agent of the company.

Note: See subsection 62(2) for alternative ways to serve a document or requisition on a company (through its public officer or someone else acting or appearing to act for the company).

**63 Public officer of trust estate**

- (1) The person who is, from time to time, the public officer of a trust estate for the purposes of section 252A of the *Income Tax Assessment Act 1936* is the public officer of the trust estate for the purposes of this Act, and the address for service of the public



officer under that Act is the address for service of the public officer under this Act.

- (2) Service of any document or requisition at the address for service of the public officer, or on the public officer, is sufficient service on the trustee of the trust estate for the purposes of this Act, but, if at any time there is not a public officer of the trust estate, service on any person acting or appearing to act on the business of the trust estate is sufficient.
- (3) The public officer is answerable for the doing of all acts required to be done by the trustee of the trust estate under this Act, and in case of default is liable to the same penalties.
- (4) Everything done by the public officer that the public officer is required to do in that capacity shall be deemed to have been done by the trustee of the trust estate.
- (5) If, at any time, there is not a public officer of the trust estate, this Act applies in relation to the trustee of the trust estate as if there were no requirement to appoint a public officer of the trust estate.
- (6) Any proceedings under this Act (including proceedings for an offence against this Act) taken against the public officer shall be deemed to have been taken against the trustee of the trust estate, and the trustee shall be liable jointly with the public officer for any penalty imposed on the public officer.
- (7) Notwithstanding subsections (1) to (6) (inclusive) and without affecting any of the obligations and liabilities of the public officer, any notice, process or proceeding that under this Act may be given to, served on or taken against the trustee or public officer of the trust estate may, if the Registrar thinks fit, be given to, served on or taken against any agent or attorney of the trustee, and the agent or attorney has the same liability in relation to the notice, process or proceeding as the trustee or public officer would have had if it had been given to, served on or taken against the trustee or public officer.

## **Division 4—Miscellaneous**

### **64 Amounts payable under Part debts due to Commonwealth**

An amount payable to the Registrar under this Part is a debt due to the Commonwealth.

### **65 Application of amounts paid or credited where 2 or more debts due**

Where:

- (a) 2 or more debts are due to the Commonwealth by an employer under this Part;
- (b) an amount is paid to or to be credited by the Registrar, or an amount is paid to and an amount is to be credited by the Registrar, in relation to all or any of the debts; and
- (c) the total amount of the debts exceeds the amount so paid or to be credited or the sum of the amounts so paid and to be credited, as the case may be;

the Registrar may, in spite of any direction given by or on behalf of the employer:

- (d) apply the amount, or the sum of the amounts, in partial discharge of the total amount of the debts; and
- (e) recover the amount by which the total amount of the debts exceeds the amount or the sum of the amounts;

without allocating the amount, or the sum of the amounts, towards the discharge of any particular debt or debts.

**Division 5—Application of this Part to those engaged  
under a contract for services**

**65AA Application of this Part to those engaged under a contract for  
services**

This Part applies to a person (the *independent contractor*) engaged under a contract for services as if:

- (a) a reference to an employee includes a reference to the independent contractor; and
- (b) a reference to an employer of the employee includes a reference to the person who engages the independent contractor; and
- (c) a reference to refusing to employ a person includes a reference to refusing to engage a person under a contract for services; and
- (d) if a person is an employer and also engages an independent contractor—the reference in section 65 to an employer includes the person in both of those capacities.

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## **Part IVA—Election available to payers who make voluntary payments of maintenance liabilities**

### **65A Election under this Part**

- (1) If the Registrar is not going to collect amounts due to the Commonwealth under, or in relation to, an enforceable maintenance liability by deduction from the salary or wages of the payer of the liability, the payer may elect that the payment period entered in the Child Support Register in respect of the liability under paragraph 26(2)(b) be changed.
- (2) In making the election, the payer must:
  - (a) specify a payment period; and
  - (b) specify the day from which the period starts.
- (3) An election made under subsection (1) must be made in the manner specified by the Registrar.

Example 1: The payer elects a 4 week period as the payment period. The payer elects that the start day of the period will be 8 July which is a Wednesday. Therefore the period will end 4 weeks later on a Tuesday.

Example 2: The payer elects a period of a month as the payment period. The payer elects that the start day will be 16 October. Therefore the period will end on 15 November. If the payer elects that the start day will be 31 January, the period will end on 28 February.

Note: Section 16A provides for the Registrar to specify the manner in which an election may be made.

### **65B Registrar to act on election**

If:

- (a) a payer of an enforceable maintenance liability makes an election of a kind set out in section 65A; and
- (b) the Registrar is satisfied that it will be more convenient for the payer to accrue debts in relation to the elected period instead of the period in the Child Support Register;

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the Registrar must, within 28 days of receiving the election, vary the particulars of the entry in the Register in relation to the payment period by:

- (c) substituting the elected period; and
- (d) entering in the Register the specified day as the day from which the period starts.

## Part V—Payment and recovery of child support debts

### 66 When child support debts become payable

- (1) An amount that becomes a child support debt in respect of a day in an initial period is due and payable on the seventh day of the calendar month following that day.
- (2) An amount that becomes a child support debt in respect of a payment period is due and payable on the seventh day after the end of the period.

Note: For *initial period* and *payment period* see subsection 4(1).

- (3) An amount payable under subsection (1) or (2), in respect of a day in an initial period or payment period in a year of income, is taken to be paid at the time that the amount becomes due and payable, to the extent that a remaining lump sum payment will be credited, under section 69A, at the end of the year of income against that amount.

### 67 Penalty for late payment of child support debts

- (1) If a child support debt in respect of a payment period remains unpaid after the time when it became due and payable, the person liable to pay the debt is liable to pay to the Registrar, by way of penalty, whichever of the following amounts applies:
  - (a) if the payment period is a week—an amount calculated on the balance outstanding each week at a weekly rate equal to  $\frac{1}{52}$  of the relevant annual rate;
  - (b) if the payment period is a fortnight—an amount calculated on the balance outstanding each fortnight at a fortnightly rate equal to  $\frac{1}{26}$  of the relevant annual rate;
  - (c) if the payment period is a 4 week period—an amount calculated on the balance outstanding each four weeks at a four weekly rate equal to  $\frac{4}{52}$  of the relevant annual rate;
  - (d) if the payment period is a month or a calendar month—an amount calculated on the balance outstanding each month or

calendar month at a monthly rate equal to  $\frac{1}{12}$  of the relevant annual rate.

- (1AA) If a child support debt in respect of a day in an initial period remains unpaid after the time when it became due and payable, the person liable to pay the debt is liable to pay to the Registrar, by way of penalty, an amount calculated on the balance outstanding each calendar month at a monthly rate equal to  $\frac{1}{12}$  of the relevant annual rate.
- (1A) For the purposes of subsections (1) and (1AA), the balance outstanding is the total amount of one or more child support debts remaining unpaid.
- (2) An amount payable to the Registrar under subsection (1) or (1AA) is a debt due to the Commonwealth.
- (3) In this section:

**relevant annual rate** means the rate that is from time to time the general interest charge rate under subsection 8AAD(1) of the *Taxation Administration Act 1953*.

#### **67A Due date of certain debts for the purposes of calculating penalty**

For the purposes of section 67, if:

- (a) the Registrar has entered an initial period in the Register under paragraph 26(2)(a) in respect of a liability; and
- (b) a child support debt in respect of a payment period for the liability becomes due and payable on a particular day (the **payment period due day**); and
- (c) the payment period due day occurs before any day on which a child support debt in respect of a day in the initial period for the liability is due and payable;

the child support debt in respect of the payment period is taken to have become due and payable on the day on which a child support debt in respect of the last day in the initial period is due and payable.

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**68 Remission of late payment penalty**

- (1) If an amount (in this section called the *late payment penalty*) is payable by a person under section 67 in relation to a child support debt and:
  - (a) the Registrar is satisfied that:
    - (i) the circumstances that contributed to the delay in payment of the debt were not due to, or caused directly or indirectly by, an act or omission of the person; and
    - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; or
  - (b) the Registrar is satisfied that:
    - (i) the circumstances that contributed to the delay in payment of the debt were due to, or caused directly or indirectly by, an act or omission of the person; and
    - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
    - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; or
  - (c) the Registrar is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty;the Registrar may remit the late payment penalty or part of the late payment penalty.

*Notices of decisions*

- (2) If the Registrar makes a decision under subsection (1):
  - (a) to remit only part of a penalty; or
  - (b) not to remit any part of a penalty;the Registrar must serve written notice of the decision on the person by whom the penalty is, or but for the remission would be, payable.
- (3) The notice must include, or be accompanied by, a statement to the effect that:
  - (a) the person may, subject to this Act, object to the decision (the *original decision*); and



- (b) if the person is dissatisfied by a later decision of the Registrar on an objection to the original decision, the person may, subject to this Act, apply to the SSAT for review of the later decision.
- (4) A contravention of subsection (3) in relation to a decision does not affect the validity of the decision.

## **69 Reduction of late payment penalty where judgment debt carries interest**

Where judgment is given by, or entered in, a court for payment of:

- (a) a child support debt; or
  - (b) an amount that includes a child support debt;
- then:
- (c) the debt shall not be taken, for the purposes of subsection 67(1), to have ceased to be due and payable merely because of the giving or entering of the judgment; and
  - (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable under that subsection in relation to the debt shall, by force of this paragraph, be reduced by:
    - (i) in a case to which paragraph (a) applies—the amount of the interest; or
    - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the debt bears to the amount of the judgment debt.

## **69A Crediting of lump sum payments**

- (1) This section applies if:
  - (a) either:
    - (i) a child support agreement accepted by the Registrar includes lump sum payment provisions in accordance with paragraph 84(1)(e) of the Assessment Act; or
    - (ii) a court has made an order under section 123A of that Act in relation to the provision of child support in the form of a lump sum payment; and
  - (b) the Registrar has been notified that the lump sum payment has been paid in accordance with the agreement or order.

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- (2) The Registrar must, in accordance with subsection (3):
- (a) in respect of a day in an initial period, or in respect of a day in a payment period, in a year of income, for a registered maintenance liability, credit the remaining lump sum payment against:
    - (i) if the agreement or order states that the lump sum payment is to be credited against a specified percentage of the amount payable under the liability—that percentage of the amount payable under the liability; and
    - (ii) if subparagraph (i) does not apply—100% of the amount payable under the liability; and
  - (b) reduce, but not below nil, the remaining lump sum payment by the amount so credited.
- (3) The Registrar must credit a remaining lump sum payment and reduce the remaining lump sum payment at the end of each year of income.
- (4) The **remaining lump sum payment**, in relation to the lump sum payment paid under the agreement or order, means:
- (a) for the first day after the agreement is accepted or the order is made—the lump sum payment; and
  - (b) for 1 July in a year of income (except if that 1 July is covered by paragraph (a))—the remaining lump sum payment for the previous day as indexed under subsection (5); and
  - (c) otherwise—so much of the remaining lump sum payment as remains after crediting under the previous application of this section.
- (5) The remaining lump sum payment, for 1 July in a year of income, is indexed as follows:

$$\frac{\text{The remaining lump sum payment for the previous day}}{\text{The remaining lump sum payment for the previous day}} \times \text{Indexation factor}$$

where:

**base quarter** means the March quarter (before the March quarter for the previous year of income, but after the agreement is accepted or the order is made) with the highest index number.

***indexation factor*** means:

$$\frac{\text{Index number for the March quarter of the previous year of income}}{\text{Index number for the base quarter}}$$

***index number*** for a quarter is the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician in respect of that quarter.

***March quarter*** means the quarter ending on 31 March.

- (6) If an indexation factor worked out under subsection (5) would be less than 1, the indexation factor is to be increased to 1.
- (7) Subject to subsection (8), if at any time (whether before or after the commencement of this subsection), the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of subsection (5).
- (8) If at any time the Australian Statistician changes the reference base for the Consumer Price Index, regard is to be had, for the purposes of applying subsection (5) after the change takes place, only to index numbers published in terms of the new reference base.

## **70 Apportionment of payment between payees**

- (1) If:
  - (a) 2 or more child support debts are owing by a person; and
  - (b) the debts relate to 2 or more enforceable maintenance liabilities with different payees; and
  - (c) an amount is paid to the Registrar in relation to all or any of the debts; and
  - (d) the total amount of the debts exceeds the amount paid to the Registrar;
 the Registrar must, despite any direction given by or on behalf of the person, apportion the amount of the payment between the payees in proportion to the amount of the debt owing in relation to

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each payee, and apply the amounts so apportioned in partial discharge of each of those debts.

- (2) This section does not apply to amounts paid to the Registrar in accordance with a court order made in relation to a proceeding instituted by a payee of a registered maintenance liability under section 113A to recover a debt due in relation to the liability.

**71 Direct payments to payee**

- (1) Subject to section 71D, if:
- (a) the payee of an enforceable maintenance liability receives from the payer an amount intended by both the payer and the payee to be paid in complete or partial satisfaction of an amount payable under the liability in relation to the child support enforcement period; and
  - (b) the payer or the payee applies to the Registrar to have the amount received by the payee treated as having been paid to the Registrar;
- the Registrar shall, in spite of section 30, credit the amount received by the payee against the amount payable under the enforceable maintenance liability.

- (2) An application must be made in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

- (3) This section does not apply to an enforceable maintenance liability of a kind referred to in paragraph 18A(3)(a).

**71AA Registrar may offset child support debts between payer and payee**

- (1) If:
- (a) 2 persons each have a child support debt arising from a liability referred to in section 17 or 17A; and
  - (b) in respect of each debt, the Commonwealth would be required, under section 76, to pay the amount paid by one of the persons to the other person; and

- (c) for a debt that arose from a liability referred to in section 17—the liability provided for child support for a child of the 2 persons;  
the Registrar may offset the debts by deducting the amount, or part of the amount, of the debt of the person who owes the lesser amount from the amount of the debt of the person who owes the greater amount.
- (2) If the amount of the debts is the same, the Registrar may offset one debt against the other. In this case, the Commonwealth is taken to have recovered both of the debts.
- (3) If the amount of the debts is not the same, the Commonwealth is taken to have recovered:
  - (a) so much of the amount of the smaller debt as is offset against the larger debt; and
  - (b) so much of the amount of the larger debt that equals the amount of the smaller debt as is offset.
- (4) Any amounts recovered by the Commonwealth by way of offset are taken to be:
  - (a) paid by the payer to the Registrar under the registered maintenance liability concerned; and
  - (b) paid by the Commonwealth to the payee as provided for in this Act.

Example: Offset of part of a debt

Helena was previously the payer of a registrable maintenance liability. Helena's children have now come to live with her. Helena has the greater debt of \$3,000 from the period when she was a child support payer. Even though the children are no longer living with Theo, he is entitled to \$3,000 in child support when Helena pays it.

Theo has now been assessed as having a child support liability. Under that liability, Theo has a debt of \$150 in respect of a calendar month.

The Registrar offsets \$100 of the debt (part of it only) that became due and payable by Theo against the amount owed by Helena. The effect of the offset is that Helena is taken to have paid \$100 per calendar month. Theo is taken to have paid \$100 of his liability to pay \$150. Under the liability, Theo must pay \$50 for that calendar month.

Each time a debt incurred by Theo under the liability becomes due and payable it may be offset against the remainder of Helena's debt.

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**71A Payments to third persons by payer**

- (1) Subject to section 71D, if:
- (a) the payer of an enforceable maintenance liability pays a third party an amount that partially or completely satisfies a debt owed by:
    - (i) the payee of the enforceable maintenance liability; or
    - (ii) the payer; or
    - (iii) both the payer and payee; and
  - (b) the payer or the payee applies to the Registrar, in the manner specified by the Registrar, to have the amount, or part of the amount, received by the third party treated as having been paid to the Registrar; and
  - (c) the amount paid, or a part of the amount paid, was intended by both the payer and the payee to be paid in complete or partial satisfaction of an amount payable under the enforceable maintenance liability in relation to the child support enforcement period;

the Registrar must, in spite of section 30 and in accordance with subsections (2) and (3), credit the amount, or part of the amount, received by the third party against the amount payable under the enforceable maintenance liability.

Note: Section 16A provides for the Registrar to specify the manner in which an application may be made.

- (2) If:
- (a) the application referred to in paragraph (1)(b) specifies that the amount, or part of the amount, received by the third party is to be credited against a specified percentage (that is less than 100%) of the amount payable under the liability; and
  - (b) the Registrar is satisfied that the payer and the payee agree that the amount received is to be so credited;
- then the Registrar must credit the amount, or the part of the amount, received against that percentage of the amount payable under the liability.
- (3) Otherwise, the Registrar must credit the amount, or the part of the amount, received against all of the amount payable under the liability.

- (4) This section does not apply to an enforceable maintenance liability of a kind referred to in paragraph 18A(3)(a).

**71B Payments not in money**

- (1) For the purposes of sections 71 and 71A, if both the payer and the payee of an enforceable maintenance liability so intend:
- (a) a payment in a form, other than money, by the payer; or
  - (b) a transfer of any property or right by the payer;
- is taken to be an amount paid in complete or partial satisfaction of an amount payable under an enforceable maintenance liability.
- (2) For the purpose of determining the amount to be credited under section 71 or 71A, in relation to the payment or transfer, against the amount payable under the liability of the payer to the Commonwealth, the amount of the payment or transfer is taken to be:
- (a) the amount agreed by the payer and the payee; or
  - (b) if no amount is agreed, the amount determined by the Registrar.

**71C Other payments of up to 30% of child support liability**

- (1) If:
- (a) the payer of an enforceable maintenance liability in relation to a payment period or initial period has made one or more payments to the payee of the liability, or to another person; and
  - (b) the payment is a payment of the kind specified in the regulations; and
  - (ba) at the time the payment is made, the payer does not have at least regular care of any of the children to whom the relevant administrative assessment relates; and
  - (c) the sum of those payments exceeds the sum of all such payments previously credited under this section against the amount payable under the liability for all past periods; and
  - (d) the payer does not, at the time at which the Registrar applies this section, have at least regular care of any of the children to whom the relevant administrative assessment relates;
- then the Registrar must, despite section 30, credit the excess amount mentioned in paragraph (c) against the amount payable

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under the payer's liability for the period, up to a maximum of 30% of the amount payable.

Note: Subsection (1) is subject to section 71D.

- (2) Subsection (1) does not apply in relation to a payment (the ***prescribed payment***) mentioned in paragraph (1)(a) if:
  - (a) before the prescribed payment is made, the payer has provided child support to the payee in the form of a lump sum payment; and
  - (b) the lump sum payment has been credited, or will be credited, under section 69A against all or part of the amount payable under the enforceable maintenance liability in relation to the day the prescribed payment is made.
- (3) Subject to subsection (4), the Registrar must not credit an amount under this section in relation to a period for which the payer has not paid to the Commonwealth an amount equal to the difference between:
  - (a) the amount payable by the payer to the Commonwealth under the enforceable maintenance liability in relation to that period; and
  - (b) the amount that is to be credited under subsection (1), or that would be so credited but for this subsection, in relation to that period.
- (4) If the payer:
  - (a) did not pay that difference to the Commonwealth within the time required under section 66; and
  - (b) subsequently pays the amount of that difference to the Commonwealth;the Registrar may credit against the amount payable under the enforceable maintenance liability in relation to that period the amount that, but for subsection (3), would have been credited under subsection (1).
- (5) This section does not apply in relation to an enforceable maintenance liability in relation to a payment period or an initial period if:
  - (a) the liability is covered by section 17A or 18; or
  - (b) both of the following apply:



- (i) the payer of the liability has provided child support to the payee of the liability in the form of a lump sum payment;
  - (ii) the lump sum payment will be credited, under section 69A, against all or part of the amount payable under the liability in relation to the days in the payment period or the initial period.
- (6) This section does not apply in relation to an enforceable maintenance liability of a kind mentioned in section 18A.

**71D Registrar may refuse to credit amounts in special circumstances**

The Registrar may refuse to credit an amount under section 71, 71A or 71C if satisfied that, in the circumstances of the particular case, the amount ought not to be credited.

**71E Notices must be given to payers and payees in relation to registration decisions**

*Notices must be given*

- (1) This section applies if the Registrar decides, under section 71, 71A or 71C, to credit an amount received by the payee of an enforceable maintenance liability, or a third party, against the amount payable under the liability of the payer of that enforceable maintenance liability.

Note: If the Registrar refuses to credit an amount under section 71, 71A or 71C, the Registrar must give a notice under subsection 42C(3).

- (2) As soon as practicable after the Registrar credits the amount, the Registrar must serve a notice in writing of the decision on the payee and the payer.

*Content of notices*

- (3) A notice served on a person under this section in relation to a decision (the **original decision**) must include, or be accompanied by, a statement to the effect that:
- (a) the person may, subject to this Act, object to the original decision; and
  - (b) if the person is dissatisfied by a later decision of the Registrar on an objection to the original decision (no matter who

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lodges the objection), the person may, subject to this Act, apply to the SSAT for review of the later decision.

- (4) A contravention of subsection (3) in relation to a decision does not affect the validity of the decision.

**72 Application of certain amounts to debts under this Act**

- (1) If, apart from this section:

- (a) the Commissioner would be required under section 8AAZLF of the *Taxation Administration Act 1953* to refund an amount (the **refund amount**) to a person (the **creditor**); and
- (b) the creditor owes a debt to the Commonwealth under this Act;

then, despite anything contained in any law of the Commonwealth apart from this Act (including section 8AAZLF of the *Taxation Administration Act 1953*):

- (c) the Registrar may require the Commissioner, at a particular time, to pay an amount to the Registrar not exceeding the lesser of the refund amount and the debt; and
  - (d) if the Registrar so requires, the Commissioner must, as soon as practicable, pay the required amount to the Registrar.
- (2) If the Commissioner pays an amount to the Registrar under subsection (1), the Registrar must:
- (a) apply the amount against the debt of the creditor; or
  - (b) if the debt has been paid in full after the time mentioned in paragraph (1)(c)—pay the amount to the creditor; or
  - (c) if the debt has been paid in part after the time mentioned in paragraph (1)(c):
    - (i) apply the amount against the child support debt of the creditor; and
    - (ii) if, after the amount has been applied, the child support debt has been paid in full, pay any excess to the creditor.
- (3) If the Commissioner pays an amount to the Registrar under subsection (1), the amount that the Commissioner is required to refund under section 8AAZLF of the *Taxation Administration Act 1953* to the person is taken to be reduced by the amount paid to the Registrar immediately after the amount is paid.

**72A Registrar may collect child support related debts from a third person**

- (1) The Registrar may give written notice to a person:
- (a) by whom money is due or accruing, or may become due, to a child support debtor; or
  - (b) who holds, or may subsequently hold, money for or on account of a child support debtor; or
  - (c) who holds, or may subsequently hold money on account of some other person for payment to a child support debtor; or
  - (d) who has authority from some other person to pay money to a child support debtor;

requiring that person to pay to the Registrar:

- (e) if the amount of money is more than the maximum notified deduction total—an amount equal to the maximum notified deduction total; or
  - (f) if the amount of money is equal to or less than the maximum notified deduction total—the amount of money; or
  - (g) if the notice specifies an amount of money that is to be paid out of each payment that the notified person becomes liable, from time to time, to make to the debtor—that amount until the maximum notified deduction total is satisfied.
- (1A) A notice given under subsection (1) requires the notified person to continue to make payments in accordance with that subsection until the maximum notified deduction total is satisfied.
- (1B) For the purposes of subsection (1), **maximum notified deduction total** is an amount specified in a notice under that subsection that does not exceed the support debt of the child support debtor to whom the notice relates.
- (2) A person who refuses or fails to comply with a notice under subsection (1) is guilty of an offence.

Penalty: \$1,000.

- (2A) Subsection (2) does not apply if the person has a reasonable excuse.
- (2B) Subsection (2) is an offence of strict liability.

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- (3) A notice:
  - (a) must specify a day, not being a day before the money becomes due or is held, on or before which the money is to be paid; and
  - (b) may be varied by the Registrar specifying a later day for making a payment under the notice.
- (4) Subsection 4K(1) of the *Crimes Act 1914* does not apply in relation to anything required to be done under subsection (1).
- (5) If the Registrar gives a notice under subsection (1), the Registrar must provide a copy of the notice to the child support debtor.
- (6) A notice is taken to be provided under subsection (5) if the Registrar sends the notice to the last address of the person known to the Registrar.
- (7) A notice is taken to have been given to the Commonwealth, a State or a Territory if it is served on a prescribed person.
- (8) If a person is convicted of an offence against subsection (1), the court may, in addition to imposing a penalty on the person, order the person to pay to the Registrar an amount that is not more than the amount, or sum of the amounts (as the case may be), that the person refused or failed to pay to the Registrar.
- (9) A person who makes a payment in compliance with a notice under subsection (1) is taken to have made the payment under the debtor's authority or the authority of any other person concerned and is indemnified in respect of that payment.
- (10) If:
  - (a) the Registrar gives a notice under subsection (1); and
  - (b) before the person to whom the notice is given complies with it, payment of the amount due by the debtor is made;the Registrar must immediately give the person written notice of that payment.
- (11) For the purposes of this section, where:
  - (a) a person has paid money to a co-operative housing society in respect of the issue of withdrawable shares in the capital of the society; and
  - (b) the co-operative housing society has not repaid the money;

the money is taken to be:

- (c) if the money is repayable on demand—due by the co-operative housing society to the person; and
  - (d) in any other case—money that may become due by the co-operative housing society to the person.
- (12) For the purposes of this section, if, apart from this subsection, money is not due, or repayable on demand to a person unless a condition is fulfilled, the money is taken to be due, or repayable on demand (as the case may be), to the person even though the condition has not been fulfilled.
- (13) In this section:

***child support debtor*** means a person who is liable to pay a child support debt or a child support related debt.

***child support related debt***, in relation to a person, includes:

- (a) the amount of penalty (if any) imposed under section 67 in respect of that debt; and
- (b) any costs ordered by a court to be paid to the Commonwealth in respect of an offence committed by the person against this Act or the Assessment Act; and
- (c) any amount ordered by a court, upon the conviction of a person for an offence against this Act or the Assessment Act, to be paid by the person to the Registrar.

***co-operative housing society*** means a society registered or incorporated as a co-operative housing society or similar society under a law of a State or Territory.

***person*** includes a partnership and any Commonwealth, State or Territory public authority (whether incorporated or unincorporated).

***support debt*** means a child support debt or a child support related debt.

## **72AA Deductions from social security pensions and benefits**

- (1) If the payer of an enforceable maintenance liability covered by subsection 17(2) is in receipt of a social security pension or a social

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security benefit, the Registrar may give a written notice to the Secretary:

- (a) specifying the payer's name and setting out sufficient particulars to enable the Secretary to identify the payer; and
- (b) instructing the Secretary to make the prescribed periodic deduction from the payer's social security pension or social security benefit as from the specified day.

(2) If:

- (a) a person by whom a child support debt is due (whether before or after the commencement of this section) has not paid the debt; and
- (b) the person is in receipt of a social security pension or a social security benefit;

the Registrar may give a written notice to the Secretary:

- (c) specifying the person's name and setting out sufficient particulars to enable the Secretary to identify the person; and
- (d) instructing the Secretary to:
  - (i) make the prescribed periodic deduction from the person's social security pension or social security benefit from a specified day until the debt is paid; or
  - (ii) if the Registrar is satisfied the person is in financial hardship—make the specified lesser periodic deduction from the person's social security pension or social security benefit from a specified day until the debt is paid.

(3) A notice may be given by electronic transmission or by any other means.

(4) Subsection (2) does not apply to an amount due in respect of a liability covered by section 18.

(6) In this section:

*social security benefit* and *social security pension* have the same respective meanings as in the *Social Security Act 1991*.

**72AB Deductions from family tax benefit**

(1) This section applies to a person if:

- (a) the person is entitled to be paid family tax benefit under a determination under section 16 or 17 of the Family Assistance Administration Act; and
  - (b) the child, or at least one of the children, for whom the person is eligible for family tax benefit is a designated child support child of the person and:
    - (i) an FTB child; or
    - (ii) a regular care child who is also a rent assistance child.
- (2) A child of a person is a *designated child support child of the person* if:
  - (a) the person has a registrable maintenance liability of a kind mentioned in section 17 in respect of the child; and
  - (b) an amount payable under the liability is a child support debt; and
  - (c) the day on which the debt became due and payable under section 66 has passed, and the debt remains unpaid in whole or in part.
- (3) If this section applies to a person, the Registrar may give a written notice to the Secretary directing the Secretary:
  - (a) to deduct from each instalment amount of family tax benefit that the person is entitled to be paid under section 23 of the Family Assistance Administration Act an amount specified, or worked out as specified, in the notice; or
  - (b) to deduct from an amount of family tax benefit that the person is entitled to be paid under section 24 of the Family Assistance Administration Act an amount specified, or worked out as specified, in the notice.
- (4) A notice under subsection (3) must:
  - (a) specify the person's name and the name of each designated child support child of the person; and
  - (b) set out sufficient particulars to enable the Secretary to identify the person and each designated child support child of the person; and
  - (c) be in accordance with section 228 of the Family Assistance Administration Act, which sets out the maximum amount that can be deducted; and
  - (d) specify the day or days on which deductions are to be made.

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(5) In this section:

**Family Assistance Act** means the *A New Tax System (Family Assistance) Act 1999*.

**Family Assistance Administration Act** means the *A New Tax System (Family Assistance) (Administration) Act 1999*.

**family tax benefit** has the same meaning as in the Family Assistance Act.

**FTB child** means an FTB child in relation to family tax benefit within the meaning of the Family Assistance Act.

**regular care child** has the same meaning as in the Family Assistance Act.

**rent assistance child** has the same meaning as in the Family Assistance Act.

**72AC Deductions from veterans' pensions and allowances**

(1) The Registrar may give a written notice to the Repatriation Commission (within the meaning of the *Veterans' Entitlements Act 1986*) if:

(a) either of the following applies:

- (i) a person is a payer of an enforceable maintenance liability under section 17 of this Act;
- (ii) a person owes a child support debt in relation to a liability under section 17 or 17A of this Act and an amount of the debt remains unpaid after the day on which the debt became due and payable under section 66 of this Act; and

(b) the person is receiving:

- (i) an age service pension under Division 3 of Part III of the *Veterans' Entitlements Act 1986*; or
- (ii) an invalidity service pension under Division 4 of Part III of that Act; or
- (iii) a partner service pension under Division 5 of Part III of that Act; or
- (iv) income support supplement under Part IIIA of that Act; or



- (v) Defence Force Income Support Allowance under Division 2 of Part VIIAB of that Act.
- (2) The notice must:
  - (a) specify the person's name; and
  - (b) set out sufficient particulars to enable the Repatriation Commission to identify the person; and
  - (c) if subparagraph (1)(a)(i) applies—instruct the Repatriation Commission to make periodic deductions prescribed in the regulations from the person's pension or allowance from a specified day; and
  - (d) if subparagraph (1)(a)(ii) applies—instruct the Repatriation Commission to:
    - (i) make periodic deductions prescribed in the regulations from the person's pension or allowance from a specified day until the debt is paid; or
    - (ii) if the Registrar is satisfied the person is in financial hardship—make specified lesser periodic deductions from the person's pension or allowance from a specified day until the debt is paid.

**72AD Deductions from parental leave pay**

- (1) The Registrar may give a written notice to the Secretary (within the meaning of the *Paid Parental Leave Act 2010*) if:
  - (a) the Secretary is required under the *Paid Parental Leave Act 2010* to pay an instalment of parental leave pay to a person; and
  - (b) either of the following applies:
    - (i) the person is a payer of an enforceable maintenance liability;
    - (ii) the person owes a child support debt in relation to an enforceable maintenance liability and an amount of the debt remains unpaid after the day on which the debt became due and payable under section 66 of this Act.
- (2) The notice must:
  - (a) specify the person's name; and
  - (b) set out sufficient particulars to enable the Secretary to identify the person; and

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- (c) if subparagraph (1)(b)(i) applies, or both subparagraphs (1)(b)(i) and (ii) apply—instruct the Secretary to make, subject to subsections (3) and (4), fortnightly deductions of an amount specified in the notice from the person's instalments of parental leave pay from a specified day; and
  - (d) if subparagraph (1)(b)(ii) applies and subparagraph (1)(b)(i) does not apply—instruct the Secretary to make, subject to subsections (3) and (4), fortnightly deductions of an amount specified in the notice from the person's instalments of parental leave pay from a specified day until the debt is paid.
- (3) The amount to be deducted from the person's instalment of parental leave pay for a period must not exceed the amount (if any) by which the person's instalment for the period exceeds the amount ascertained by applying the protected earnings rate to that period.
- (4) An amount is not to be deducted from the person's instalment of parental leave pay for a period if the person's instalment for the period is less than the amount ascertained by applying the protected earnings rate to that period.
- (5) A notice under subsection (1) is not invalid merely because:
  - (a) it specifies under paragraph (2)(c) or (d) an amount that exceeds the amount that subsection (3) allows to be deducted; or
  - (b) subsection (4) does not allow an amount to be deducted.

**72B Person receiving or controlling money of a debtor who is outside Australia**

- (1) If:
  - (a) a child support debtor is not physically present in Australia; and
  - (b) the debtor either:
    - (i) derives income, or profits or gains of a capital nature, from a source in Australia; or
    - (ii) is a shareholder, debenture holder or depositor in a company deriving income, or profits or gains of a capital nature, from a source in Australia; and
  - (c) another person in Australia receives, controls or disposes of, any of the debtor's money;

the following provisions apply:

- (d) the other person must, when notified by the Registrar under subsection (2), pay the debtor's support debt;
  - (e) the person is authorised and required, when notified by the Registrar under subsection (2), to retain from time to time, out of any money that comes to him or her on behalf of the debtor, enough to pay the debtor's support debt or any amount that may become payable by the debtor as a child support debt;
  - (f) the person is personally liable for the debtor's support debt to the extent of any amount that he or she retained, or should have retained, under paragraph (e);
  - (g) the person is taken to be authorised by the debtor, or any other person concerned, to make any payments under this section.
- (2) If the Registrar requires a person referred to in paragraph (1)(c) to do a thing referred to in paragraph (1)(d) or (e), the Registrar must give that person written notice of:
- (a) that requirement; and
  - (b) the amount of the debtor's support debt; and
  - (c) the day by which the person should pay the amount required to be paid.
- (3) If the person who receives, controls or disposes of any of a debtor's money is:
- (a) the Commonwealth or a Commonwealth authority; or
  - (b) a State or a State authority; or
  - (c) a Territory or a Territory authority;
- paragraph (1)(f) does not apply to or in relation to that body.
- (4) For the purposes of this section:
- (a) a person is taken to have control of a debtor's money if the person is liable to pay money to the debtor; and
  - (b) money due by the person to the debtor is taken to be money that comes to the person on behalf of the debtor, other than money that is:
    - (i) a payment of a royalty referred to in Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*; or

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- (ii) a payment to which section 12-325 of that Schedule applies (natural resource payments).
- (5) Words and expressions used in this section that are defined in:
  - (a) the *Income Tax Assessment Act 1936*; or
  - (b) in section 72A;have, in this section, the meaning given by that Act or that section.

**72C Transaction to defeat maintenance liability**

- (1) The court may, of its own volition or on application by the Registrar:
  - (a) set aside an instrument or disposition that has been made; or
  - (b) restrain the making of an instrument or disposition that is proposed to be made;sby or on behalf of, or by direction or in the interest of, a payer of an enforceable maintenance liability.
- (2) If the court is satisfied that the instrument or disposition has been made or is proposed to be made (as the case may be) to reduce or defeat the payer's ability:
  - (a) to pay child support; or
  - (b) if there is an enforceable maintenance liability in respect of the payer:
    - (i) to pay any child support debt under the enforceable maintenance liability; or
    - (ii) to meet the enforceable maintenance liability;the court may set aside the instrument or disposition or restrain the making of the proposed instrument or disposition as the case requires.
- (3) The court may order:
  - (a) that any money or any real or personal property dealt with by any such instrument or disposition may be taken in execution, or charged with the payment, of such amounts for costs or child support as the court directs; or
  - (b) that the proceeds of a sale must be paid into court to abide by its order.

- (4) The court must have regard to the interests of a bona fide purchaser or other interested person and must make any order it considers proper for the protection of those persons.
- (5) The court may order:
  - (a) the payer; or
  - (b) if a person has colluded with the payer in the making or proposed making of the instrument or disposition—that person;
 to pay the costs incurred by:
  - (c) the payee of the enforceable maintenance liability; or
  - (d) a bona fide purchaser or other person for whose protection an order is made under subsection (4); or
  - (e) the Registrar;
 in relation to the making, or the proposed making, of the instrument or disposition or the proceedings under this section.
- (6) In this section, **disposition** includes a sale and a gift.

## **Part VA—Departure prohibition orders**

### **Division 1—Registrar may make departure prohibition orders**

#### **72D Registrar may make departure prohibition orders**

- (1) The Registrar may make an order (a *departure prohibition order*) prohibiting a person from departing from Australia for a foreign country if:
  - (a) the person has a child support liability; and
  - (b) the person has not made arrangements satisfactory to the Registrar for the child support liability to be wholly discharged; and
  - (c) the Registrar is satisfied that the person has persistently and without reasonable grounds failed to pay:
    - (i) child support debts arising from a registrable maintenance liability under section 17; or
    - (ii) a child support debt arising from a registrable maintenance liability under section 17A; or
    - (iii) one or more child support debts arising from a registrable overseas maintenance liability under subsection 18A(1), paragraph 18A(3)(a) or subsection 18A(4) (insofar as subsection 18A(4) relates to subsection 18A(1) or paragraph 18A(3)(a)); and
  - (d) the Registrar believes on reasonable grounds that it is desirable to make the order for the purpose of ensuring that the person does not depart from Australia for a foreign country without:
    - (i) wholly discharging the child support liability; or
    - (ii) making arrangements satisfactory to the Registrar for the child support liability to be wholly discharged.
- (2) For the purposes of paragraph (1)(c), the Registrar must have regard to the following matters:
  - (a) the capacity of the person concerned to pay the debt or debts;

- (b) the number of occasions on which action has been taken to recover the debt or debts, and the outcome of the recovery action;
  - (c) if subparagraph (1)(c)(i) applies—the number of occasions on which the debts mentioned in that subparagraph had not been paid on or before the day on which they became due and payable;
  - (d) if subparagraph (1)(c)(ii) applies—the length of time for which the debt mentioned in that subparagraph has remained unpaid after the day on which it became due and payable;
  - (da) if subparagraph (1)(c)(iii) applies:
    - (i) the length of time for which the debts mentioned in that subparagraph have remained unpaid after the day on which they became due and payable; and
    - (ii) the number of occasions on which the debts mentioned in that subparagraph had not been paid on or before the day on which they became due and payable;
  - (e) such other matters as the Registrar considers appropriate.
- (3) A departure prohibition order must be in the approved form.

Note: For *approved form* see section 72X.

## **72E Meaning of *child support liability***

For the purposes of this Part, a person has a *child support liability* if:

- (a) the person has a registrable maintenance liability of a kind mentioned in section 17 or 17A, subsection 18A(1), paragraph 18A(3)(a) or subsection 18A(4) (insofar as subsection 18A(4) relates to subsection 18A(1) or paragraph 18A(3)(a)); and
- (b) an amount payable under the registrable maintenance liability is a child support debt; and
- (c) the day on which the debt became due and payable under section 66 has passed, and the debt remains unpaid in whole or in part.

## **Division 2—Offence provision**

### **72F Departure from Australia of certain child support debtors prohibited**

A person must not depart from Australia for a foreign country if:

- (a) a departure prohibition order in respect of the person is in force, and the person knows that the order is in force, or is reckless as to whether the order is in force; and
- (b) the person's departure is not authorised by a departure authorisation certificate, and the person knows that the departure is not authorised by such a certificate, or is reckless as to whether the departure is authorised by such a certificate.

Maximum penalty: 60 penalty units or imprisonment for 12 months, or both.



## **Division 3—Administrative requirements**

### **72G Notification requirements for departure prohibition orders**

- (1) This section applies if the Registrar makes a departure prohibition order in respect of a person.
- (2) The Registrar must notify the person that the order has been made.
- (3) The notice must be in the approved form and must be given as soon as practicable after making the order.

Note: For *approved form* see section 72X.

- (4) The Registrar must give to the Secretary of the Immigration Department a copy of the order, and information likely to facilitate identification of the person, for the purposes of administering the *Migration Act 1958*, unless the Registrar is satisfied that the person is an Australian citizen.
- (5) The Registrar must also give a copy of the order, and information likely to facilitate identification of the person for the purposes of this Part, to such other persons as the Registrar considers appropriate in the circumstances, being persons prescribed by the regulations for the purposes of this subsection.
- (6) The Registrar must give a copy of the order or information under subsection (4) or (5) as soon as practicable after making the order.

### **72H Operation of departure prohibition order**

- (1) A departure prohibition order comes into force when it is made, and continues in force until it is revoked, or until it is set aside by a court.
- (2) However, a departure prohibition order in respect of a person is not in force during any period when a deportation order in respect of the person is in force under the *Migration Act 1958*.

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**72I Revocation and variation of departure prohibition orders**

- (1) The Registrar must revoke a departure prohibition order in respect of a person if:
  - (a) the person no longer has a child support liability; or
  - (b) the person has a child support liability, but arrangements satisfactory to the Registrar have been made for the liability to be wholly discharged; or
  - (c) the person has a child support liability, but the Registrar is satisfied that the liability is completely irrecoverable.
- (2) However, if the Registrar considers that the person may later become subject to a child support liability in respect of, or arising out of, matters that have occurred, the Registrar must not revoke a departure prohibition order under subsection (1) unless the Registrar is satisfied:
  - (a) that the liability will be wholly discharged; or
  - (b) that arrangements satisfactory to the Registrar will be made for the liability to be wholly discharged; or
  - (c) that the liability will be completely irrecoverable.
- (3) The Registrar may also, at the Registrar's discretion, revoke or vary a departure prohibition order in respect of a person if the Registrar considers it desirable to do so.
- (4) The Registrar may revoke or vary a departure prohibition order under subsection (1) or (3):
  - (a) on application by the person in the approved form; or
  - (b) on the Registrar's own motion.

**72J Notification of decisions about revocation and variation**

- (1) The Registrar must notify a person who has made an application under paragraph 72I(4)(a) for the revocation or variation of a departure prohibition order of the Registrar's decision on the application.
- (2) The Registrar must notify a person if the Registrar decides, on the Registrar's own motion, to revoke or vary a departure prohibition order in respect of the person.

- (3) The Registrar must also notify each person to whom a copy of a departure prohibition order was given under subsection 72G(4) or (5) if the Registrar decides to revoke or vary the order.
- (4) A notice under this section must be in the approved form, and must be given as soon as practicable after the decision concerned is made.

Note: For *approved form* see section 72X.

## **Division 4—Departure authorisation certificates**

### **72K Application for departure authorisation certificate**

- (1) A person in respect of whom a departure prohibition order is in force may apply for a certificate authorising the person to depart from Australia for a foreign country (a *departure authorisation certificate*).
- (2) The application must be in the approved form.

Note: For *approved form* see section 72X.

### **72L When Registrar must issue departure authorisation certificate**

- (1) This section applies if a person makes an application under section 72K for a departure authorisation certificate.
- (2) The Registrar must issue the departure authorisation certificate if the Registrar is satisfied:
  - (a) that, if the certificate is issued:
    - (i) it is likely that the person will depart from Australia and return to Australia within a period that the Registrar considers appropriate; and
    - (ii) it is likely that, within a period that the Registrar considers appropriate, the Registrar will be required by subsection 72I(1) to revoke the departure prohibition order in respect of the person; and
  - (b) that it is not necessary for the person to give security under section 72M for the person's return to Australia.
- (3) If the Registrar is not satisfied as mentioned in subsection (2), the Registrar must nevertheless issue the departure authorisation certificate if:
  - (a) the person has given security under section 72M for the person's return to Australia; or
  - (b) if the person is unable to give such security, the Registrar is satisfied:
    - (i) that the certificate should be issued on humanitarian grounds; or

- (ii) that refusing to issue the certificate will be detrimental to Australia's interests.

#### **72M Security for person's return to Australia**

- (1) A person may give such security as the Registrar considers appropriate by bond, deposit or any other means, for the person's return to Australia by such day as is agreed by the person and the Registrar and is specified in the departure authorisation certificate.
- (2) The Registrar may substitute a later day for the day mentioned in subsection (1), either on the Registrar's own motion, or on application by the person in the approved form.
- (3) The Registrar may refuse an application by a person to substitute a later day if:
  - (a) the person refuses to increase the value of the security already given to a level that the Registrar considers appropriate; or
  - (b) the person refuses to give such further security as the Registrar considers appropriate; or
  - (c) the Registrar considers that it would not be appropriate to substitute the later day.

#### **72N What departure authorisation certificate must authorise**

- (1) A departure authorisation certificate in respect of a person must authorise the departure of the person on or before the seventh day after a day specified in the certificate.
- (2) The day specified in the certificate must be a day that is after the day on which the certificate is issued, but not more than 7 days after that day.

#### **72O Notification requirements for departure authorisation certificates**

- (1) The Registrar must notify a person who makes an application for a departure authorisation certificate of the Registrar's decision on the application.

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- (2) The notice must be in the approved form and must be given as soon as practicable.

Note: For *approved form* see section 72X.

- (3) If the Registrar decides to issue the departure authorisation certificate, the Registrar must, as soon as practicable, give a copy of the certificate to the person, and to each person to whom a copy of the departure prohibition order in respect of the person was given under subsection 72G(4) or (5).

**72P Notification requirements for substituted days**

- (1) The Registrar must notify a person who makes an application under section 72M to have a later day substituted of the Registrar's decision on the application.
- (2) The Registrar must notify a person in respect of whom a departure authorisation certificate is in force if the Registrar decides, on the Registrar's own motion, to substitute a later day.
- (3) If the Registrar decides to substitute a later day, the Registrar must also notify each person to whom a copy of the departure prohibition order in respect of the person was given under subsection 72G(4) or (5).
- (4) A notice under this section must be given as soon as practicable.

## **Division 5—Appeals and review in relation to departure prohibition orders and departure authorisation certificates**

### **72Q Appeals to courts against making of departure prohibition orders**

- (1) A person aggrieved by the making of a departure prohibition order may appeal to the Federal Court of Australia or the Federal Magistrates Court against the making of the order.
- (2) This section has effect:
  - (a) subject to Chapter III of the Constitution; and
  - (b) despite anything contained in section 9 of the *Administrative Decisions (Judicial Review) Act 1977*.

### **72R Jurisdiction of courts**

The jurisdiction of a court under section 72Q must be exercised by a single Judge or Justice.

### **72S Orders of court on appeal**

A court hearing an appeal under section 72Q against the making of a departure prohibition order may, in its discretion:

- (a) make an order setting aside the order; or
- (b) dismiss the appeal.

### **72T Applications for review of certain decisions**

- (1) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the Registrar under section 72I, 72L or 72M.
- (2) In this section:

***decision*** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

## **Division 6—Enforcement**

### **72U Powers of authorised officers**

- (1) This section applies if an authorised officer believes on reasonable grounds that:
- (a) a person is about to depart from Australia for a foreign country; and
  - (b) a departure prohibition order in respect of the person is in force; and
  - (c) the person's departure is not authorised by a departure authorisation certificate.
- (2) The authorised officer may:
- (a) take such steps as are reasonably necessary to prevent the person's departure, including, but not limited to, steps to prevent the person going on board, or to remove the person from, a vessel or aircraft in which the authorised officer believes on reasonable grounds the departure will take place; and
  - (b) require the person to answer questions or produce documents to the authorised officer for the purposes of ascertaining whether:
    - (i) a departure prohibition order in respect of the person is in force; and
    - (ii) if such an order in respect of the person is in force—whether the person's departure is authorised by a departure authorisation certificate.
- (3) A person is guilty of an offence if the person refuses or fails to answer a question or produce a document.

Maximum penalty: 30 penalty units.

- (4) However, a person is not guilty of an offence under subsection (3) if the person answers the question or produces the document to the extent that the person is capable of answering the question or producing the document.

Note: A defendant bears an evidential burden in relation to the matters mentioned in subsection (4).



- (5) A person must not, in answer to a question under subsection (2), make a statement that the person knows to be false or misleading in a material particular.

Maximum penalty: 30 penalty units, or imprisonment for 6 months, or both.

### **72V Privilege against self-incrimination**

- (1) A person is not excused from the requirement to comply with a requirement under paragraph 72U(2)(b) to answer questions or produce documents on the ground that doing so might tend to incriminate the person or expose the person to a penalty.
- (2) However, if the person is an individual:
- (a) the answer to the question or the document; or
  - (b) any other information, document or thing obtained as a direct or indirect result of complying with the requirement;
- is not admissible in evidence against the individual in any criminal proceedings other than proceedings under, or arising out of, subsection 72U(5).

### **72W Certain people must produce authority to depart**

- (1) If:
- (a) a departure prohibition order in respect of a person is in force; and
  - (b) the person is about to depart from Australia for a foreign country; and
  - (c) the person's departure is authorised by a departure authorisation certificate;
- the person must give a copy of the certificate to an authorised officer for inspection, if requested to do so by the authorised officer.
- (2) A person commits an offence if:
- (a) an authorised officer requests under subsection (1) that the person give a copy of a departure authorisation certificate to the officer; and
  - (b) the person refuses or fails to comply with the request.

Penalty: 5 penalty units.

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(3) An offence against subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

## **Division 7—Definitions etc.**

### **72X Definitions**

In this Part:

*approved form* means a form approved by the Registrar for the purposes of the provision in which the expression appears.

*authorised officer* means:

- (a) an officer within the meaning of the *Customs Act 1901*; or
- (b) a member of the Australian Federal Police.

### **72Y Interpretation—departure from Australia for foreign country**

A reference in this Part to the departure of a person from Australia for a foreign country is a reference to the departure of the person from Australia for a foreign country, whether or not the person intends to return to Australia.

## **Part VI—Payments to payees**

### **Division 1—Child Support Account**

#### **73 Child Support Account**

- (1) There is continued in existence the Child Support Account.

Note: The Account was established by subsection 5(3) of the *Financial Management Legislation Amendment Act 1999*.

- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

#### **74 Credit of amounts to Account**

- (1) The following amounts must be credited to the Account:
- (a) amounts equal to amounts received by the Registrar in payment of child support debts (including amounts received from employers under paragraph 47(1)(a));
  - (b) amounts equal to amounts received by the Registrar from payers of enforceable maintenance liabilities as voluntary payments for transmission to the payees of the liabilities;
  - (c) amounts equal to amounts that are to be debited from the Account in making payments mentioned in paragraph 75(1)(c).
- (2) If the Registrar receives an amount of which only part appears to the Registrar to fall within subsection (1), the Registrar must determine, in writing, the portion of the amount falling within that subsection, and only that portion is to be credited to the Account under subsection (1).
- (3) If an amount would be credited to the Account under both section 30 of the *Financial Management and Accountability Act 1997* and paragraph (1)(c) of this section, the amount is to be credited to the Account under whichever of those provisions first applies.

## **75 Purposes of the Account**

- (1) The purposes of the Account are:
  - (a) to make payments under subsection 76(1) to payees of registered maintenance liabilities; and
  - (b) to make payments to the payees of enforceable maintenance liabilities of amounts received from the payers of the liabilities as voluntary payments for transmission to the payees; and
  - (c) to make other payments that the Registrar has determined for the purposes of this Act are payable to persons in respect of child support.
- (2) Amounts received from employers and payers of enforceable maintenance liabilities, in relation to cases in which amounts have been credited to the Account under section 77 or subsection 78(3), may be debited from the Account.

## **Division 2—Payments to payees**

### **76 Entitlement of payees to be paid collected amounts**

- (1) Subject to subsection (2) of this section, subsection 79(2) and sections 79A and 79B, every payee of a registered maintenance liability is entitled to be paid, on or before the first Wednesday following the end of each calendar month (in this section called the *current month*), an amount equal to the aggregate of:
  - (a) amounts deducted by an employer under Part IV in relation to the liability during the calendar month (in this section called the *previous month*) preceding the current month;
  - (b) amounts received by the Registrar (otherwise than under Part IV) in payment of a child support debt in relation to the liability during the period (in this section called the *payment period*) beginning on the day following the closing day of the previous month and ending on the closing day of the current month; and
  - (c) to the extent that they have not previously been paid to the payee, amounts that were:
    - (i) deducted by an employer under Part IV in relation to the liability before the previous month; or
    - (ii) received by the Registrar (otherwise than under Part IV) in payment of a child support debt in relation to the liability before the payment period;

but excluding (in the case of each of the amounts mentioned in paragraphs (a), (b) and (c)) any amount that was not due and payable by the payer on the seventh day of the current month.
- (2) Subject to the regulations, where the amount that a person is, but for this subsection, entitled to be paid at any time under subsection (1) in relation to a registered maintenance liability is less than the amount prescribed for the purposes of this subsection, the person is not entitled to be paid the amount at that time.

## **77 Unremitted deductions made by employers**

Where:

- (a) the Registrar is satisfied that a deduction has been made under subsection 46(1) in a calendar month by an employer from the salary or wages of an employee; and
- (b) the amount of the deduction is not paid to the Registrar under paragraph 47(1)(a) on or before the closing day of the following calendar month;

an amount equal to the amount of the deduction unpaid on that closing day must be credited to the Account.

## **78 Unexplained remittances from employers**

(1) This section applies where:

- (a) on or before the closing day of a calendar month, the Registrar receives under paragraph 47(1)(a) an amount (in this section called the *received amount*) from an employer in relation to the amounts deducted by the employer under Part IV from the salary or wages of employees during the preceding calendar month;
- (b) the employer contravenes paragraph 47(1)(b) in relation to the preceding calendar month; and
- (c) the Registrar is unable to ascertain to the Registrar's satisfaction, on or before the closing day, the portion of the received amount attributable to each of the employees (in this section called the *relevant employees*) in relation to whom a notice given to the employer under subsection 45(1) was in force during the preceding calendar month.

(2) The Registrar may, for the purposes of subsection 76(1):

- (a) subject to subsection (3), treat the received amount as the total of the amounts deducted by the employer under Part IV from the salary or wages of all the relevant employees during the preceding calendar month; and
- (b) apportion the amount between the relevant employees on the basis that appears to the Registrar to be the most appropriate in the circumstances.

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(3) Where:

- (a) the received amount is less than the amount (in this subsection called the *expected amount*) that, according to the records held by the Registrar, should have been received from the employer under paragraph 47(1)(a) in relation to the preceding calendar month; and
- (b) the expected amount does not exceed the sum of the received amount and the product of the amount prescribed for the purposes of this subsection and the number of relevant employees;

then:

- (c) for the purposes of subsection (2) of this section, the received amount shall be deemed to be an amount equal to the expected amount; and
- (d) an amount equal to the difference between the expected amount and the received amount must be credited to the Account.

## **79 Overpayments of payees**

(1) If:

- (a) the payee of a registered maintenance liability is:
  - (i) paid an amount under section 76; or
  - (ii) because of section 71AA, taken to have been paid an amount under section 76; and
- (b) either of the following situations apply:
  - (i) the payee was not entitled to be paid the amount; or
  - (ii) the amount is, because of a subsequent variation to particulars of the entry in the Child Support Register in relation to the liability, repayable by the Registrar to the payer of the liability;

the amount is repayable by the payee to the Registrar and is a debt due by the payee to the Commonwealth.

- (2) Where, in a case falling within subsection (1), the payee is entitled to receive further payments under subsection 76(1), the amount of the debt due to the Commonwealth by the payee may be recovered by reducing such of those payments by such amount as is determined in writing by the Registrar.



## **Division 3—Suspension determinations**

### **79A Suspension determinations—pending declarations that person should not be assessed in respect of the costs of the child**

#### *Suspension determinations*

- (1) The Registrar must make a determination (a *suspension determination*) that a payee of a registered maintenance liability in relation to a child is not entitled under subsection 76(1) to be paid an amount that is payable for the child by a payer of the liability if:
  - (a) the Registrar has notice that an application has been made under section 107 of the Assessment Act for a declaration that the payer should not be assessed in respect of the costs of the child because the payer is not a parent of the child; and
  - (b) the application is pending.

#### *Payee not entitled to be paid amounts until resumption determination made*

- (2) If the Registrar makes a suspension determination on a day, the payee is not entitled to be paid an amount from that payer for the child on that or any later day mentioned in subsection 76(1) unless and until the Registrar makes a determination under subsection (3) of this section in relation to the payee and an amount payable by that payer for the child.

Note 1: If the court grants the declaration under section 107 of the Assessment Act, the application for administrative assessment of child support is taken to have never been accepted by the Registrar, and the payee was never entitled to be paid amounts under subsection 76(1) of this Act from that payer for that child.

Note 2: The Registrar must vary the Child Support Register after making the suspension determination (see section 79C).

#### *Resumption determinations*

- (3) If:
  - (a) the Registrar has made a suspension determination under subsection (1) in relation to the payee of a registered maintenance liability; and

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(b) the Registrar is satisfied that the application referred to in paragraph (1)(a) has been:

- (i) finally refused by the court (within the meaning of section 144 of the Assessment Act); or
- (ii) dismissed or withdrawn; or
- (iii) struck out by the court;

the Registrar must make a determination (a ***resumption determination***) that:

- (c) the payee is again entitled under subsection 76(1) to be paid an amount from that payer for the child; and
- (d) if the payee has not, because of the suspension determination, been paid an amount which the payee would otherwise have been paid under subsection 76(1)—the payee is entitled to be paid that amount.

Note: The Registrar must vary the Child Support Register after making the resumption determination (see section 79C).

**79B Suspension determinations—pending SSAT and court reviews**

*Suspension determinations*

(1) The Registrar may make a determination (a ***suspension determination***) that a payee of a registered maintenance liability in relation to a child is not entitled under subsection 76(1) to be paid an amount that is payable for the child by the payer of the liability if:

- (a) any of the following proceedings has been brought by the payer (whether under Part VII, VIIA or VIII) in respect of a decision to accept an application for administrative assessment under subsection 30(1) of the Assessment Act and the proceeding is pending:
  - (i) a proceeding that the child was not a child in relation to whom the application for administrative assessment of child support was entitled to be made;
  - (ii) a proceeding that the applicant was not a person entitled to make the application for the child;
  - (iii) a proceeding that a person who was to be assessed in respect of the costs of the child was not a resident of Australia; or

- (b) a proceeding has been brought by the payer under Subdivision B of Division 3 of Part VIII (court review) in relation to the payee's entitlement to administrative assessment of child support for the child and the proceeding is pending under that Subdivision.

*Payee not entitled to be paid amounts until resumption determination made*

- (2) If the Registrar makes a suspension determination on a day, the payee is not entitled to be paid an amount from that payer for the child on that or any later day mentioned in subsection 76(1) unless and until the Registrar makes a determination under subsection (3) of this section in relation to the payee and an amount payable by that payer for the child.

Note: The Registrar must vary the Child Support Register after making the suspension determination (see section 79C).

*Resumption determinations*

- (3) If:
  - (a) the Registrar has made a suspension determination under subsection (1) in relation to the payee of a registered maintenance liability; and
  - (b) the Registrar is satisfied that the proceeding referred to in subsection (1) has been:
    - (i) finally refused by the Registrar, the SSAT or a court (within the meaning of section 110W); or
    - (ii) dismissed or withdrawn; or
    - (iii) struck out by the court;the Registrar must make a determination (a ***resumption determination***) that:
  - (c) the payee is again entitled under subsection 76(1) to be paid an amount from that payer for the child; and
  - (d) if the payee has not, because of the suspension determination, been paid an amount which the payee would otherwise have been paid under subsection 76(1)—the payee is entitled to be paid that amount.

Note: The Registrar must vary the Child Support Register after making the resumption determination (see section 79C).

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**79C Varying particulars after suspension or resumption  
determination is made**

- (1) Immediately after making a suspension determination in relation to an amount payable under a registered maintenance liability, the Registrar must vary the particulars entered in the Child Support Register in relation to the liability in whatever way the Registrar considers necessary or desirable to give effect to the determination.

Note: As soon as practicable after varying particulars under this subsection, the Registrar must serve a notice under section 42C.

- (2) Immediately after making a resumption determination in relation to an amount payable under a registered maintenance liability, the Registrar must vary the particulars entered in the Child Support Register in relation to the liability in whatever way the Registrar considers necessary or desirable to give effect to the determination.

Note: As soon as practicable after varying particulars under this subsection, the Registrar must serve a notice under section 42C.

## **Part VII—Internal objection procedures for certain decisions**

### **Division 1—Preliminary**

#### **79D Simplified outline**

The following is a simplified outline of this Part:

- Certain persons can object under this Part to certain decisions of the Registrar under the Assessment Act and this Act.
- If a person objects to a decision, the Registrar is required to reconsider the decision under this Part.
- If a person is dissatisfied with the reconsideration, he or she can apply to the SSAT for review of the decision under Part VIIA of this Act.
- A person can appeal from the SSAT to a court on a question of law under Subdivision B of Division 3 of Part VIII of this Act.

#### **79E Object of this Part**

The object of this Part is to provide for internal reconsideration of decisions of the Registrar before the decisions may be reviewed by the SSAT under Part VIIA.

## **Division 2—Decisions against which objections may be lodged**

### **80 Decisions against which objections may be lodged—general**

- (1) A person may lodge with the Registrar an objection in writing to a decision of the Registrar if:
- (a) the decision is set out in an item of the following table; and
  - (b) the person is set out in that item.

<b>Decisions/objectors</b>		
<b>Item</b>	<b>Decision</b>	<b>Who may object</b>
1	to register a registrable maintenance liability	(a) the payer of the registrable maintenance liability; or (b) the payee of the registrable maintenance liability
2	as to particulars entered in the Child Support Register in relation to a registrable maintenance liability	(a) the payer of the registrable maintenance liability; or (b) the payee of the registrable maintenance liability
3	as to particulars varied in the Child Support Register in relation to a registrable maintenance liability	(a) the payer of the registrable maintenance liability; or (b) the payee of the registrable maintenance liability
4	to delete an entry from the Child Support Register in relation to a registrable maintenance liability	(a) the payer of the registrable maintenance liability; or (b) the payee of the registrable maintenance liability
5	to credit, under section 71, 71A or 71C of this Act, an amount received by the payee of a registrable maintenance liability, or a third party, against the amount payable under the liability	the payee of the registrable maintenance liability
6	to make an appealable refusal decision in relation to a registrable maintenance liability	(a) the payer of the registrable maintenance liability; or (b) the payee of the registrable maintenance liability

<b>Decisions/objectors</b>		
<b>Item</b>	<b>Decision</b>	<b>Who may object</b>
7	to make an appealable collection refusal decision in relation to a registrable maintenance liability	the payee of the registrable maintenance liability
8	in relation to the remission of a penalty under subsection 54(1) or (2) or section 68 of this Act	the person by whom the penalty is payable
9	to accept an application for administrative assessment of child support for a child under subsection 30(1) of the Assessment Act	a parent who is to be assessed in respect of the costs of the child
10	to refuse to accept an application for administrative assessment under subsection 30(2) of the Assessment Act	the applicant
11	as to the particulars of an administrative assessment	(a) the carer entitled to child support; or (b) the liable parent
11A	to refuse under subsection 63AD(1) of the Assessment Act to accept an election made by a parent under subsection 63AC(1) of that Act	the parent
11B	to make a determination in relation to a parent under subsection 63AE(1) of the Assessment Act	the parent
12	in relation to the remission of a penalty under section 64AH of the Assessment Act	the person by whom the penalty is payable
13	to terminate a child support agreement under paragraph 80G(1)(d) or (e) of the Assessment Act	a party to the agreement
14	to accept or to refuse to accept an agreement in relation to a child under section 92 or 98U of the Assessment Act	a party to the agreement
14A	as to the particulars of a notional assessment	(a) the carer entitled to child support; or (b) the liable parent

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<b>Decisions/objectors</b>		
<b>Item</b>	<b>Decision</b>	<b>Who may object</b>
15	to make or to refuse to make a determination under Part 6A of the Assessment Act	(a) the carer entitled to child support; or (b) the liable parent

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*Objections to particulars in the Child Support Register*

- (2) An objection to a decision of the Registrar as to particulars entered in the Child Support Register in relation to a registrable maintenance liability may be lodged:
- (a) on the ground that the relevant entry does not relate to a registrable maintenance liability; or
  - (b) on any other ground.
- (3) An objection to a decision of the Registrar as to particulars varied in the Child Support Register in relation to a registrable maintenance liability may only be made against:
- (a) the particulars varied; and
  - (b) any other particulars affected by the variation.

*Objections to administrative assessments—parentage*

- (4) An objection to a decision of the Registrar to accept an application for administrative assessment under subsection 30(1) of the Assessment Act may not be lodged on the ground that the person is not a parent of the child concerned.

Note: In that case, a person may be able to apply to a court under section 107 of the Assessment Act for a declaration that a person should not be assessed in respect of the costs of the child because the person is not a parent of the child.

- (5) An objection to a decision of the Registrar to refuse to accept an application for administrative assessment may not be lodged if one of the reasons for the Registrar so refusing was that the Registrar was not satisfied under section 29 that a person who was to be assessed in respect of the costs of a child is a parent of the child concerned.

Note: In that case, an application may be made to a court under section 106A of the Assessment Act for a declaration that a person should be assessed in respect of the costs of the child because the person is a parent of the child.



*Section does not apply to care percentage decisions*

- (6) This section does not apply to a decision that is a care percentage decision.

**80A Objections against care percentage decisions may be lodged**

The following persons may lodge with the Registrar, or the Family Assistance Secretary, an objection to a care percentage decision:

- (a) the carer entitled to child support;
- (b) the liable parent.

## **Division 3—Time limits on lodging objections**

### **81 Time limits on lodging objections**

- (1) An objection to a decision (other than an objection to an appealable collection refusal decision or a care percentage decision) must be lodged by a person within 28 days after a notice of the decision is served on the person.
- (2) An objection to an appealable collection refusal decision must be lodged by a person within 28 days after the decision first comes to the notice of the person.
- (3) For the purposes of subsection (1) or (2), if the person is a resident of a reciprocating jurisdiction, the person's objection must be lodged within 90 days after the time specified in that subsection, instead of within 28 days.

### **82 Applications for extensions of time**

- (1) A person may lodge an objection under this Part after the period for lodging such an objection has ended if, at the time of lodging the objection or a later time, the person applies to the Registrar to consider the objection despite the period ending.
- (2) The application must state fully and in detail the grounds of the application, including the circumstances concerning, and the reasons for, the failure by the person to lodge the objection as required by section 81.
- (3) The application must be made in the manner specified by the Registrar.

### **83 Consideration of applications for extensions of time for lodging objections**

- (1) If an application is sent to the Registrar under section 82 in relation to an objection under this Part, the Registrar must:
  - (a) consider the application; and
  - (b) within 60 days after the application is received by the Registrar:

- (i) either grant or refuse the application; and
  - (ii) if the application is granted—deal with the objection under subsection 87(1).
- (1A) However, if the person who made the application is a resident of a reciprocating jurisdiction, the Registrar has 90 days, instead of 60 days, to act under paragraph (1)(b).
- (2) If the Registrar does not either grant or refuse to grant the application within the period applicable under subsection (1) or (1A), the Registrar is taken, at the end of that period, to have refused to grant the application.
- (3) The Registrar must serve notice in writing of the decision on the person who made the application.
- (4) The notice must include, or be accompanied by:
  - (a) the reasons for the decision; and
  - (b) a statement to the effect that, if the person is aggrieved by the decision, application may be made, subject to this Act, to the SSAT for review of the decision.
- (5) A contravention of subsection (4) in relation to a decision does not affect the validity of the decision.
- (6) If an application under subsection 82(1) is granted, the person who made the application is, for the purposes of this Act, taken to have duly lodged the objection to which the application relates.

## **Division 4—Requirements relating to objections**

### **84 Grounds of objections**

The objection must state or give fully and in detail the grounds relied on.

### **85 Registrar to serve copies of objections and accompanying documents on other parties**

(1) The following table has effect:

<b>Recipients of objections and accompanying documents</b>		
<b>Item</b>	<b>If a person objects to ...</b>	<b>the Registrar must, as soon as practicable, serve a copy of the objection, and any document that accompanied the objection, on ...</b>
1	a decision that more than one person could have objected to under section 80 of this Act	each other person who could have objected to the decision
2	a decision to credit, under section 71, 71A or 71C of this Act, an amount received by the payee of a registrable maintenance liability against the amount payable under the liability	the payer of the registrable maintenance liability
3	an appealable collection refusal decision in relation to a registrable maintenance liability	the payer of the registrable maintenance liability
3A	a decision to accept an application for administrative assessment of child support for a child under subsection 30(1) of the Assessment Act	the applicant

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**Recipients of objections and accompanying documents**

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<b>Item</b>	<b>If a person objects to ...</b>	<b>the Registrar must, as soon as practicable, serve a copy of the objection, and any document that accompanied the objection, on ...</b>
4	a decision to refuse to accept an application for administrative assessment under subsection 30(2) of the Assessment Act	each parent who the application sought to be assessed in respect of the costs of the child, and any non-parent carer of the child, (other than the person who objects to the decision)

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- (2) Subsection (1) does not apply to an objection to a decision to make, or refuse to make, a departure determination under Part 6A of the Assessment Act if the Registrar is satisfied that the rights of the person who would otherwise be served with a copy of the objection and any accompanying documents will not be affected by any possible decision the Registrar could make in relation to the objection.
- (3) Subsection (1) does not apply to an objection to a care percentage decision.

**85A Notification of objections to care percentage decisions**

If:

- (a) a person objects to a care percentage decision under section 80A; and
- (b) more than one person could have objected to the decision under that section;

the Registrar must, as soon as practicable, notify each other person who could have objected to the decision of the objection referred to in paragraph (a).

**86 Other party served with copy of objection etc. may oppose or support objection**

- (1) A person served with a copy of the objection and any accompanying documents under section 85 may lodge with the

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Registrar a written notice in opposition to, or in support of, the objection.

- (2) The notice must be lodged within 28 days after service on the person of the copy of the objection and any accompanying documents.
- (2A) However, if the person is a resident of a reciprocating jurisdiction, the person's notice must be lodged within 90 days after that time, instead of within 28 days.
- (3) The notice must state fully and in detail the grounds relied on.

**86A Notified person may oppose or support an objection to a care percentage decision**

- (1) A person notified of an objection under section 85A may, within 28 days of being so notified:
  - (a) lodge with the Registrar a written notice in opposition to, or in support of, the objection; or
  - (b) otherwise inform the Registrar whether the person opposes or supports the objection.
- (2) If a notice is lodged under paragraph (1)(a), the notice must state fully and in detail the grounds relied on.
- (3) If paragraph (1)(b) applies, the person must give fully and in detail the grounds relied on.
- (4) If the person is a resident of a reciprocating jurisdiction, subsection (1) applies as if the reference in that subsection to 28 days were a reference to 90 days.

## **Division 5—Consideration of objections**

### **87 Consideration of objections by Registrar**

- (1) If an objection is lodged under this Part, the Registrar must:
- (a) consider the objection and:
    - (i) if paragraph 86A(1)(b) applies in relation to the objection—any grounds relied on to oppose or support the objection; or
    - (ii) otherwise—any notice lodged with the Registrar under section 86 or paragraph 86A(1)(a) in relation to the objection; and
  - (b) within 60 days after the objection is lodged, either:
    - (i) disallow the objection; or
    - (ii) allow it in whole or in part.
- (1A) However, if any of the following is a resident of a reciprocating jurisdiction:
- (a) the person objecting;
  - (b) in a case where a person has been served with a copy of the objection and any accompanying documents under section 85—that person;
  - (c) in a case where a person has been notified of the objection under section 85A—that person;
- the Registrar has 120 days, instead of 60 days, to act under paragraph (1)(b).
- (1B) If:
- (a) the objection is an objection to a care percentage decision; and
  - (b) a review of a decision carried out under Division 1 of Part 5 of the Family Assistance Administration Act has involved (wholly or partly) a review of the determination to which the care percentage decision relates;
- the Registrar must not allow the objection in a way that has the effect of varying the determination or substituting a new determination.

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- (2) The Registrar must serve notice in writing of the decision on:
  - (a) the person who lodged the objection; and
  - (b) each other person:
    - (i) if the objection is an objection to a care percentage decision—who was entitled to be notified of the objection under section 85A; or
    - (ii) otherwise—who was entitled to be served a copy of the objection and the accompanying documents under section 85.
- (3) A notice served on a person under subsection (2) must include, or be accompanied by:
  - (a) the reasons for the decision; and
  - (b) a statement to the effect that if the person is aggrieved by the decision on the objection:
    - (i) if the decision objected to was a decision by the Registrar under section 98E or 98R of the Assessment Act—the person may apply to a court for an order under Division 4 of Part 7 of that Act; or
    - (ii) otherwise—the person may, subject to this Act, apply to the SSAT for review of the decision.
- (4) A contravention of subsection (3) in relation to a decision does not affect the validity of the decision.



## **Division 6—Date of effect of objections**

### **87AA Date of effect of objections relating to care percentage decisions that are allowed**

- (1) If:
  - (a) a person lodges, under section 80A, an objection to a care percentage decision; and
  - (b) the objection is lodged more than 28 days or, if the person is a resident of a reciprocating jurisdiction, 90 days after notice of the care percentage decision was served; and
  - (c) the Registrar decides (the *review decision*), under section 87, to allow the objection in a way that has the effect of varying the determination to which the care percentage decision relates, or substituting a new determination;the date of effect of the review decision is the day on which the person lodged the objection.
- (2) If the Registrar is satisfied that there are special circumstances that prevented the person from lodging the objection within the period referred to in paragraph (1)(b), the Registrar may determine that subsection (1) applies as if:
  - (a) in a case where the person is a resident of a reciprocating jurisdiction—the reference to 90 days in that paragraph were a reference to such longer period as the Registrar determines to be appropriate; or
  - (b) otherwise—the reference to 28 days in that paragraph were a reference to such longer period as the Registrar determines to be appropriate.
- (3) If:
  - (a) the Registrar decides to make a determination under subsection (2) in relation to a person; or
  - (b) the Registrar decides not to make such a determination in relation to a person;the Registrar must give written notice of the decision to each person affected by the decision.
- (4) The notice must:
  - (a) set out the reasons for the decision; and

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- (b) include a statement to the effect that, if the person is aggrieved by the decision, application may be made, subject to this Act, to the SSAT for review of the decision.
- (5) A contravention of subsection (4) in relation to a decision does not affect the validity of the decision.

## **Part VIIA—SSAT review of certain decisions**

### **Division 1—Preliminary**

#### **87A Simplified outline**

The following is a simplified outline of this Part:

- If a person objects to a decision of the Registrar under Part VII, the Registrar is required to reconsider the decision under that Part.
- If a person is dissatisfied with the reconsideration, he or she can apply to the SSAT for review of the decision under this Part.
- The SSAT must pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.
- A person can appeal from the SSAT to a court on a question of law under Subdivision B of Division 3 of Part VIII of this Act.

#### **88 SSAT objective**

- (1) In carrying out its functions under this Act, the SSAT must pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.
- (2) That objective must also be pursued by the SSAT Principal Member in performing or exercising his or her functions and powers under this Act.

## Division 2—Applications for review

### Subdivision A—Applications for review

#### 89 Applications for review

- (1) A person may apply to the SSAT for review of a decision of the Registrar if:
- (a) the decision is set out in an item of the following table; and
  - (b) the person is set out in that item.

Decisions/applicants		
Item	Decision	Who may apply for review
1	a decision under subsection 83(1) on an application for an extension of time	the person who applied for the extension of time
2	a decision under subsection 87(1) on an objection to a decision (the <i>original decision</i> ) of the Registrar	(a) the person who objected to the original decision under section 80 or 80A; or (b) a person who was entitled to be served a copy of the objection and any accompanying documents under section 85
3	a decision to make a determination under subsection 87AA(2) or a decision not to make such a determination	a person affected by the decision
4	a decision to make a determination under subsection 110Y(3) or 110Z(3) or a decision not to make such a determination	a person affected by the decision

- (2) However, a person may not apply to the SSAT for review of a decision under subsection 87(1) on an objection if:
- (a) both of the following apply:
    - (i) the objection was to a refusal by the Registrar, under section 98E or 98R of the Assessment Act, to make a

determination under Part 6A of that Act in respect of a child support assessment;

- (ii) the Registrar disallowed the objection; or
- (b) both of the following apply:
  - (i) the objection was to a decision by the Registrar made in respect of a child support assessment;
  - (ii) in making a decision on the objection, the Registrar, under section 98E or 98R of the Assessment Act, refused to make a determination under Part 6A of that Act in respect of the assessment.

Note: In that case, the person may apply to a court for an order under Division 4 of Part 7 (departure orders) of the Assessment Act.

## **Subdivision B—Time limit on applications for review**

### **90 Time limit on applications for review**

- (1) An application for review under this Part (other than an application for review of a decision on an objection to a care percentage decision) must be made by a person within the period of 28 days starting on:
  - (a) if the decision is set out in item 1 or 2 of the table in subsection 89(1)—the day on which the relevant notice under subsection 83(3) or 87(2) is served on the person; or
  - (b) otherwise—the day on which the relevant notice under subsection 87AA(3), 110Y(4) or 110Z(4) is given to the person.
- (2) However, if the person is a resident of a reciprocating jurisdiction, the application for review must be made within the period of 90 days starting on the day specified in paragraph (1)(a) or (b), instead of within 28 days.

### **91 Application for extension of time**

- (1) If the period for applying for review under this Part has ended, a person may make an application for review under this Part that includes a written application (the ***extension application***) asking the SSAT Principal Member to consider the application for review despite the ending of the period.

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- (2) The extension application must state the reasons for the person's failure to apply for the review within the period required by section 90.

**92 Consideration of applications for extension of time for applying for review**

- (1) If a person applies to the SSAT under section 91 in relation to an application for review, the SSAT Principal Member must:
  - (a) consider the extension application; and
  - (b) within 60 days after the extension application is received by the SSAT, grant or refuse the extension application; and
  - (c) if the extension application is granted—deal with the application for review under this Part.
- (1A) However, if the person applying is a resident of a reciprocating jurisdiction, the SSAT Principal Member has 90 days, instead of 60 days, to act under paragraph (1)(b).
- (3) The SSAT Principal Member must give written notice of the decision granting or refusing the extension application to the person who made the extension application.
- (4) If the SSAT Principal Member refuses the extension application, the notice under subsection (3) must include, or be accompanied by, a statement to the effect:
  - (a) that the person may, subject to the *Administrative Appeals Tribunal Act 1975*, apply to the AAT for review of the decision; and
  - (b) except where subsection 28(4) of that Act applies—that the person may request a statement under section 28 of that Act.
- (5) A contravention of subsection (4) in relation to a decision does not affect the validity of the decision.
- (6) If an extension application under section 91 is granted, the person who made the application is, for the purposes of this Act, taken to have duly made the application for review under this Part to which the extension application relates.
- (7) A person whose extension application has been refused by the SSAT Principal Member may apply to the AAT for review of the decision.

- (8) In subsection (7):

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

### **93 Procedures on receiving applications for review not required until review of extension application completed**

If an extension application is made under section 91 in relation to an application for review:

- (aa) the Registrar must send to the SSAT Principal Member the statement described in paragraph 95(3)(a), within 28 days after receiving a request for the statement from the SSAT Principal Member; and
- (a) subsections 95(2) to (6) and section 96 are taken not to apply in respect of the application for review unless and until a decision of the SSAT Principal Member, the AAT or a court decides that the extension application is to be granted by the SSAT Principal Member; and
- (b) if such a decision is made—subsection 95(2) applies as if the application for review under this Part is received by an office of the SSAT on the day on which that decision is made.

## **Subdivision C—Application procedures**

### **94 Application procedures**

- (1) A person may apply to the SSAT for review under this Part by:
  - (a) sending or delivering a written application to:
    - (i) an office of the SSAT; or
    - (ii) an office of the Human Services Department; or
  - (b) going to an office of the SSAT and making an oral application; or
  - (c) contacting an office of the SSAT by telephone and making an oral application.
- (2) If a person makes an oral application in accordance with paragraph (1)(b) or (c), the person receiving the oral application must:
  - (a) make a written record of the details of the oral application; and

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- (b) note on the record the day on which the application is made.
- (3) If a person makes a written record of an oral application in accordance with subsection (2), this Part has effect as if the written record were a written application made on the day on which the oral application was made.
- (4) An application may include a statement of the reasons for seeking a review of the decision.

**95 Procedures on receiving applications for review**

*Applications must be forwarded to SSAT*

- (1) If an application for review under this Part is sent or delivered to an office of the Human Services Department, the Secretary must send the application to the SSAT Principal Member:
  - (a) as soon as practicable; and
  - (b) in any case—not later than 7 days after the application is received at the office of the Human Services Department.

*SSAT must notify applicants and Registrar of receipt of applications*

- (2) If:
  - (a) an application for review under this Part is received by an office of the SSAT; or
  - (b) the Secretary sends such an application to the SSAT Principal Member in accordance with subsection (1);the SSAT Principal Member must give the applicant, the Registrar and any other party to the review written notice that the application has been received.

Note: The parties to the review are set out in section 101.

*Registrar must provide information to SSAT*

- (3) Within 28 days after receiving the notice under subsection (2), the Registrar must send to the SSAT Principal Member:
  - (a) a statement about the decision under review that:
    - (i) sets out the findings of fact made by the Registrar; and
    - (ii) refers to the evidence on which those findings were based; and



- (iii) gives the reasons for the decision; and
- (b) a copy of every document or part of a document that:
  - (i) is in the possession, or under the control, of the Registrar; and
  - (ii) is relevant to the review of the decision.

Note: The Registrar must also send copies of the statement and documents to each party (see section 96).

- (4) If the SSAT Principal Member requests the Registrar to send the statement and documents referred to in subsection (3) by a day earlier than the day fixed by that subsection, the Registrar must take reasonable steps to comply with the request.
- (5) If:
  - (a) after the end of the period referred to in subsection (3) but before the determination of the review, the Registrar obtains possession of a document; and
  - (b) the Registrar considers that the document or a part of the document is relevant to the review; and
  - (c) a copy of the document or the part of the document has not been sent to the SSAT Principal Member in accordance with subsection (3);the Registrar must send a copy of the document or the part of the document to an office of the SSAT as soon as practicable after obtaining possession of the document.
- (6) If the Registrar must provide the SSAT with a document under this section, the Registrar must provide the SSAT with:
  - (a) if the SSAT Principal Member requests the Registrar to provide a specified number of copies of the document—that number of copies of the document; or
  - (b) otherwise—2 copies of the document.

## **96 Parties to be given statements about decisions under review**

Subject to sections 97 and 98, within 28 days after receiving the notice under subsection 95(2), the Registrar must give each party to the review a copy of the statement and documents referred to in subsection 95(3).

Note: The parties to the review are set out in section 101.

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**97 When document is not required to be sent**

- (1) Subject to section 98, the Registrar is not required, under paragraph 95(3)(b) or subsection 95(5), to send a document, or part of a document, that is relevant to a review if:
  - (a) for a document or a part of a document that is required under paragraph 95(3)(b)—within 28 days after receiving the relevant notice under subsection 95(2); or
  - (b) for a document or a part of a document that is required under subsection 95(5)—as soon as practicable;the Registrar:
  - (c) applies to the SSAT Principal Member for a direction under section 98 in relation to the document or the part of the document; and
  - (d) sends to the SSAT 2 copies of the document or the part of the document, together with the application for the direction; and
  - (e) gives a copy of the application for the direction to each party to the review.
- (1A) Subject to section 98, the Registrar is not required, under section 96, to give a document, or part of a document, referred to in paragraph 95(3)(b) while the Registrar is not required to send the document or the part under subsection (1) of this section.
- (2) Subsections (1) and (1A) do not affect the obligation of the Registrar to comply with paragraph 95(3)(b), subsection 95(5) or section 96 in relation to any document or part of a document to which subsection (1) or (1A) does not apply.

**98 Directions prohibiting or restricting disclosure of documents**

- (1) If, after considering an application by the Registrar under section 97 for a direction in respect of a document or a part of a document, the SSAT Principal Member directs the Registrar to give each party to a review, under section 96, the document or the part of the document referred to in paragraph 95(3)(b), the Registrar must do so.
- (2) The SSAT Principal Member may give directions (whether on application by the Registrar or on his or her initiative) prohibiting or restricting the disclosure to some or all of the parties to a review of the contents of a document or statement referred to in subsection

95(3) or (5) that relates to the review if he or she is satisfied that it is desirable to do so because of the confidential nature of the document or statement, or for any other reason.

- (3) The SSAT Principal Member must give a copy of a direction given under subsection (2) to each party to the review.

### **Subdivision D—Effect of variations of original decisions on applications**

#### **99 Variations of decisions before reviews completed**

- (1) If the Registrar varies a decision:
- (a) after an application has been made to the SSAT under this Part for review of the decision; but
  - (b) before the determination of the review;
- the application for review is to be treated as if it were an application for review of the decision as varied.
- (2) If the Registrar sets a decision aside and substitutes a new decision:
- (a) after an application has been made to the SSAT for review of the original decision; but
  - (b) before the determination of the review;
- the application for review is to be treated as if it were an application for review of the new decision.
- (3) If:
- (a) a person applies to the SSAT for review of a decision; and
  - (b) before the determination of the review, the Registrar varies the decision or sets it aside and substitutes a new decision;
- the person may:
- (c) proceed with the application for review of the decision as varied or the new decision, as the case may be; or
  - (d) request the SSAT Principal Member to dismiss the application under section 100; or
  - (e) notify, under section 100A, the SSAT that the application is discontinued or withdrawn.

## **Subdivision E—Dismissal of applications**

### **99A Subdivision does not apply in relation to Registrar**

This Subdivision does not apply in relation to a party if the party is the Registrar.

### **100 Dismissal of an application**

- (1) The SSAT Principal Member may, on the request of a party or on his or her own initiative, dismiss an application for review of a decision if:
  - (a) the decision is not reviewable under this Part; or
  - (b) the application is frivolous or vexatious; or
  - (c) all of the parties consent; or
  - (ca) the applicant has been removed from the review under subsection 101(5) and all of the remaining parties consent to the dismissal; or
  - (d) the SSAT Principal Member is satisfied:
    - (i) after having communicated with each party; or
    - (ii) after having made reasonable attempts to communicate with each party and having failed to do so;or a combination of both, that none of the parties intend to proceed with the application; or
  - (e) all of the parties fail to attend the hearing; or
  - (f) all of the parties have been removed from the review under subsection 101(5).
- (2) The SSAT Principal Member may dismiss an application under paragraph (1)(b) only if:
  - (a) one of the following applies:
    - (i) the SSAT Principal Member has received and considered submissions from the applicant;
    - (ii) the SSAT Principal Member has otherwise communicated with the applicant in relation to the grounds of the application;
    - (iii) the SSAT Principal Member has made reasonable attempts to communicate with the applicant in relation to the grounds of the application and has failed to do so; and

- (b) all of the parties (other than the applicant) consent to the dismissal.
- (3) If the SSAT Principal Member dismisses an application under subsection (1) (other than under paragraph (1)(b) or (f)), a party to the review may:
  - (a) within 28 days after receiving notification that the application has been dismissed; or
  - (b) within such longer period as the SSAT Principal Member, in special circumstances, allows;request that the SSAT Principal Member reinstate the application.
- (4) If the SSAT Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (5) If it appears to the SSAT Principal Member that an application has been dismissed under subsection (1) in error, he or she may, on the request of a party to the review or on his or her own initiative, reinstate the application and give such directions as he or she considers appropriate in the circumstances.

#### **100A Dismissal of an application on request of party**

- (1) An applicant may, in writing lodged with the SSAT, at any time notify the SSAT that the application for review is discontinued or withdrawn.
- (2) If notification is so given, the SSAT Principal Member is taken to have dismissed the application.
- (3) If the SSAT Principal Member dismisses an application under subsection (2), a party to the review may:
  - (a) within 28 days after receiving notification that the application has been dismissed; or
  - (b) within such longer period as the SSAT Principal Member, in special circumstances, allows;request that the SSAT Principal Member reinstate the application.
- (4) If the SSAT Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.

## **Division 3—Parties to reviews**

### **101 Parties to reviews**

- (1) The parties to a review under this Part are:
  - (a) the applicant; and
  - (b) the Registrar; and
  - (c) any other person who was entitled to apply for review of the decision under section 89; and
  - (d) any other person who has been made a party to the review under subsection (4).

*SSAT Principal Member may add parties*

- (2) Any person whose interests are affected by the decision may apply in writing to the SSAT Principal Member to be made a party to the review.
- (3) However, a person may not apply under subsection (2) if:
  - (a) the person is a child of a party referred to in paragraph (1)(a), (c) or (d); or
  - (b) a party referred to in paragraph (1)(a), (c) or (d) is a non-parent carer of the person.
- (4) The SSAT Principal Member may order that a person who has applied under subsection (2) be made a party to the review.

*SSAT Principal Member may remove parties*

- (5) The SSAT Principal Member may direct that a party to a review no longer be a party to the review if:
  - (a) the party consents; or
  - (b) the SSAT Principal Member is satisfied:
    - (i) after having communicated with the party; or
    - (ii) after having made reasonable attempts to communicate with the party and having failed to do so;that the party does not intend to participate in or proceed with the review; or

- (c) the party fails to comply with a direction or order of the SSAT or of the SSAT Principal Member given in relation to the review; or
- (d) the party fails to attend the hearing.

## **102 Notice of application to persons affected by decision**

- (1) If:
  - (a) an application has been made to the SSAT under this Part for review of a decision; and
  - (b) the SSAT Principal Member is satisfied that the interests of a person who is not a party to the review are affected by the decision;the SSAT Principal Member must take reasonable steps to give the person written notice that an application has been made to the SSAT for review of the decision.
- (2) However, subsection (1) does not apply to a person if:
  - (a) the person is a child of a party referred to in paragraph 101(1)(a), (c) or (d); or
  - (b) a party referred to in paragraph 101(1)(a), (c) or (d) is a non-parent carer of the person.
- (3) The notice under subsection (1):
  - (a) must be in writing; and
  - (b) must include, or be accompanied by, notification of the person's right under subsection 101(2) to apply to the SSAT Principal Member to be added as a party to the review; and
  - (c) may be given at any time before the determination of the review.
- (4) The SSAT Principal Member must give each party to the review a copy of the notice.

## **Division 3A—Directions hearings**

### **103 Directions hearings**

- (1) The SSAT Principal Member may convene one or more directions hearings with the parties to a review if he or she considers that it would assist in the conduct and consideration of the review to do so.
- (2) At a directions hearing, the SSAT Principal Member may:
  - (a) fix a day or days for the hearing; and
  - (b) give directions about the time within which submissions are to be made to the SSAT; and
  - (c) give directions about the time within which evidence is to be brought before the SSAT; and
  - (d) give directions about what information is to be given to the SSAT.

Note: Section 103W applies if the parties reach an agreement at the directions hearing.



## **Division 4—Hearings**

### **Subdivision A—Arrangements for hearings**

#### **103A Arrangements for hearings**

- (1) The SSAT Principal Member must fix a day, time and place for the hearing of a review of a decision if:
  - (a) an application is made to the SSAT for review of the decision; and
  - (b) the parties to the review do not reach an agreement before a hearing of the review is to begin; and
  - (c) the SSAT Principal Member has not already done so at a directions hearing.
- (2) The SSAT Principal Member must give the applicant and any other parties to the review written notice of the day, time and place fixed for the hearing of the application.
- (3) The notice under subsection (2) must be given a reasonable time before the day fixed for the hearing.

### **Subdivision B—Submissions from parties other than the Registrar**

#### **103B Subdivision does not apply in relation to Registrar**

This Subdivision does not apply in relation to a party if the party is the Registrar.

#### **103C Submissions**

- (1) A party to a review under this Part may make:
  - (a) oral submissions to the SSAT; or
  - (b) written submissions to the SSAT; or
  - (c) both oral and written submissions to the SSAT.

Note: The SSAT Principal Member may direct that a hearing be conducted without oral submissions from the parties (see section 103D).

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- (2) A party to a review may, with the permission of the SSAT Principal Member, have another person make submissions to the SSAT on the party's behalf.
- (2A) In deciding whether to grant permission under subsection (2), the SSAT Principal Member must have regard to:
  - (a) the wishes of the parties; and
  - (b) the need to protect their privacy.
- (3) The SSAT Principal Member may determine that submissions to the SSAT by a party or a party's representative are to be made by telephone or by means of other electronic communications equipment.
- (4) Without limiting subsection (3), the SSAT Principal Member may make a determination under that subsection in relation to an application if:
  - (a) the application is urgent; or
  - (b) the party lives in a remote area and unreasonable expense would be incurred if the party or the party's representative had to travel to the place at which the hearing is to be held; or
  - (c) the party is unable to attend the hearing because of illness or infirmity; or
  - (d) the party has failed to attend the hearing and has not indicated that he or she intends to attend the hearing.
- (5) If a party is not proficient in English, the SSAT Principal Member may give directions in relation to the use of an interpreter in connection with the hearing of the review.

**103D Written submissions only**

- (1) The SSAT Principal Member may direct that a hearing be conducted without oral submissions from the parties if:
  - (a) the SSAT Principal Member considers that the review hearing could be determined fairly on the basis of written submissions by the parties; and
  - (b) all parties to the review consent to the hearing being conducted without oral submissions.

- (2) If the SSAT Principal Member gives a direction under subsection (1), the SSAT Principal Member must give each of the parties to the review written notice:
- (a) informing the party of the direction; and
  - (b) inviting the party to submit written submissions; and
  - (c) specifying the address to which the written submissions are to be delivered; and
  - (d) specifying the time within which the written submissions are to be delivered.
- The SSAT Principal Member must give a copy of the notice to the Registrar.
- (3) The time specified under paragraph (2)(d) must be such as to allow a reasonable period for the parties to make written submissions.
- (4) Despite subsection (1), the SSAT, as constituted for the hearing, may, if it thinks necessary after considering the written submissions made by the parties, make an order permitting the parties to make oral submissions to the SSAT at the hearing of the review.

### **103E Hearings without oral submissions from a party**

- (1) If a party to a review has informed the SSAT Principal Member that the party does not intend to make oral submissions to the SSAT, the SSAT may proceed to hear the application for review without oral submissions from the party.
- (2) If:
- (a) the SSAT Principal Member has determined that oral submissions to the SSAT by a party or a party's representative are to be made by telephone or by means of other electronic communications equipment; and
  - (b) on the day fixed for the hearing, the presiding member of the SSAT as constituted for the purposes of the review has been unable to contact the party or the party's representative, as the case may be, after taking reasonable steps to do so;
- the SSAT Principal Member may authorise the SSAT to proceed to hear the application without oral submissions from the party or the party's representative, as the case may be.
- (3) If:

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- (a) the SSAT Principal Member has not determined that oral submissions to the SSAT by a party or a party's representative are to be made by telephone or by means of other electronic communications equipment; and
  - (b) the party or the party's representative, as the case may be, does not attend the hearing at the time fixed for the hearing;
- the SSAT Principal Member may authorise the SSAT to proceed to hear the application without oral submissions from the party or the party's representative, as the case may be.
- (4) If the SSAT Principal Member gives an authorisation under subsection (2) or (3), the SSAT may proceed to hear the application in accordance with the authorisation.
- (5) If the hearing for the review has not been completed, the SSAT Principal Member may revoke an authorisation under subsection (2) or (3).

**Subdivision C—Submissions from the Registrar**

**103F Submissions from the Registrar**

- (1) The Registrar may make written submissions to the SSAT.

*Registrar may request permission to make oral submissions*

- (2) The Registrar may, by writing, request the SSAT Principal Member for permission to make:
  - (a) oral submissions to the SSAT; or
  - (b) both oral and written submissions to the SSAT.The request must explain how such submissions would assist the SSAT.
- (3) The SSAT Principal Member may, by writing, grant the request if, in the opinion of the SSAT Principal Member, such submissions would assist the SSAT.

*SSAT may order Registrar to make oral submissions etc.*

- (4) The SSAT Principal Member may order the Registrar to make:
  - (a) oral submissions to the SSAT; or
  - (aa) written submissions to the SSAT; or

(b) both oral and written submissions to the SSAT;  
if, in the opinion of the SSAT Principal Member, such submissions  
would assist the SSAT.

### **Subdivision D—Other evidence provisions**

#### **103G Evidence on oath or affirmation**

The SSAT may take evidence on oath or affirmation for the  
purposes of a review of a decision.

#### **103H Children of parties not to give evidence**

A person may not give evidence for the purposes of a review of a  
decision if:

- (a) the person is a child of a party referred to in paragraph  
101(1)(a), (c) or (d); or
- (b) a party referred to in paragraph 101(1)(a), (c) or (d) is a  
non-parent carer of the person.

#### **103J Provision of further information by Registrar**

- (1) The SSAT Principal Member may ask the Registrar to provide the  
SSAT with information or a document that the Registrar has and  
that is relevant to the review of a decision.
- (2) The Registrar must comply with a request under subsection (1):
  - (a) as soon as practicable; and
  - (b) in any event—not later than 14 days after the request is  
made.
- (3) If the request is for a document, the Registrar must provide the  
SSAT with:
  - (a) if the request specifies a number of copies—that number of  
copies of the document; or
  - (b) otherwise—2 copies of the document.

#### **103K Power to obtain information**

- (1) The SSAT Principal Member may, if it is reasonably necessary for  
the purposes of a review, by written notice given to the person,  
require a person:

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- (a) to give to the SSAT:
    - (i) within a reasonable period specified in the notice (being a period of not less than 7 days); and
    - (ii) in a reasonable manner specified in the notice;such information as the SSAT Principal Member requires; or
  - (b) to attend before the SSAT:
    - (i) at a reasonable time specified in the notice; and
    - (ii) at a reasonable place specified in the notice;and then and there answer questions; or
  - (c) to produce to the SSAT:
    - (i) at a reasonable time specified in the notice; and
    - (ii) at a reasonable place specified in the notice;any documents in the custody or under the control of the person.
- (2) A person commits an offence if:
- (a) the SSAT Principal Member gives the person a notice under subsection (1); and
  - (b) the person refuses or fails to comply with the notice.
- Penalty: Imprisonment for 6 months.
- (3) Subsection (2) does not apply if complying with the notice might tend to incriminate the person.
- Note: A defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).
- (4) A person who is required to attend under this section is allowed such expenses as are prescribed by the regulations for the purposes of subsection 120(2).

**103L SSAT may require Registrar to obtain information**

- (1) If the SSAT Principal Member is satisfied that a person:
- (a) has information that is relevant to a review; or
  - (b) has custody or control of a document that is relevant to a review;
- the SSAT Principal Member may, for the purpose of the review, ask the Registrar to exercise the Registrar's powers under section 161 of the Assessment Act or section 120 of this Act.

Note: A person who fails to comply with a notice given under section 161 of the Assessment Act or section 120 of this Act commits an offence under that section.

- (2) The Registrar must comply with a request under subsection (1):
  - (a) as soon as practicable; and
  - (b) in any event—within 7 days after the request is made.

## **Subdivision E—Hearing procedure**

### **103M Chair for hearings**

- (1) If the SSAT is constituted by 2 or more members for the purposes of the review of a decision, the SSAT Principal Member must designate one of those members as the member who is to preside at the hearing of the review.
- (2) If the SSAT Principal Member is one of those members, he or she may designate himself or herself as the member who is to preside.

### **103N Hearing procedure**

- (1) The SSAT, in reviewing a decision under this Part:
  - (a) is not bound by legal technicalities, legal forms or rules of evidence; and
  - (b) is to act as speedily as a proper consideration of the review allows.
- (2) The SSAT may inform itself on any matter relevant to a review of a decision in any manner it considers appropriate.

Note: The SSAT Principal Member may give directions as to the procedure to be followed in connection with reviews (see section 103ZA).

### **103P Hearing in private**

- (1) The hearing of a review must be in private.
- (2) The SSAT Principal Member may give directions, in writing or otherwise, as to the persons who may be present at any hearing of a review.
- (3) In giving directions under subsection (2), the Principal Member must have regard to:

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- (a) the wishes of the parties; and
- (b) the need to protect their privacy.

**103R Adjournment of hearings**

- (1) The SSAT may adjourn the hearing of a review from time to time.
- (2) Without limiting subsection (1), the SSAT may refuse to adjourn the hearing of a review if the hearing has already been adjourned on 2 or more occasions.



## **Division 5—Decisions on review**

### **Subdivision A—SSAT review powers**

#### **103S SSAT must affirm, vary or set aside decisions**

- (1) If a person applies to the SSAT for review of a decision under this Part, the SSAT must:
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set the decision aside and:
    - (i) substitute a new decision; or
    - (ii) send the matter back to the Registrar for reconsideration in accordance with any directions or recommendations of the SSAT.
- (2) If:
  - (a) the review is a review of a decision (the *original decision*) under subsection 87(1) on an objection to a care percentage decision; and
  - (b) a review of a decision carried out under Division 2 of Part 5 of the Family Assistance Administration Act has involved (wholly or partly) a review of the determination to which the care percentage decision relates;the SSAT must not vary the original decision, or set the original decision aside and substitute a new decision, in a way that has the effect of varying the determination or substituting a new determination.

#### **103T Powers of the SSAT for purposes of reviews**

- (1) Subject to the regulations, the SSAT may, for the purpose of reviewing a decision under this Part, exercise all the powers and discretions that are conferred by this Act and the Assessment Act on the Registrar.
- (2) To avoid doubt, any limitation on the exercise of a power or discretion by the Registrar also limits the exercise of that power or discretion by the SSAT under this Part.

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- (3) The regulations may specify provisions of this Act and the Assessment Act to which subsection (1) does not apply.

**103U Decision of questions before SSAT**

- (1) Subject to subsection (2), a question arising before the SSAT on a review is to be decided according to the opinion of a majority of the members constituting the SSAT for the purposes of the review.
- (2) If, on a question arising on a review, the opinions of the members of the SSAT are equally divided, the question is to be decided according to the opinion of the member presiding.

**103V Date of effect of SSAT decisions**

- (1) This section applies if the SSAT:
  - (a) varies a decision under review; or
  - (b) sets aside a decision under review and substitutes a new decision.
- (2) Subject to subsection (3), the decision as varied or the new decision (as the case may be) has effect, or is to be taken to have had effect, on and from:
  - (a) if the SSAT specifies a day in its decision (whether before or after the day on which the decision is given)—the day specified; or
  - (b) otherwise—the day on which the decision under review has or had effect.

Note: The SSAT cannot specify a day that the Registrar could not have specified (see subsection 103T(2)).

- (3) If:
  - (a) the decision (the *original decision*) under review is a decision on an objection to a care percentage decision; and
  - (b) the application for review of the original decision was made more than 28 days or, if the person is a resident of a reciprocating jurisdiction, 90 days after notice of the original decision was served;the original decision as varied or the new decision (as the case may be) has effect, or is to be taken to have had effect, on and from the day on which the application was made.

- (4) If the SSAT is satisfied that there are special circumstances that prevented the application from being made within the period referred to in paragraph (3)(b), the SSAT may determine that subsection (3) applies as if:
- (a) in a case where the person is a resident of a reciprocating jurisdiction—the reference to 90 days in that paragraph were a reference to such longer period as the SSAT determines to be appropriate; or
  - (b) otherwise—the reference to 28 days in that paragraph were a reference to such longer period as the SSAT determines to be appropriate.
- (5) If:
- (a) the SSAT decides to make a determination under subsection (4) in relation to a person; or
  - (b) the SSAT decides not to make such a determination in relation to a person;
- the SSAT must give written notice of the decision to each person affected by the decision.
- (6) The notice must include a statement to the effect:
- (a) that the person may, subject to the *Administrative Appeals Tribunal Act 1975*, apply to the AAT for review of the decision; and
  - (b) except where subsection 28(4) of that Act applies—that the person may request a statement under section 28 of that Act.
- (7) A contravention of subsection (6) in relation to a decision does not affect the validity of the decision.

### **103VA Appeal to AAT on decisions relating to percentages of care etc.**

- (1) A party to a review aggrieved by a decision of the SSAT under this Part relating to a party's percentage of care for a child may apply to the AAT for review of the decision.
- (1A) If:
- (a) the decision (the ***original decision***) reviewed by the SSAT is a decision on an objection to a care percentage decision; and
  - (b) a review of a decision carried out by the AAT under the *Administrative Appeals Tribunal Act 1975* has involved

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(wholly or partly) a review of the determination to which the care percentage decision relates;

then, despite section 43 of that Act, the AAT must not vary the original decision, or set the original decision aside and substitute a new decision, in a way that has the effect of varying the determination or substituting a new determination.

(1B) An application may be made to the AAT for review of:

- (a) a decision of the SSAT under subsection 103V(4) to make a determination under that subsection in relation to a person; or
- (b) a decision of the SSAT under subsection 103V(4) not to make a determination under that subsection in relation to a person.

(2) In this section:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**Subdivision B—Consent orders**

**103W Powers of SSAT if parties reach agreement**

(1) If, at any stage of a review (including at a directions hearing under section 103):

- (a) the parties (other than the Registrar) agree to the terms of a decision of the SSAT:
  - (i) in the review; or
  - (ii) in relation to a part of the review, or a matter arising out of the review;that would be acceptable to the parties; and
- (b) the terms of the agreement are:
  - (i) put in writing; and
  - (ii) signed by or on behalf of the parties; and
  - (iii) lodged with the SSAT; and
- (c) the SSAT is satisfied that a decision in those terms, or consistent with those terms, would be within the powers of the SSAT;

the SSAT may, if it appears to it to be appropriate to do so, act in accordance with whichever of subsection (2) or (3) is relevant in the particular case.

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Note: The SSAT cannot make a decision that the Registrar could not have made (see subsection 103T(2)).

- (2) If the agreement reached is an agreement as to the terms of a decision of the SSAT on the review, the SSAT may make a decision in accordance with those terms:
  - (a) without holding a hearing of the review; or
  - (b) if a hearing has commenced—without completing the hearing.
- (3) If the agreement relates to a part of the review, or a matter arising out of the review, the SSAT may in its decision on the review give effect to the terms of the agreement without dealing at the hearing of the review with the part or matter to which the agreement relates.
- (4) The SSAT must not make a decision by consent under subsection (2) or (3) in relation to a departure from administrative assessment of child support in accordance with Part 6A of the Act unless it is satisfied that it is just and equitable and otherwise proper to do so, having regard to the matters set out in subsections 117(4) and (5).

**Subdivision C—Notification and publication of decisions****103X Procedure following SSAT decision**

- (1) If the SSAT makes a decision on a review, the SSAT must:
  - (a) within 14 days after making the decision, give a written notice to the parties that:
    - (i) sets out the decision; and
    - (ii) sets out the effect of section 110B (appeal made to a court on a question of law); and
    - (iii) if the decision relates to a party's percentage of care for a child—that a party may, subject to the *Administrative Appeals Tribunal Act 1975*, apply to the AAT for review of the decision, and request a statement under section 28 of that Act (except where subsection 28(4) of that Act applies); and
  - (b) return to the Registrar any original document that the Registrar has provided to the SSAT in connection with the review; and

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- (c) give the Registrar a copy of any other document that contains evidence or material on which the findings on any material questions of fact are based.

Note: Within the 14 days referred to in paragraph (1)(a), the SSAT must also give the parties oral or written reasons for the decision (see subsection (3)).

- (2) A failure to comply with subparagraph (1)(a)(ii) or (iii) in relation to a decision of the SSAT does not affect the validity of the decision.

*Statements of reasons*

- (3) The SSAT must, within 14 days after making the decision, either:
  - (a) do both of the following:
    - (i) give reasons for the decision orally to the parties;
    - (ii) explain that the parties may request a written notice under paragraph (b) within 14 days after the notice is given under paragraph (1)(a); or
  - (b) give to each party a written notice (whether or not as part of the notice under paragraph (1)(a)) that:
    - (i) sets out the reasons for the decision; and
    - (ii) sets out the findings on any material questions of fact; and
    - (iii) refers to evidence or other material on which the findings of fact are based.
- (4) If the SSAT does not give a written notice to a party under paragraph (3)(b), the party may, within 14 days after the day on which the notice under paragraph (1)(a) is given to the party, request such a notice from the SSAT.
- (5) The SSAT must comply with a request under subsection (4) within 14 days after the day on which it receives the request.

*Copies to removed party*

- (6) The SSAT must, in relation to any person who was removed as a party to the review under subsection 101(5):
  - (a) give the person a copy of the notice under paragraph (1)(a), within 14 days after making the decision; and

- (b) if a notice under paragraph (3)(b) was not part of the notice under paragraph (1)(a)—do at least one of the following:
  - (i) give reasons for the decision orally to the person, within 14 days after making the decision;
  - (ii) give the person a copy of any notice under paragraph (3)(b), at the same time as giving it to the parties to the review.

### **103Y Correction of errors in decisions or statements of reasons**

#### *Correction of errors*

- (1) If:
  - (a) the SSAT makes a decision on a review; and
  - (b) the presiding member of the SSAT as constituted for the purposes of the review is satisfied that there is an obvious error in:
    - (i) the text of the decision; or
    - (ii) a written statement of reasons for the decision;the presiding member may alter the text of the decision or statement.
- (2) If the text of a decision or statement is altered under subsection (1), the altered text is taken to be the decision of the SSAT or the statement of reasons for the decision, as the case may be.

#### *Examples of obvious errors*

- (3) Examples of obvious errors in the text of a decision or statement of reasons are if:
  - (a) there is an obvious clerical or typographical error in the text of the decision or statement; or
  - (b) there is an inconsistency between the decision and the statement.

### **Subdivision D—Costs**

#### **103Z Costs of review**

- (1) Subject to subsection (4), a party to a review must bear any expenses incurred by the party in connection with the review.

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- (2) The SSAT may determine that the Commonwealth is to pay the reasonable costs that are:
  - (a) incurred by a party for travel and accommodation in connection with the review; and
  - (b) specified in the determination.
- (3) If the SSAT arranges for the provision of a medical service in relation to a party to a review, the SSAT may determine that the Commonwealth is to pay the costs of the provision of the service.
- (4) If the SSAT makes a determination under subsection (2) or (3), the costs to which the determination relates are payable by the Commonwealth.



## **Division 6—Other provisions**

### **103ZA Directions as to procedure for reviews**

#### *Directions by SSAT Principal Member*

- (1) The SSAT Principal Member:
  - (a) may give general directions as to the procedure to be followed by the SSAT in connection with the review of decisions under this Part; and
  - (b) may give directions as to the procedure to be followed by the SSAT in connection with a particular review.
- (2) A direction under subsection (1) must not be inconsistent with any provision of the Assessment Act or this Act.
- (3) A direction under paragraph (1)(b) may be given before or after the hearing of the particular review has commenced.

#### *Directions by presiding member*

- (4) The presiding member of the SSAT as constituted for the purposes of a particular review may give directions as to the procedure to be followed on the hearing of the review.
- (5) A direction under subsection (4) must not be inconsistent with:
  - (a) any provision of the Assessment Act; or
  - (b) any provision of this Act; or
  - (c) a direction under subsection (1).
- (6) A direction under subsection (4) may be given before or after the hearing of the particular review has commenced.

#### *Legislative instrument status of instruments*

- (8) A general direction made under paragraph (1)(a) is a legislative instrument.
- (9) A direction made under paragraph (1)(b) or subsection (4) is not a legislative instrument.

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**103ZAA Orders restricting disclosure of information**

- (1) The SSAT Principal Member may make an order directing a person:
  - (a) not to disclose information specified in the order; or
  - (b) not to disclose information specified in the order except in the circumstances, or for the purposes, specified in the order; or
  - (c) not to disclose information specified in the order, except to a specified person or class of persons.
- (2) An order may only specify information that has been disclosed to the person for purposes relating to a review under this Part.
- (3) A person commits an offence if:
  - (a) the SSAT Principal Member makes an order under subsection (1) in relation to the person; and
  - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (4) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure referred to in subsection (2) was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

**103ZAB Varying an order to permit certain disclosures**

- (1) A person in relation to whom an order has been made under subsection 103ZAA(1) may request the SSAT Principal Member to vary the order to allow the person to disclose particular information specified in the order:
  - (a) in particular circumstances or for particular purposes; or
  - (b) to a particular person or class of persons.
- (2) The SSAT Principal Member may vary the order in accordance with the request.
- (3) This section does not limit the SSAT Principal Member's power to vary or revoke an order.

Note: For variation and revocation apart from under this section, see subsection 33(3) of the *Acts Interpretation Act 1901*.

### **103ZAC Orders restricting secondary disclosures of information**

- (1) If an order (the *primary order*) under subsection 103ZAA(1) directs a person not to disclose information specified in the order, except to any of the following (an *authorised recipient*):
- (a) a specified person;
  - (b) a member of a specified class of persons;
- the SSAT Principal Member may make another order, directing an authorised recipient not to disclose the information specified in the primary order.
- (2) A person commits an offence if:
- (a) the SSAT Principal Member makes an order under subsection (1) in relation to the person; and
  - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (3) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure of the information in accordance with the primary order was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

## **Part VIII—Court review of certain decisions**

### **Division 1—Preliminary**

#### **103ZB Simplified outline**

The following is a simplified outline of this Part:

- Jurisdiction under this Act is conferred on certain federal and State courts.
- A person may appeal a decision of the SSAT under Part VIIA to a court on an error of law.
- The SSAT may refer a question of law arising in a review under Part VIIA to a court.

## **Division 2—Jurisdiction of courts**

### **103ZC Simplified outline**

The following is a simplified outline of this Division:

- Jurisdiction under this Act is conferred on the Family Court, the Federal Magistrates Court and certain State and Territory courts.
- This Division also provides for appeals to the Family Court from other courts.

### **104 Jurisdiction of courts under Act**

- (1) Jurisdiction is conferred on the Family Court and the Federal Magistrates Court and, subject to subsection (7), the Supreme Court of the Northern Territory, and each Family Court of a State is invested with federal jurisdiction in relation to matters arising under this Act.
- (2) Subject to subsections (5) and (7), each court of summary jurisdiction of each State is invested with federal jurisdiction, and jurisdiction is conferred on each court of summary jurisdiction of each Territory, in relation to matters arising under this Act.
- (3) The Governor-General may, by Proclamation, fix a day as the day on and after which proceedings in relation to matters arising under this Act may not be instituted in, or transferred to, a court of summary jurisdiction in a specified State or Territory.
- (4) A Proclamation under subsection (3) may be expressed to apply only in relation to:
  - (a) proceedings of specified classes; or
  - (b) the institution of proceedings in, or the transfer of proceedings to, a court of summary jurisdiction in a specified part of a State or Territory.
- (5) A court of summary jurisdiction shall not hear or determine proceedings under this Act otherwise than in accordance with any Proclamation in force under subsection (3) of this section.

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- (6) The Governor-General may, by Proclamation, declare that a Proclamation under subsection (3) is revoked on and from a specified day and, on and from the specified day, this Act (including subsection (3)) has effect as if the revoked Proclamation had not been made, but without prejudice to the effect of the revoked Proclamation in relation to the jurisdiction of courts before the specified day.
- (7) Jurisdiction in relation to a matter arising under this Act in relation to which a proceeding is instituted under this Act is not conferred on a court of a Territory unless at least one of the parties to the proceeding (not being the Registrar) is, on the day of the institution of the proceeding or the day of the transfer of the proceeding to that court, ordinarily resident in the Territory.
- (8) The jurisdiction conferred on or invested in a court by this section includes jurisdiction in relation to matters arising under this Act in relation to which proceedings are transferred to that court under another law of the Commonwealth.
- (9) The jurisdiction conferred on or invested in a court by this section is in addition to any jurisdiction conferred on or invested in the court apart from this section.

**105 Application of Family Law Act**

- (1) The *Family Law Act 1975* (other than Part X of that Act), the standard Rules of Court and the related Federal Magistrates Rules apply, subject to this Act and with such modifications as are prescribed by the applicable Rules of Court, to proceedings under this Act (other than proceedings under subparagraph 113(c)(i)) as if:
  - (a) the proceedings were proceedings under that Act;
  - (b) the proceedings were proceedings instituted under that Act;
  - (c) a court having or exercising jurisdiction in the proceedings were a court having or exercising jurisdiction under that Act;
  - (d) a decree made in the proceedings were a decree made under that Act;
  - (e) matters arising in the proceedings were matters arising under that Act; and
  - (f) any other necessary changes were made.

- (1A) In the application of subsection (1) to proceedings under this Act in relation to a child, references in paragraphs (1)(a) to (e) (inclusive) to the *Family Law Act 1975* are to be taken to be references to Part VII of that Act.
- (2) Where any difficulty arises in the application of subsection (1) in or in relation to a particular proceeding, the court exercising jurisdiction in the proceeding may, on the application of a party to the proceeding or of its own motion, give such directions, and make such orders, as it considers appropriate to resolve the difficulty.

### **106 Appellate jurisdiction of Family Court under Act**

- (1) The Family Court has jurisdiction with respect to matters arising under this Act in relation to which:
  - (a) applications for leave to appeal referred to in section 107, 107A or 110 are made; and
  - (b) appeals referred to in section 107, 107A or 110 are instituted.
- (2) Subject to section 110, in an appeal under section 107, 107A or 110, the Family Court shall have regard to the evidence given in the proceedings out of which the appeal arose and has power to draw inferences of fact and, in its discretion, to receive further evidence on questions of fact.
- (3) The further evidence may be given by affidavit, by oral examination before the Family Court or a Judge or in such other manner as the Family Court directs.

### **107 Appeals to Family Court from courts other than the Federal Magistrates Court and the Magistrates Court of Western Australia**

- (1) An appeal lies, with the leave of a Full Court of the Family Court, to a Full Court from:
  - (a) a decree of the Family Court, constituted otherwise than as a Full Court, exercising original or appellate jurisdiction under this Act; or
  - (b) a decree of:
    - (i) a Family Court of a State; or

- (ii) the Supreme Court of the Northern Territory constituted by a single Judge;  
exercising original or appellate jurisdiction under this Act.
- (1A) An appeal lies, with the leave of a Full Court of the Family Court, from a decree or decision of a Judge exercising original or appellate jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.
- (2) An application for leave to appeal under subsection (1) or (1A) shall be made within the time prescribed by the standard Rules of Court or within such further time as is allowed in accordance with the standard Rules of Court.
- (3) On an appeal to the Full Court, the Full Court may affirm, reverse or vary the decree or decision the subject of the appeal and may make such decree or decision as, in the opinion of the Full Court, ought to have been made in the first instance, or may, if it considers appropriate, order a re-hearing, on such terms and conditions (if any) as it considers appropriate.
- (4) If, in dismissing an appeal under subsection (1) or (1A), the Full Court is of the opinion that the appeal does not raise any question of general principle, it may, in accordance with the standard Rules of Court, give reasons for its decision in short form.
- (5) A Full Court of the Family Court, or a Judge of the Appeal Division or other Judge if there is no Judge of the Appeal Division available, may:
- (a) join or remove a party to an appeal under subsection (1) or (1A); or
  - (b) make an order by consent disposing of an appeal under subsection (1) or (1A) (including an order for costs); or
  - (c) give directions about the conduct of an appeal under subsection (1) or (1A), including directions about the use of written submissions and limiting the time for oral argument.
- (6) The standard Rules of Court may make provision enabling matters of the kind mentioned in subsection (5) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.



- (7) Applications:
- (a) for an extension of time within which to institute an appeal under subsection (1) or (1A); or
  - (b) for leave to amend the grounds of an appeal under subsection (1) or (1A); or
  - (c) to reinstate an appeal under subsection (1) or (1A) that, because of the standard Rules of Court, was taken to have been abandoned; or
  - (d) to stay an order of a Full Court of the Family Court made in connection with an appeal under subsection (1) or (1A);
- may be heard and determined by a Judge of the Appeal Division or other Judge if there is no Judge of the Appeal Division available, or by a Full Court of the Family Court.
- (8) The standard Rules of Court may make provision enabling applications of a kind mentioned in subsection (7) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (9) No appeal lies under this section from an order or decision made under subsection (5) or (7).

### **107A Appeals to Family Court from the Federal Magistrates Court and the Magistrates Court of Western Australia**

- (1) An appeal lies, with the leave of the Family Court, to the Family Court from:
- (a) a decree of the Federal Magistrates Court exercising original jurisdiction under this Act; or
  - (b) a decree or decision of a Federal Magistrate exercising original jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.

However, an appeal does not lie to the Family Court from a decree of the Federal Magistrates Court exercising jurisdiction under section 72Q.

Note: An appeal from a decree of the Federal Magistrates Court exercising jurisdiction under section 72Q lies to the Federal Court of Australia.

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- (1A) An appeal lies, with the leave of the Family Court, to the Family Court from:
- (a) a decree of the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia exercising original jurisdiction under this Act; or
  - (b) a decree or decision of a Family Law Magistrate of Western Australia exercising in the Magistrates Court of Western Australia original jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.
- (2) The jurisdiction of the Family Court in relation to an appeal under subsection (1) or (1A) is to be exercised by a Full Court unless the Chief Judge of the Family Court considers that it is appropriate for the jurisdiction of the Family Court in relation to the appeal to be exercised by a single Judge.
- (3) Subsection (2) has effect subject to subsections (7) and (9).
- (4) An application for leave to appeal under subsection (1) or (1A) is to be made within:
- (a) the time prescribed by the standard Rules of Court; or
  - (b) such further time as is allowed under the standard Rules of Court.
- (5) On an appeal under subsection (1) or (1A), the Family Court may affirm, reverse or vary the decree or decision the subject of the appeal and may make such decree or decision as, in the opinion of the court, ought to have been made in the first instance, or may, if it considers appropriate, order a re-hearing, on such terms and conditions (if any) as it considers appropriate.
- (6) If, in dismissing an appeal under subsection (1) or (1A), the Family Court is of the opinion that the appeal does not raise any question of general principle, it may, in accordance with the standard Rules of Court, give reasons for its decision in short form.
- (7) A single Judge or a Full Court may:
- (a) join or remove a party to an appeal under subsection (1) or (1A); or
  - (b) make an order by consent disposing of an appeal under subsection (1) or (1A) (including an order for costs); or

- (c) give directions about the conduct of an appeal under subsection (1) or (1A), including directions about:
    - (i) the use of written submissions; and
    - (ii) limiting the time for oral argument.
- (8) The standard Rules of Court may make provision enabling matters of the kind mentioned in subsection (7) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (9) Applications:
  - (a) for leave to appeal under subsection (1) or (1A); or
  - (b) for an extension of time within which to make an application for leave to appeal under subsection (1) or (1A); or
  - (c) for leave to amend the grounds of an appeal under subsection (1) or (1A); or
  - (d) to reinstate an appeal under subsection (1) or (1A) that, because of the standard Rules of Court, was taken to have been abandoned; or
  - (e) to stay an order of the Family Court made in connection with an appeal under subsection (1) or (1A);may be heard and determined by a single Judge or by a Full Court.
- (10) The standard Rules of Court may make provision enabling applications of a kind mentioned in subsection (9) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (11) An appeal does not lie to a Full Court from a decision of a single Judge exercising jurisdiction under this section.
- (12) The single Judge referred to in subsection (2), (7) or (9) need not be a member of the Appeal Division of the Family Court.

### **108 Cases stated**

- (1) If, in proceedings in a court under this Act, being proceedings in which a decree to which subsection 107(1) applies could be made, a question of law arises that the Judge and at least one of the parties wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with, the Judge shall state the facts and question in the form of a special case for the

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opinion of a Full Court, and a Full Court shall hear and determine the question.

- (2) The Full Court may draw, from the facts and the documents, any inference, whether of fact or law, that could have been drawn from them by the Judge.
- (3) If, in proceedings in the Federal Magistrates Court, being proceedings in which a decree to which subsection 107A(1) applies could be made, a question of law arises which:
  - (a) the Federal Magistrate; and
  - (b) at least one of the parties;wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with:
  - (c) the Federal Magistrate must state the facts and question in the form of a special case for the opinion of a Full Court; and
  - (d) a Full Court must hear and determine the question.
- (4) The Full Court may draw, from the facts and the documents, any inference, whether of fact or of law, that could have been drawn from them by the Federal Magistrate.
- (5) If, in proceedings in the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia, being proceedings in which a decree to which subsection 107A(1A) applies could be made, a question of law arises which:
  - (a) the Magistrate; and
  - (b) at least one of the parties;wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with:
  - (c) the Magistrate must state the facts and question in the form of a special case for the opinion of a Full Court; and
  - (d) a Full Court must hear and determine the question.
- (6) The Full Court may draw, from the facts and the documents, any inference, whether of fact or of law, that could have been drawn from them by the Magistrate.

## **109 Appeals to High Court**

Notwithstanding anything contained in any other Act, an appeal does not lie to the High Court from a decree of a court exercising jurisdiction under this Act, whether original or appellate, except:

- (a) by special leave of the High Court; or
- (b) on a certificate of a Full Court of the Family Court that an important question of law or of public interest is involved.

## **110 Appeals from courts of summary jurisdiction**

- (1A) This section does not apply to a decree of the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia.

Note: Appeals from these decrees are dealt with in section 107A.

- (1) Subject to subsections (2) and (5), an appeal lies from a decree of a court of summary jurisdiction of a State or Territory exercising jurisdiction under this Act to the Family Court or:
  - (a) in the case of a court of summary jurisdiction of a State that has a Family Court of the State—to the Family Court of the State; or
  - (b) in the case of a court of summary jurisdiction of the Northern Territory—to the Supreme Court of the Northern Territory.
- (2) An appeal lies to a court under subsection (1) only with the leave of the court.
- (3) An application for leave to appeal under subsection (1) shall be made within the time prescribed by the standard Rules of Court or within such further time as is allowed in accordance with the standard Rules of Court.
- (4) A Family Court of a State is invested with federal jurisdiction, and jurisdiction is conferred on the Supreme Court of the Northern Territory, with respect to matters arising under this Act in relation to which applications for leave to appeal are made under subsection (1) and appeals are instituted under that subsection.
- (5) The Governor-General may, by Proclamation, fix a day as the day on or after which applications may not be made to the Family Court of a State or the Supreme Court of the Northern Territory for leave to appeal under subsection (1).

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- (6) A court hearing an appeal under subsection (1):
  - (a) shall, subject to subsection (7), proceed by way of a hearing *de novo*, but may receive as evidence any record of evidence given, including any affidavit filed or exhibit received in the court of summary jurisdiction; and
  - (b) may make such decrees as it considers appropriate, including a decree affirming, reversing or varying the decree the subject of the appeal.
- (7) Where a court has granted leave to appeal under subsection (1), the court may refer the appeal to a Full Court of the Family Court.
- (8) Where an appeal is referred to a Full Court of the Family Court under subsection (7), the Full Court may:
  - (a) proceed by way of a hearing *de novo*, but may receive as evidence any record of evidence given, including any affidavit filed or exhibit received in the court of summary jurisdiction;
  - (b) order that questions of fact arising in the proceedings be tried by a Judge;
  - (c) determine questions of law arising in the proceedings and remit the appeal to a Judge for hearing in accordance with directions given by it; and
  - (d) make such other decrees as it considers appropriate, including a decree affirming, reversing or varying the decree the subject of the appeal.

## **Division 3—Appeals and references of questions of law from SSAT to courts**

### **Subdivision A—Preliminary**

#### **110A Simplified outline**

The following is a simplified outline of this Division:

- If a person is dissatisfied with a decision of the SSAT on a question of law in relation to a review under Part VIIA of a decision of the Registrar, the person may appeal the decision to a court.
- The SSAT may refer a question of law arising in a review under Part VIIA to a court.

### **Subdivision B—Appeals from decisions of SSAT**

#### **110B Appeals from decisions of SSAT**

A party to a review by the SSAT under Part VIIA may appeal to a court having jurisdiction under this Act, on a question of law, from a decision of the SSAT on that review under section 103S.

#### **110C Time limits for instituting appeals**

- (1) An appeal by a person under this Division must be instituted in a court:
  - (a) within:
    - (i) the time prescribed by the applicable Rules of Court; or
    - (ii) such further time as is allowed under the applicable Rules of Court; and
  - (b) in such manner as is prescribed by the applicable Rules of Court.
- (2) Without limiting the grounds on which further time may be allowed under subparagraph (1)(a)(ii), further time may, in the interests of justice, be allowed on the ground that:

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- (a) the SSAT made an oral statement as to the reasons for the decision under paragraph 103X(3)(a); and
- (b) the SSAT later gave a written statement of reasons for the decision under paragraph 103X(3)(b) or subsection 103X(5); and
- (c) the written statement contains reasons that were not mentioned in the oral statement.

**110D Parties to appeals**

The parties to a proceeding under this Subdivision are the parties to the review before the SSAT when the SSAT made the relevant decision.

Note: A person may be added or removed as a party to a review under subsection 101(4) or (5).

**110E Constitution of courts**

The jurisdiction of a court to hear and determine appeals instituted in that court in accordance with this Subdivision may be exercised by the court constituted:

- (a) as a Full Court (if the court can be constituted as a Full Court); or
- (b) by a single judge (including a Federal Magistrate) or by a single magistrate.

**110F Powers of courts**

- (1) The court must hear and determine an appeal under this Subdivision and may make such order as it thinks appropriate by reason of its decision.
- (2) Without limiting subsection (1), the orders that may be made by the court on an appeal include:
  - (a) an order affirming or setting aside the decision of the SSAT; or
  - (b) an order remitting the case to be heard and decided again, either with or without the hearing of further evidence, by the SSAT in accordance with the directions of the court.



*Constitution of SSAT if courts remit cases etc.*

- (3) If the court makes an order remitting a case to be heard and decided again by the SSAT:
  - (a) the SSAT need not be constituted for the hearing by the person or persons who made the decision to which the appeal relates; and
  - (b) whether or not the SSAT is reconstituted for the hearing—the SSAT may, for the purposes of the review, have regard to any record of the review before the SSAT prior to the appeal (including a record of any evidence taken in the review), so long as doing so is not inconsistent with the directions of the court.

**110G Courts may make findings of fact**

- (1) If a party to a review by the SSAT appeals to a court under this Subdivision, the court may make findings of fact if:
  - (a) the findings of fact are not inconsistent with findings of fact made by the SSAT (other than findings made by the SSAT as the result of an error of law); and
  - (b) it appears to the court that it is convenient for the court to make the findings of fact, having regard to:
    - (i) the extent (if any) to which it is necessary for facts to be found; and
    - (ii) the means by which those facts might be established; and
    - (iii) the expeditious and efficient resolution of the whole of the matter to which the review by the SSAT relates; and
    - (iv) the relative expense to the parties of the court, rather than the SSAT, in making the findings of fact; and
    - (v) the relative delay to the parties of the court, rather than the SSAT, in making the findings of fact; and
    - (vi) whether any of the parties considers that it is appropriate for the court, rather than the SSAT, to make the findings of fact; and
    - (vii) such other matters (if any) as the court considers relevant.
- (2) For the purposes of making findings of fact under subsection (1), the court may:

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- (a) have regard to the evidence given in the review by the SSAT; and
  - (b) receive further evidence.
- (3) Subsection (1) does not limit the court's power under paragraph 110F(2)(b) to make an order remitting the case to be heard and decided again by the SSAT.

**Subdivision C—References of questions of law from SSAT**

**110H Reference of questions of law to courts**

- (1) The SSAT may:
  - (a) of its own initiative; or
  - (b) at the request of a party;refer a question of law arising in a review by the SSAT under Part VIIA to a court having jurisdiction under this Act for decision.
- (2) A question must not be so referred without the agreement of the SSAT Principal Member.
- (3) If a question of law arising in any review has been referred to a court under this Subdivision, the SSAT must not, on that review:
  - (a) give a decision to which the question is relevant while the reference is pending; or
  - (b) proceed in a manner, or make a decision, that is inconsistent with the opinion of the court on the question.

**110J Constitution of courts**

The jurisdiction of a court to hear and determine a question of law under this Subdivision may be exercised by the court constituted:

- (a) as a Full Court (if the court can be constituted as a Full Court); or
- (b) by a single judge (including a Federal Magistrate) or by a single magistrate.

### **Subdivision D—Other provisions**

#### **110K Sending of documents to, and disclosure of documents by, the court**

When an appeal is instituted in a court, or a question of law is referred to a court, under this Division, the SSAT Principal Member must cause to be sent to the court all documents:

- (a) that were before the SSAT in relation to the review to which the appeal or the reference relates; and
- (b) that are relevant to the appeal or the reference.

## **Part VIIIA—Other provisions relating to reviews of decisions**

### **Division 1A—Preliminary**

#### **110N Simplified outline**

The following is a simplified outline of this Part:

- The reconsideration of a decision by the Registrar, the SSAT or a court does not affect the operation of the decision or prevent the taking of any action to implement the decision.
- Once a decision becomes final, the Registrar must implement the decision.
- A person might commit an offence if the person publishes an account of a proceeding, or a list of proceedings, under Part VIIA or Division 3 of Part VIII that identifies a witness or party.
- Division 5 modifies the application of the *Administrative Appeals Tribunal Act 1975* to applications for review under subsection 103VA(1) of this Act.
- The date of effect of reviews of decisions under the Family Assistance Administration Act that apply for child support purposes is dealt with in Division 6.

## **Division 1—Effect of pending reconsiderations on assessments, registrations etc.**

### **Subdivision A—Preliminary**

#### **110P Scope of Division**

- (1) This Division applies for the purposes of the Assessment Act and this Act.
- (2) This Division is subject to section 111C (stay orders).

#### **110Q Meaning of *reconsideration***

For the purposes of this Act, each of the following is a ***reconsideration*** of a decision:

- (a) an objection to the decision under Part VII;
- (b) an application to the SSAT for review of that objection under Part VIIA;
- (c) an appeal to a court from that review under Division 3 of Part VIII;
- (d) an appeal to another court from that appeal under Division 2 of Part VIII and any subsequent appeals under that Division.

### **Subdivision B—Effect of pending reconsiderations**

#### **110R Pending reconsiderations do not affect operation of decisions**

The institution of a reconsideration of a decision does not:

- (a) affect the operation of the decision; or
- (b) prevent the taking of action to implement the decision.

#### **110S Pending reconsiderations not to affect registrations etc.**

- (1) The fact that a reconsideration of a decision in relation to a registrable maintenance liability is pending does not, in the meantime, interfere with, or affect:
  - (a) the registration of the liability; or

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- (b) the particulars entered in the Child Support Register in relation to the liability.
- (2) Amounts payable under such a liability or payable, by way of penalty, in relation to such a liability may be recovered as if no reconsideration were pending.

**110T Pending reconsiderations do not affect assessments**

- (1) The fact that a reconsideration of a decision is pending in relation to a person does not, in the meantime, interfere with, or affect, any administrative assessment made in relation to the person.
- (2) Any such assessment may be registered under the Assessment Act, and any amounts of child support and other amounts may be recovered in relation to the assessment, as if no reconsideration were pending.

**110U Pending reconsiderations do not affect decisions under section 64AH of the Assessment Act**

- (1) The fact that a reconsideration of a decision of the Registrar under section 64AH of the Assessment Act is pending does not, in the meantime, interfere with, or affect, the decision.
- (2) Amounts payable in relation to such a decision may be recovered as if no appeal were pending.

## **Division 2—Implementation of decisions**

### **110V Registrar must implement decisions**

When the Registrar, the SSAT or a court makes a decision on a reconsideration, the Registrar must immediately take such action as is necessary to give effect to the decision.

## **Division 3—Determining when decisions become final**

### **110W Determining when decisions become final**

#### *SSAT*

- (1) For the purposes of the Assessment Act and this Act, if:
  - (a) a decision is a decision of the SSAT under Part VIIA of this Act; and
  - (b) an appeal may be made to a court under Subdivision B of Division 3 of Part VIII of this Act against the decision; and
  - (c) an appeal is not made within the period for doing so;the decision becomes final at the end of that period.

#### *Full Court of the Family Court*

- (2) For the purposes of this Act, if:
  - (a) a decision is a decision of the Full Court of the Family Court under Part VIII; and
  - (b) an application may be made for special leave to appeal to the High Court within the period of 30 days after the making of the decision; and
  - (c) an application is not made within that period;the decision becomes final at the end of that period.

#### *Other courts*

- (3) For the purposes of this Act, if:
  - (a) a decision is a decision of a court (other than the Full Court of the Family Court) under Part VIII; and
  - (b) an application may be made for leave to appeal under Division 2 of Part VIII against the decision; and
  - (c) an application is not made within the period for doing so;the decision becomes final at the end of that period.



*Registrar*

- (4) For the purposes of the Assessment Act and this Act, if:
- (a) a decision is a decision of the Registrar under the Assessment Act or this Act; and
  - (b) any of the following applies:
    - (i) an objection to the decision may be lodged with the Registrar under Part VII of this Act;
    - (ii) an application may be made to the SSAT under Part VIIA of this Act for review of that decision;
    - (iii) an appeal may be made to a court under Subdivision B of Division 3 of Part VIII of this Act in respect of the decision; and
  - (c) an objection, application or appeal (as the case requires) is not made within the period for doing so;
- the decision becomes final at the end of that period.

## **Division 4—Restrictions on publication of review proceedings**

### **110X Restrictions on publication of review proceedings**

#### *Offence of publishing identifying accounts*

- (1) A person commits an offence if:
- (a) the person:
    - (i) publishes in a newspaper or periodical publication, by radio broadcast or television or by other electronic means; or
    - (ii) otherwise disseminates to the public or to a section of the public by any means;  
any account of any proceedings, or of any part of any proceedings, under Part VIIA or Division 3 of Part VIII; and
  - (b) the account identifies:
    - (i) a party to the proceedings (other than the Registrar); or
    - (ii) a person (other than the Registrar) who is related to, or associated with, a party to the proceedings or is, or is alleged to be, in any other way concerned in the matter to which the proceedings relate; or
    - (iii) a witness in the proceedings.

Penalty: Imprisonment for 12 months.

- (2) Without limiting the generality of subsection (1), an account of proceedings, or of any part of proceedings, referred to in that subsection is taken to identify a person if:
- (a) it contains any particulars of:
    - (i) the name, title, pseudonym or alias of the person; or
    - (ii) the address of any premises at which the person resides or works, or the locality in which any such premises are situated; or
    - (iii) the physical description or the style of dress of the person; or
    - (iv) any employment or occupation engaged in, profession practised or calling pursued, by the person or any official or honorary position held by the person; or

- (v) the relationship of the person to identified relatives of the person or the association of the person with identified friends or identified business, official or professional acquaintances of the person; or
- (vi) the recreational interests, or the political, philosophical or religious beliefs or interests, of the person; or
- (vii) any real or personal property in which the person has an interest or with which the person is otherwise associated;

and the particulars are sufficient to identify that person to a member of the public, or to a member of the section of the public to which the account is disseminated, as the case requires; or

- (b) in the case of a written or televised account or an account by other electronic means—it is accompanied by a picture of the person; or
- (c) in the case of a broadcast or televised account or an account by other electronic means—it is spoken in whole or in part by the person and the person's voice is sufficient to identify that person to a member of the public, or to a member of the section of the public to which the account is disseminated, as the case requires.

*Offence of publishing identifying lists*

(3) A person commits an offence if:

- (a) the person:
  - (i) publishes in a newspaper or periodical publication, by radio broadcast or television or by other electronic means; or
  - (ii) otherwise disseminates to the public or to a section of the public by any means (otherwise than by the display of a notice in the premises of the SSAT);a list of proceedings under Part VIIA or Division 3 of Part VIII; and
- (b) the proceedings are identified by reference to the names of the parties to the proceedings (other than by reference to the Registrar).

Penalty: Imprisonment for 12 months.

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*Defence*

- (4) Subsections (1) and (3) do not apply to, or in relation to:
- (a) the communication, to persons concerned in proceedings in any court, of any pleading, transcript of evidence or other document for use in connection with those proceedings; or
  - (b) the communication of any pleading, transcript of evidence or other document to:
    - (i) a body that is responsible for disciplining members of the legal profession in a State or Territory; or
    - (ii) persons concerned in disciplinary proceedings, against a member of the legal profession of a State or Territory, before a body that is responsible for disciplining members of the legal profession in that State or Territory; or
  - (c) the communication, to a body that grants assistance by way of legal aid, of any pleading, transcript of evidence or other document for the purpose of facilitating the making of a decision as to whether assistance by way of legal aid should be granted, continued or provided in a particular case; or
  - (d) the publishing of a notice or report in accordance with the direction of a court; or
  - (e) the publication by the SSAT of lists of proceedings under Part VIIA, or Division 3 of Part VIII, identified by reference to the names of the parties, that are to be dealt with by the SSAT; or
  - (f) the publishing of any publication intended primarily for use by the members of any profession, being:
    - (i) a separate volume or part of a series of law reports; or
    - (ii) any other publication of a technical character; or
  - (g) the publication or other dissemination of an account of proceedings or of any part of proceedings:
    - (i) to a person who is a member of a profession, in connection with the practice by that person of that profession or in the course of any form of professional training in which that person is involved; or
    - (ii) to an individual who is a party to any proceedings under this Act, in connection with the conduct of those proceedings; or

- (iii) to a person who is a student, in connection with the studies of that person; or
- (h) the publication of accounts of proceedings, where those accounts have been approved by the court.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

*Criminal procedure*

- (5) An offence against subsection (1) or (3) is an indictable offence.
- (6) Proceedings for an offence against subsection (1) or (3) must not be commenced except by, or with the written consent of, the Director of Public Prosecutions.

*Definitions*

- (7) In this section:

**court** includes:

- (a) an officer of a court investigating or dealing with a matter in accordance with:
  - (i) the Assessment Act; or
  - (ii) this Act; or
  - (iii) regulations made under the Assessment Act or this Act; or
  - (iv) any Rules of Court; and
- (b) a tribunal established by or under a law of the Commonwealth or of a State or a Territory.

**electronic means** includes:

- (a) in the form of data, text or images by means of guided or unguided electromagnetic energy; or
- (b) in the form of speech by means of guided or unguided electromagnetic energy, if the speech is processed at its destination by an automated voice recognition system.

## **Division 5—Modification of Administrative Appeals Tribunal Act in relation to AAT review**

### **110XA Notice of application for AAT review**

The *Administrative Appeals Tribunal Act 1975* (the *AAT Act*) applies to an application under subsection 103VA(1) of this Act for review of a decision as if the reference in subsection 29(11) of the AAT Act to the person who made the decision were a reference to each person who was a party to the review of the decision by the SSAT (other than the applicant).

### **110XB Parties to AAT review**

The *Administrative Appeals Tribunal Act 1975* (the *AAT Act*) applies to an application under subsection 103VA(1) of this Act for review as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each party to the review of the decision by the SSAT.

### **110XC Lodgment of documents with the AAT**

- (1) The *Administrative Appeals Tribunal Act 1975* (the *AAT Act*) applies to an application under subsection 103VA(1) of this Act for review as if references in section 37 of the AAT Act to the person who made the decision the subject of the application were references to the Registrar.
- (2) If a person applies to the AAT under subsection 103VA(1) of this Act for review of a decision, the Registrar is taken to have complied with the Registrar's obligations under paragraph 37(1)(a) of the AAT Act in relation to the decision if the Registrar gives the AAT the prescribed number of copies of the statement prepared by the SSAT under paragraph 103X(3)(b) of this Act.
- (3) Subsection (2) does not limit the powers of the AAT under section 38 of the AAT Act.

**110XD Power of AAT to obtain additional information**

The *Administrative Appeals Tribunal Act 1975* (the **AAT Act**) applies to an application under subsection 103VA(1) of this Act for review as if references in section 38 of the AAT Act to the person who lodges with the AAT a statement referred to in paragraph 37(1)(a) of the AAT Act were references to the SSAT Principal Member.

**110XE Operation and implementation of the decision under review**

- (1) The *Administrative Appeals Tribunal Act 1975* (the **AAT Act**) applies to an application under subsection 103VA(1) of this Act for review of a decision as if references in subsection 41(4) of the AAT Act to the person who made the decision were references to each party to the review by the SSAT.
- (2) The AAT Act applies to an application under subsection 103VA(1) of this Act for review of a decision as if references in section 41 of the AAT Act to the decision to which the relevant proceeding relates were references to:
  - (a) if the SSAT affirmed the decision (the **original decision**) that was reviewed by the SSAT—the original decision; or
  - (b) if the SSAT varied the original decision:
    - (i) the original decision as varied by the SSAT; and
    - (ii) the original decision; or
  - (c) if the SSAT set aside the original decision and substituted a new decision:
    - (i) the new decision; and
    - (ii) the original decision; or
  - (d) if the SSAT set aside the original decision and sent the matter back to the Registrar for reconsideration in accordance with any directions or recommendations of the SSAT:
    - (i) any decision made as a result of that reconsideration; and
    - (ii) the original decision.

**110XF Failure of party to appear**

The *Administrative Appeals Tribunal Act 1975* (the **AAT Act**) applies to the review of a decision on an application under

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subsection 103VA(1) of this Act as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Registrar.



## **Division 6—Date of effect of reviews under the Family Assistance Administration Act**

### **110Y Date of effect of internal reviews under the Family Assistance Administration Act that apply for child support purposes**

- (1) This section applies if:
- (a) the Family Assistance Secretary reviews, under section 105 or 109A of the Family Assistance Administration Act, a decision (the *original decision*) relating to a person; and
  - (b) the review of the original decision involves (wholly or partly) a review of a determination that:
    - (i) was made under a provision of Subdivision D of Division 1 of Part 3 of the Family Assistance Act; or
    - (ii) has effect, under section 35T of that Act, as if it were a determination made under such a provision; and
  - (c) either:
    - (i) the decision on the review under section 105 of the Family Assistance Administration Act is made more than 28 days or, if the person is a resident of a reciprocating jurisdiction, 90 days after notice of the original decision was given; or
    - (ii) the application for review of the original decision under section 109A of the Family Assistance Administration Act was made more than 28 days or, if the person is a resident of a reciprocating jurisdiction, 90 days after notice of the original decision was given; and
  - (d) the decision (the *review decision*) on the review has the effect of varying the determination or substituting a new determination; and
  - (e) the determination as varied or substituted has effect, under sections 54K and 54L of the Assessment Act, as if it were a determination made under Subdivision B of Division 4 of Part 5 of that Act.
- (2) The date of effect of the review decision, to the extent that it has the effect referred to in paragraph (1)(d), is:

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- (a) for a review under section 105 of the Family Assistance Administration Act—the day on which the review decision is made; or
  - (b) for a review under section 109A of the Family Assistance Administration Act—the day on which the application for review was made.
- (3) If the Registrar is satisfied that there are special circumstances that prevented the application for review from being made within the period referred to in subparagraph (1)(c)(ii), the Registrar may determine that subsection (1) applies as if:
  - (a) in a case where the person is a resident of a reciprocating jurisdiction—the reference to 90 days in that subparagraph were a reference to such longer period as the Registrar determines to be appropriate; or
  - (b) otherwise—the reference to 28 days in that subparagraph were a reference to such longer period as the Registrar determines to be appropriate.
- (4) If:
  - (a) the Registrar decides to make a determination under subsection (3) in relation to a person; or
  - (b) the Registrar decides not to make such a determination in relation to a person;the Registrar must give written notice of the decision to each person affected by the decision.
- (5) The notice must:
  - (a) set out the reasons for the decision; and
  - (b) include a statement to the effect that, if the person is aggrieved by the decision, application may be made, subject to this Act, to the SSAT for review of the decision.
- (6) A contravention of subsection (5) in relation to a decision does not affect the validity of the decision.

**110Z Date of effect of SSAT reviews under the Family Assistance Administration Act that apply for child support purposes**

- (1) This section applies if:

- (a) a person applies to the SSAT, under section 111 of the Family Assistance Administration Act, for review of a decision (the *original decision*); and
  - (b) the review of the original decision involves (wholly or partly) a review of a determination that:
    - (i) was made under a provision of Subdivision D of Division 1 of Part 3 of the Family Assistance Act; or
    - (ii) has effect, under section 35T of that Act, as if it were a determination made under such a provision; and
  - (c) the application for review of the original decision was made more than 28 days or, if the person is a resident of a reciprocating jurisdiction, 90 days after notice of the original decision was given; and
  - (d) the decision (the *review decision*) on the review has the effect of varying the determination or substituting a new determination; and
  - (e) the determination as varied or substituted has effect, under sections 54K and 54L of the Assessment Act, as if it were a determination made under Subdivision B of Division 4 of Part 5 of that Act.
- (2) The date of effect of the review decision, to the extent that it has the effect referred to in paragraph (1)(d), is the day on which the application for review was made.
- (3) If the Registrar is satisfied that there are special circumstances that prevented the application for review from being made within the period referred to in paragraph (1)(c), the Registrar may determine that subsection (1) applies as if:
- (a) in a case where the person is a resident of a reciprocating jurisdiction—the reference to 90 days in that paragraph were a reference to such longer period as the Registrar determines to be appropriate; or
  - (b) otherwise—the reference to 28 days in that paragraph were a reference to such longer period as the Registrar determines to be appropriate.
- (4) If:
- (a) the Registrar decides to make a determination under subsection (3) in relation to a person; or

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- (b) the Registrar decides not to make such a determination in relation to a person;  
the Registrar must give written notice of the decision to each person affected by the decision.
- (5) The notice must:
  - (a) set out the reasons for the decision; and
  - (b) include a statement to the effect that, if the person is aggrieved by the decision, application may be made, subject to this Act, to the SSAT for review of the decision.
- (6) A contravention of subsection (5) in relation to a decision does not affect the validity of the decision.

## **Part VIIIB—Other provisions relating to courts**

### **111A Simplified outline**

The following is a simplified outline of this Part:

- In exercising jurisdiction under this Act, a court has broad powers.
- If a proceeding has been instituted under this Act in a court or before the SSAT or the Registrar, a court may make an order staying or otherwise affecting the operation of the Assessment Act or this Act during the proceeding.
- A court may dismiss, or make orders in respect of, a frivolous or vexatious proceeding.
- If a court makes an order under this Act, a copy of the order must be sent to the Registrar.
- The Registrar may intervene in any proceeding under this Act.
- There are specific provisions relating to a proceeding brought by a payee of a registered maintenance liability under section 113A.
- A court order might cease to be in effect because a terminating event happens.

### **111B General powers of court**

- (1) A court's powers under this Act include the power to do all or any of the following:
  - (a) order payment of a lump sum, whether in one amount or by instalments;
  - (b) order payment of a weekly, monthly, yearly or other periodic amount;

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- (c) order that a specified transfer or settlement of property be made;
  - (d) order that payment of an amount ordered to be paid be wholly or partly secured as the court specifies;
  - (e) order that any necessary deed or instrument be executed, and that such documents of title be produced and such other things be done, as are necessary to enable an order to be carried out effectively or to provide security for the due performance of an order;
  - (f) order that payment be made to a specified person or public authority or into court;
  - (g) make a permanent order, an order pending the disposal of proceedings, an order for a fixed period, an order until a child attains a specified age or an order until further order;
  - (h) make an order expressed to be retrospective to such day as the court considers appropriate;
  - (i) make an order:
    - (i) discharging an order; or
    - (ii) suspending the operation of an order wholly or in part and either until further order or until a fixed time or the happening of a future event; or
    - (iii) reviving wholly or in part the operation of an order that has been suspended; or
    - (iv) varying an order in any way;
  - (j) make an order imposing terms and conditions;
  - (k) make an order by consent;
  - (l) make any other order (whether or not of the same kind as those referred to in paragraphs (a) to (k)) that the court considers appropriate;
  - (m) make an order at any time.
- (2) The making of an order of a kind referred to in paragraph (1)(c), or of any other order under this Act, in relation to a child does not prevent a court from making a subsequent order (whether under this Act or otherwise) in relation to the child.
- (3) The applicable Rules of Court may make provision with respect to the making of orders under this Act (whether as to their form or otherwise) for the purpose of facilitating their enforcement and the collection of any child support payable under them.
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**111C Stay orders**

- (1) This section applies if a proceeding has been instituted:
  - (a) in a court having jurisdiction under this Act; or
  - (b) before the Registrar under Part VII; or
  - (c) before the SSAT under Part VIIA; or
  - (d) under Part 6A or 7 of the Assessment Act.
- (2) A party to the proceeding may, subject to the *Family Law Act 1975*:
  - (a) in the case of a proceeding instituted in a court—apply to that court for an order under this section; or
  - (b) otherwise—apply to a court having jurisdiction under this Act for an order under this section.
- (3) Pending the hearing and final determination of the proceeding, the court may make such orders as the court considers appropriate staying or otherwise affecting the operation or implementation of the Assessment Act and this Act if the court considers that it is desirable to do so, taking into account the interests of the persons who may be affected by the outcome of the proceeding.
- (4) The court may, by order, vary or revoke an order made under subsection (3).
- (5) An order under subsection (3):
  - (a) is subject to such terms and conditions as are specified in the order; and
  - (b) operates for:
    - (i) such period as is specified in the order; or
    - (ii) if no period is specified—until a decision of the court, the Registrar or the SSAT determining the proceeding becomes final.

**111CA Frivolous or vexatious proceedings**

- (1) A court having jurisdiction under this Act may, at any stage of a proceeding instituted in the court under this Act, if it is satisfied that the proceeding is frivolous or vexatious, do one or more of the following:
    - (a) dismiss the proceeding;
    - (b) make such order as to costs as the court considers just;
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- (c) if the court considers it appropriate, on the application of a party to the proceeding—order that the person who instituted the proceeding must not, without leave of a court having jurisdiction under this Act, institute a proceeding under this Act or the Assessment Act of the kind or kinds specified in the order.
- (2) An order made by a court under paragraph (1)(c) has effect notwithstanding any other provision of this Act or the Assessment Act.
- (3) A court may discharge or vary an order made by that court under subsection (1).

**111D Copies of orders to be forwarded to Registrar**

- (1) If a court makes an order under this Act, the registrar or other responsible officer of the court must, within 28 days after the day on which the order is made, send a certified or sealed copy of the order to the Child Support Registrar.
- (2) The Child Support Registrar may, by written notice served on the registrar or other responsible officer of a court, vary, in relation to the court, the requirement of subsection (1) in such instances and to such extent as the Child Support Registrar considers appropriate.

**111E Registrar may intervene in proceedings**

- (1) The Registrar may intervene in, and contest and argue any question arising in, a proceeding under this Act.
- (2) If the Registrar intervenes in a proceeding under this Act, the Registrar is taken to be a party to the proceeding with all the rights, duties and liabilities of a party.
- (3) This section does not limit Part IX of the *Family Law Act 1975*.

**111F Court order for payment in proceedings instituted by payee to recover debt**

- (1) If, in relation to a proceeding instituted by the payee of a registered maintenance liability under section 113A, the court makes an order for payment of an amount by the payer of the liability, the payment must be made to the Registrar.



- (2) The Registrar must, as soon as practicable after receiving a payment in accordance with subsection (1), pay the amount received by the Registrar to the payee.

**111G Costs in proceedings instituted by payee to recover debt**

To avoid doubt, if:

- (a) a payee of a registered maintenance liability has instituted a proceeding under section 113A to recover a debt due in relation to the liability; and
  - (b) the Registrar is not a party to the proceeding;
- the Commonwealth is not liable for costs in the proceeding.

**111H Cessation of orders under Act**

- (1) An order made under this Act that varies a child support assessment in relation to a child ceases to be in force if:
  - (a) a terminating event happens in relation to the child; or
  - (b) a terminating event happens in relation to the payee or payer of the registered maintenance liability that relates to the child, or all 3 of them.
- (2) Nothing in this section affects the recovery of arrears due under an order when the order ceases to be in force.

## Part IX—Miscellaneous

### 111 Duties of payers and payees

- (1) The payer of an enforceable maintenance liability shall, within 14 days after each occasion on which the payer commences to be an employee of an employer, notify the Registrar of the commencement in the manner specified by the Registrar.

Note: Section 16A provides for the Registrar to specify the manner in which a notice may be given.

- (1A) For the purposes of subsection (1), if:
  - (a) on a particular day (the *application day*), the payer of a registered maintenance liability makes an application under subsection 37B(2); and
  - (b) as a result of that application, there is a low-income non-enforcement period in relation to the liability for the purposes of section 37B;the liability is taken to be an enforceable maintenance liability throughout so much of the period as occurs on or after the application day.
- (2) If the payer or payee of an enforceable maintenance liability changes his or her name or address, the payer or payee must, within 14 days after that change of name or address, notify the Registrar of the change in the manner specified by the Registrar.
- (3) A person who contravenes subsection (1) or (2) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.
- (3A) Subsection (3) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (3) if the person charged proves that the person notified the Registrar of the happening of the relevant event as soon as reasonably practicable after the happening of the event.

**112 Copies of maintenance orders and agreements to be forwarded to Registrar**

- (1) Where:
- (a) under the *Family Law Act 1975* or the law of a State or Territory:
    - (i) an order is made by, or registered in, a court; or
    - (ii) a maintenance agreement is registered in, or approved by, a court; and
  - (b) the order or agreement makes provision in relation to:
    - (i) the maintenance of a child; or
    - (ii) the maintenance by a party to a marriage of the other party to the marriage; or
    - (iii) the maintenance by a party to a de facto relationship of the other party to the de facto relationship;
- the registrar or other responsible officer of the court shall, within 28 days after the day on which the event referred to in subparagraph (a)(i) or (ii) occurs, send a certified or sealed copy of the order or agreement to the Child Support Registrar.
- (2) The Child Support Registrar may, by notice in writing served on the registrar or other responsible officer of a court, vary, in relation to the court, in such instances and to such extent as the Child Support Registrar thinks fit, the requirement of subsection (1).

**113 Recovery of debts etc.**

*Debts due by a payer may be recovered by the Registrar or the payee*

- (1) A debt due to the Commonwealth under this Act in relation to a registered maintenance liability:
- (a) is payable to the Registrar in the manner and at the place prescribed; and
  - (b) may be sued for and recovered by:
    - (i) the Registrar suing in his or her official name; or
    - (ii) the payee of the liability suing in accordance with section 113A; and
  - (c) may be recovered in:

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- (i) a court having jurisdiction for the recovery of debts up to the amount of the debt; or
- (ii) a court having jurisdiction under this Act.

*Registrar to keep payee informed of action taken to recover debt*

- (2) The Registrar may take such steps as the Registrar considers appropriate to keep the payee of a registered maintenance liability informed of action taken by the Registrar to recover debts due to the Commonwealth under this Act in relation to the liability.

**113A Recovery of debts by payees**

*Payee to notify Registrar of intention to institute a proceeding to recover debt*

- (1) A payee of a registered maintenance liability may sue for and recover a debt due in relation to the liability if the payee notifies the Registrar in writing of his or her intention to institute a proceeding to recover the debt:
  - (a) at least 14 days before instituting the proceeding; or
  - (b) in exceptional circumstances—within such shorter period as the court allows.

Note: For provisions relating to proceedings instituted under this section, see sections 111F and 111G.

*Payee to notify Registrar of orders made*

- (2) A payee of a registered maintenance liability who has instituted a proceeding in a court to recover a debt in accordance with subsection (1) must give notice to the Registrar, in the manner specified by the Registrar, of any orders (including orders as to costs) made by the court in relation to the payee and the debt due in relation to the liability, within 14 days of the order being made.

Note: Section 16A provides for the Registrar to specify the manner in which a notice may be given.

- (3) A payee commits an offence if:
  - (a) the court makes an order in relation to the payee and the debt due in relation to the liability; and
  - (b) the payee fails to notify the Registrar under subsection (2) of the order being made.

Penalty: 10 penalty units.

- (4) Subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the person charged proves that the person gave the notice to the Registrar as soon as reasonably practicable after becoming aware of the making of the relevant order.

## **114 Application of payments**

The regulations may, subject to section 70, make provision with respect to the application of payments received by the Registrar.

## **115 Substituted service**

Where:

- (a) a document is required to be served on a person for the purposes of proceedings against the person for the recovery of a debt due to the Commonwealth under this Act (other than under section 79); and
- (b) the Registrar is satisfied, after reasonable inquiry, that the person:
  - (i) is absent from Australia and has no attorney or agent in Australia on whom service of process can be effected; or
  - (ii) cannot be found;

service of the document on the person may be effected, without leave of a court, by posting the document or a sealed copy of it in a letter addressed to the person at the person's last known place of business or residence in Australia.

## **116 Evidence**

- (1) The mere production of a document signed by the Registrar purporting to be a copy of the entry in the Child Support Register in relation to a registrable maintenance liability is prima facie evidence:
  - (a) that the liability is a registrable maintenance liability; and
  - (b) that the liability is duly registered under this Act; and

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- (c) that the particulars of the entry in the Child Support Register in relation to the liability are those set out in the document; and
  - (d) that all of those particulars are correct.
- (1A) Paragraphs (1)(a), (b) and (d) do not apply in relation to proceedings under Part VII or VIIA, or under Subdivision B of Division 3 of Part VIII, on an objection to a decision:
  - (a) to register a registrable maintenance liability; or
  - (b) as to particulars entered in the Child Support Register in relation to a registrable maintenance liability.
- (1B) Paragraph (1)(c) does not apply in relation to proceedings under Part VII or VIIA, or under Subdivision B of Division 3 of Part VIII, on an objection to a decision as to particulars varied in the Child Support Register in relation to a registrable maintenance liability.
- (2) The mere production of a certificate in writing signed by the Registrar, certifying that an amount specified in the certificate was, on the date of the certificate, due and payable by a specified person to the Commonwealth in relation to a specified registrable maintenance liability or under a specified provision of Part IV, is *prima facie* evidence of the matters stated in the certificate.
- (3) Without limiting the generality of subsection (2), a certificate under that subsection may specify the amount of the outstanding balance of one or more child support debts as described in section 67.

**117 Appearance by Registrar etc.**

- (1) In any action, prosecution or other proceeding under, or arising out of, this Act instituted by or on behalf of the Registrar, to which the Registrar is a party or in which the Registrar is a party or in which the Registrar intervenes or seeks to intervene, the Registrar may appear personally or may be represented by:
  - (a) a person enrolled as a barrister, solicitor, barrister and solicitor or legal practitioner of a federal court or of the Supreme Court of a State or Territory; or
  - (b) a person authorised by the Registrar, in writing, to appear.

- (2) The appearance of a person, and the statement of the person that the person appears by authority of the Registrar, is *prima facie* evidence of that authority.

### **118 Judicial notice of signature**

All courts and tribunals, and all judges and persons acting judicially or authorised by law or consent of parties to hear, receive and examine evidence, shall take judicial notice of the signature of a person who holds or has held the office of Registrar.

### **119 False or misleading statements**

- (1) A person who:
- (a) makes a statement to an officer that is false or misleading in a material particular; or
  - (b) omits from a statement made to an officer any matter or thing without which the statement is misleading in a material particular;
- is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.
- (2) In a prosecution of a person for an offence against subsection (1), it is a defence if the person proves that the person:
- (a) did not know; and
  - (b) could not reasonably be expected to have known;
- that the statement to which the prosecution relates was false or misleading.
- (3) A reference in subsection (1) to a statement made to an officer is a reference to a statement made to a person exercising powers under or in relation to this Act, whether the statement is made orally, in a document or in any other form and, without limiting the generality of the foregoing, includes a statement:
- (a) made in an application, form, notification, objection or other document made, given, lodged or furnished, or purporting to be made, given, lodged or furnished, under this Act;
  - (b) made in answer to a question asked of the person under this Act; or
  - (c) made in any information furnished, or purporting to be furnished, under this Act.

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**120 Obtaining of information and evidence**

- (1) The Registrar may, for the purposes of this Act, by notice in writing, require a person:
  - (a) to furnish to the Registrar, within a reasonable period, and in a reasonable manner, specified in the notice, such information as the Registrar requires;
  - (b) to attend before the Registrar, or before an officer authorised by the Registrar for the purpose, at a reasonable time and place specified in the notice, and then and there answer questions; and
  - (c) to produce to the Registrar, at a reasonable time and place specified in the notice, any documents in the custody or under the control of the person.
- (1A) A court having jurisdiction under this Act may, in a proceeding instituted in the court by a payee of a registered maintenance liability under section 113A to recover a debt due in relation to the liability, exercise all the powers of the Registrar under subsection (1).
- (2) The regulations shall prescribe scales of expenses to be allowed to persons required to attend under this section.
- (3) A person who refuses or fails to comply with a requirement made under subsection (1), or by a court in accordance with subsection (1A), is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.
- (4) Subsection (3) applies only to the extent to which the person is capable of complying with the requirement.
- (5) Subsection (3) is an offence of strict liability.
- (6) This section does not apply in relation to a person:
  - (a) in respect of whom an international maintenance arrangement applies; and
  - (b) who is a resident of a reciprocating jurisdiction.

**121 Order to comply with requirement**

- (1) Where:
    - (a) a person is convicted before a court of an offence against:
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- (i) subsection 47(3A) in relation to the refusal or failure of the person to comply, in whole or in part, with the requirement under paragraph 47(1)(b); or
- (ii) subsection 120(3) in relation to the refusal or failure of the person to comply, in whole or in part, with a requirement referred to in that subsection; or
- (b) a court makes an order under section 19B of the *Crimes Act 1914* in relation to a person in relation to such an offence; the court may, in addition to imposing a penalty on the person or making such an order in relation to the person, as the case may be, and even though the time for complying with the requirement or any other such requirement has passed, order the person to comply with:
  - (c) the requirement; and
  - (d) such other requirements made, or that could be made, in relation to the person by or under this Act as the court considers necessary to ensure the effectiveness of the first-mentioned requirement;within a specified time or at a specified place and time.
- (2) Where an order under subsection (1) is not given orally by the court to the person to whom the order is addressed, the proper officer of the court shall cause a copy of the order to be served on the person in the prescribed manner.
- (3) A person who contravenes an order under subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.
- (4) Strict liability applies to the element of an offence against subsection (3) that an order is an order under subsection (1).

### **121A Obtaining of information and evidence in relation to residents of reciprocating jurisdictions**

The Registrar may, for the purposes of this Act, by notice in writing, request a person who is or was a resident of a reciprocating jurisdiction, or request an overseas authority of the reciprocating jurisdiction:

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- (a) to give to the Registrar within a reasonable period, and in a reasonable manner, specified in the notice, such information as the Registrar requests; and
- (b) to attend before the Registrar, or before an officer authorised by the Registrar for the purpose, at a reasonable time and place specified in the notice, and then and there to answer questions; and
- (c) to produce to the Registrar, at a reasonable time and place specified in the notice, any documents in the custody or under the control of the person.

**121B Giving information to overseas authorities**

If:

- (a) the Registrar receives a request from an overseas authority for information about a person; and
- (b) the request is made in reliance on an international maintenance arrangement;

the Registrar must give the information requested to the overseas authority if it is necessary or convenient to do so for the purposes of the arrangement.

**121C Regulations may prescribe manner of giving notices or other communications**

The regulations may provide for how a notice or other communication may be given to a payer or payee who is a resident of a reciprocating jurisdiction.

**122 Right of contribution**

Where:

- (a) 2 or more persons are jointly or jointly and severally liable to pay a debt due to the Commonwealth under this Act; and
  - (b) one of those persons has paid the debt or part of the debt;
- the person referred to in paragraph (b) may, in a court of competent jurisdiction, recover by way of contribution, and as a debt, from any of the other persons referred to in paragraph (a) such part of the amount paid as the court considers just and equitable.

**124 Application of Act to overseas orders and agreements**

- (1) This Act applies, with such modifications as are prescribed, in relation to orders (including interim orders) made under a law of a foreign country, being orders that are, under the *Family Law Act 1975* or the law of a Territory, registered in a court.
- (2) This Act applies, with such modifications as are prescribed, in relation to maintenance agreements made under a law of a foreign country, being agreements that are, under the *Family Law Act 1975* or the law of a Territory, registered in or approved by a court.

**124A Regulations in relation to overseas-related maintenance obligations etc.**

- (1) The regulations may make provision for, and in relation to, giving effect to international maintenance arrangements.
- (2) Regulations made for the purposes of this section may:
  - (a) confer jurisdiction on a federal court (other than the High Court) or a court of a Territory; or
  - (b) invest a court of a State with federal jurisdiction.

**125 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, may make regulations prescribing penalties not exceeding a fine of \$500 for offences against the regulations.



## Table of Acts

**Notes to the *Child Support (Registration and Collection) Act 1988*****Note 1**

The *Child Support (Registration and Collection) Act 1988* as shown in this compilation comprises Act No. 3, 1988 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequential and Transitional) Act 2001*, see Act No. 55, 2001.

For application, saving or transitional provisions made by the *Child Support and Family Assistance Legislation Amendment (Budget and Other Measures) Act 2010*, see Act No. 65, 2010.

For all other relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Child Support Act 1988</i>	3, 1988	9 Mar 1988	1 June 1988 (see <i>Gazette</i> 1988, No. S148)	—
<i>Child Support Amendment Act 1988</i>	132, 1988	22 Dec 1988	22 Dec 1988	—
<i>Child Support (Assessment) Act 1989</i>	124, 1989	21 Sept 1989	1 Oct 1989 (see <i>Gazette</i> 1989, No. S314)	—
<i>Social Security and Veterans' Affairs Legislation Amendment Act (No. 3) 1989</i>	163, 1989	19 Dec 1989	Part 3 (ss. 7–17): Royal Assent (a)	—
<i>Child Support Legislation Amendment Act 1990</i>	138, 1990	28 Dec 1990	28 Dec 1990	—
<i>Taxation Laws Amendment Act (No. 3) 1991</i>	216, 1991	24 Dec 1991	Part 2 (ss. 3, 4) and s. 88: Royal Assent (b)	—
<i>Child Support Legislation Amendment Act 1992</i>	13, 1992	6 Apr 1992	6 Apr 1992	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Child Support Legislation Amendment Act (No. 2) 1992</i>	151, 1992	11 Dec 1992	Ss. 6, 7, 10, 11 and 14–20: 1 July 1993 Ss. 34, 36 and 41: 1 Jan 1993 Ss. 37 and 39: 1 June 1988 Remainder: Royal Assent	—
<i>Corporate Law Reform Act 1992</i>	210, 1992	24 Dec 1992	S. 125: 23 June 1993 ( <i>see Gazette</i> 1993, No. S186) (c)	—
<i>Insolvency (Tax Priorities) Legislation Amendment Act 1993</i>	32, 1993	16 June 1993	Ss. 6, 7, 9, 11, 13, 15 and Part 5 (ss. 29, 30): 1 June 1993 Part 4 (ss. 20–28): 1 July 1993 Remainder: Royal Assent	—
<i>Child Support Legislation Amendment Act 1995</i>	39, 1995	29 May 1995	S. 22: (d) Remainder: Royal Assent	—
<i>Family Law Reform (Consequential Amendments) Act 1995</i>	140, 1995	12 Dec 1995	Schedule 1 (Part 3): 11 June 1996 ( <i>see Gazette</i> 1996, No. GN5) (e)	—
<i>Taxation Laws Amendment Act (No. 3) 1995</i>	170, 1995	16 Dec 1995	Schedule 2 (items 58, 64): Royal Assent (f)	Sch. 2 (item 64)
<i>Commonwealth Services Delivery Agency (Consequential Amendments) Act 1997</i>	29, 1997	17 Apr 1997	1 July 1997 ( <i>see s. 2</i> )	—
<i>Child Support Legislation Amendment Act (No. 1) 1997</i>	84, 1997	23 June 1997	Schedule 1 (items 29–39): 21 July 1997 (g)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 605–620): 1 Jan 1998 ( <i>see Gazette</i> 1997, No. GN49) (h)	—
<i>Taxation Laws Amendment Act (No. 3) 1998</i>	47, 1998	23 June 1998	Schedule 4 (items 2, 3): Royal Assent (i)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Child Support Legislation Amendment Act 1998</i>	120, 1998	15 Dec 1998	Schedule 3 (item 10), Schedule 4, Schedule 8 (items 6–8), Schedule 9 (items 20–63), Schedules 10 and 11, Schedule 12 (items 1–5), Schedule 17 and Schedule 19 (items 18–20): 1 July 1999 (see <i>Gazette</i> 1999, No. S261) ( <i>j</i> ) Schedule 12 (items 6–9): 1 July 1999 ( <i>j</i> ) Schedule 22 (item 9): Royal Assent ( <i>j</i> )	S. 4(2), Sch. 4 (item 8) and Sch. 19 (item 20)
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 7 (items 16–18): 1 July 1999 (see <i>Gazette</i> 1999, No. S283) ( <i>k</i> )	S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4])
<b>as amended by</b> <i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 287, 288): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) ( <i>l</i> )	—
<i>A New Tax System (Tax Administration) Act 1999</i>	179, 1999	22 Dec 1999	Schedule 11 (items 4–9): 1 July 2000 ( <i>m</i> )	—
<i>Federal Magistrates (Consequential Amendments) Act 1999</i>	194, 1999	23 Dec 1999	Schedule 9: 23 Dec 1999 ( <i>n</i> )	—
<i>Child Support Legislation Amendment Act 2000</i>	49, 2000	3 May 2000	3 May 2000	—
<i>New Business Tax System (Alienation of Personal Services Income) Act 2000</i>	86, 2000	30 June 2000	Schedule 1 (Items 59, 60): ( <i>o</i> )	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Family Law Amendment Act 2000</i>	143, 2000	29 Nov 2000	Schedule 3 (items 4C, 5): 27 Dec 2000 ( <i>p</i> )	—
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 98, 99): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) ( <i>q</i> )	Ss. 4–14 [see Note 1]
<i>Child Support Legislation Amendment Act 2001</i>	75, 2001	30 June 2001	Schedule 1A (items 25, 26): 1 July 2002 ( <i>r</i> ) Schedule 5 (items 36–67, 74), Schedule 6 (item 1) and Schedule 10 (items 24–28, 35): Royal Assent ( <i>r</i> ) Schedule 6 (items 2–4): ( <i>r</i> ) Schedule 10 (items 29–34): ( <i>r</i> )	Sch. 5 (item 74)
<i>Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	137, 2001	1 Oct 2001	2 Oct 2001	S. 4
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	S. 4 and Schedule 1 (items 111–116, 496): Royal Assent	S. 4 and Sch. 1 (item 496)
<i>Jurisdiction of Courts (Family Law) Act 2006</i>	22, 2006	6 Apr 2006	Schedule 1 (items 5–9, 27): 1 July 2006 (see F2006L01796)	Sch. 1 (item 27)
<i>Jurisdiction of the Federal Magistrates Court Legislation Amendment Act 2006</i>	23, 2006	6 Apr 2006	Schedule 4 (items 1–3): 4 May 2006	Sch. 4 (item 2)
<i>Financial Framework Legislation Amendment Act (No. 1) 2006</i>	30, 2006	6 Apr 2006	Schedule 1 (items 22–24): 7 Apr 2006	—
<i>Family Law Amendment (Shared Parental Responsibility) Act 2006</i>	46, 2006	22 May 2006	Schedule 9 (items 4, 5): 1 July 2006	—



**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Act 2006</i>	53, 2006	15 June 2006	S. 4 and Schedule 5 (items 9–21): Royal Assent Schedule 4: 1 July 2006	S. 4, Sch. 4 (item 2) and Sch. 5 (items 18, 19, 21) Sch. 5 (item 20) (am. by 100, 2011, Sch. 1 [item 4])
<b>as amended by</b>				
<i>Statute Stocktake Act (No. 1) 2011</i>	100, 2011	15 Sept 2011	Schedule 1 (item 4): 16 Sept 2011	—
<i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>	101, 2006	14 Sept 2006	Schedule 2 (items 27, 28) and Schedule 6 (items 1, 6–11): Royal Assent	Sch. 6 (items 1, 6–11)
<i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i>	146, 2006	6 Dec 2006	Schedule 1, Schedule 2 (items 1–117), Schedule 5 (items 1–29, 78–90), Schedules 6, 7 and Schedule 8 (items 1–5, 7–13, 15–19, 21–157): 1 July 2008 Schedule 3: 1 Jan 2007 Schedule 4: (s) Schedule 5 (items 30–72): (s) Remainder: Royal Assent	Sch. 3 (items 77(1)–(6), 78(2), (3), 79, 80), Sch. 4 (items 44–46), Sch. 5 (items 74(1), 74(3)–(5), 75(1)–(5), 76, 77) and Sch. 7 (items 13–15) S. 2(1) (am. by 82, 2007, Sch. 1 [item 1]) Sch. 2 (item 115) (am. by 82, 2007, Sch. 1 [item 99]) Sch. 5 (item 73) (rs. by 63, 2008, Sch. 6 [item 16]) Sch. 5 (item 73A) (ad. by 63, 2008, Sch. 6 [item 16]) Sch. 5 (item 74(2)) (am. by 63, 2008, Sch. 6 [item 17])

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<b>as amended by</b>				
<i>Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007</i>	82, 2007	21 June 2007	Schedule 1 (items 1, 80, 99, 212): (see 82, 2007 below)	Sch. 1 (item 80) S. 2(1) (am. by 73, 2008, Sch. 2 [item 16])
<b>as amended by</b>				
<i>Statute Law Revision Act 2008</i>	73, 2008	3 July 2008	Schedule 2 (item 16): (see 73, 2008 below)	—
<i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008</i>	63, 2008	30 June 2008	Schedule 6 (items 16, 17): (see 63, 2008 below)	—
<i>Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006</i>	156, 2006	8 Dec 2006	Schedule 1: 1 Jan 2007 Remainder: Royal Assent	—
<i>Statute Law Revision Act 2007</i>	8, 2007	15 Mar 2007	Schedule 4 (item 5): Royal Assent	—
<i>Superannuation Legislation Amendment (Simplification) Act 2007</i>	15, 2007	15 Mar 2007	Schedule 3 (items 4, 5, 66(1)): 15 Mar 2007	Sch. 3 (item 66(1))

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007</i>	82, 2007	21 June 2007	S. 4 and Schedule 12 (items 24–33): Royal Assent Schedule 1 (item 1): (t) Schedule 1 (items 22–77, 80–91) and Schedule 4 (items 11–20): 22 June 2007 Schedule 1 (item 99): (t) Schedule 1 (item 101), Schedule 3 (items 18–28) and Schedule 4 (items 39–46): 1 Jan 2008 Schedule 1 (items 193–211), Schedule 2 (items 150, 151) and Schedule 3 (items 50–55): (t) Schedule 1 (item 212): (t) Schedule 2 (items 45–100): 19 July 2007	S. 4, Sch. 1 (items 80–91) and Sch. 4 (item 46) S. 2(1) (am. by 73, 2008, Sch. 2 [item 16])
<b>as amended by</b>				
<i>Statute Law Revision Act 2008</i>	73, 2008	3 July 2008	Schedule 2 (item 16): (ta)	—
<i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008</i>	63, 2008	30 June 2008	S. 4: Royal Assent Schedule 6 (items 16, 17): (u) Schedule 6 (items 18–20): (u)	S. 4 and Sch. 6 (item 20)
<i>Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008</i>	115, 2008	21 Nov 2008	Schedule 2 (items 22–31): 1 Mar 2009	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Act 2008</i>	143, 2008	9 Dec 2008	Schedule 3 (items 12, 13, 50–54): 10 Dec 2008 Schedule 3 (items 55–57): 6 Jan 2009	Sch. 3 (items 13, 54, 57)
<i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008</i>	144, 2008	9 Dec 2008	Schedule 6 (items 22J, 22K): 1 July 2009	—
<i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010</i>	38, 2010	13 Apr 2010	Schedule 3 (items 51–94, 157–163): 11 May 2010	Sch. 3 (items 157–163)
<i>Tax Laws Amendment (2010 Measures No. 1) Act 2010</i>	56, 2010	3 June 2010	Schedule 6 (item 54): Royal Assent	—
<i>Child Support and Family Assistance Legislation Amendment (Budget and Other Measures) Act 2010</i>	65, 2010	28 June 2010	Schedule 1 (items 48–50, 52) and Schedule 2 (items 71–97, 100–112): 1 July 2010 Schedule 4 (items 2, 3): (v)	Sch. 1 (item 52) and Sch. 2 (items 100–112) [see Note 1]
<i>Paid Parental Leave (Consequential Amendments) Act 2010</i>	105, 2010	14 July 2010	Schedule 1 (items 32, 33) and Schedule 2 (items 1, 2, 6, 7): 1 Oct 2010 (see s. 2(1))	Sch. 2 (items 1, 2, 6, 7)
<i>Statute Law Revision Act 2011</i>	5, 2011	22 Mar 2011	Schedule 6 (items 16–19), Schedule 7 (items 34, 35) and Schedule 8 (item 1): 19 Apr 2011	—
<i>Human Services Legislation Amendment Act 2011</i>	32, 2011	25 May 2011	Schedule 3: 1 July 2011	—
<i>Acts Interpretation Amendment Act 2011</i>	46, 2011	27 June 2011	Schedule 2 (items 334–348) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
<i>Child Support (Registration and Collection) Amendment Act 2011</i>	88, 2011	4 Aug 2011	5 Aug 2011	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012</i>	98, 2012	29 June 2012	Schedule 7 (item 17): 30 June 2012	—
<i>Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012</i>	154, 2012	17 Nov 2012	Schedule 3 (items 29–86, 163–169): 15 Dec 2012 Schedule 4 (item 3): Royal Assent	Sch. 3 (items 163–169)
<i>Personal Liability for Corporate Fault Reform Act 2012</i>	180, 2012	10 Dec 2012	Schedule 6 (items 1–3): 11 Dec 2012	—

## Act Notes

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- (a) The *Child Support (Registration and Collection) Act 1988* was amended by Part 3 (sections 7–17) only of the *Social Security and Veterans' Affairs Legislation Amendment Act (No. 3) 1989*, section 2 of which provides as follows:
2. Each provision of this Act commences, or is to be taken to have commenced, as the case requires, on the day, or at the time, shown by the note in italics at the foot of that provision.
- (b) The *Child Support (Registration and Collection) Act 1988* was amended by Part 2 (sections 3 and 4) and section 88 only of the *Taxation Laws Amendment Act (No. 3) 1991*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (c) The *Child Support (Registration and Collection) Act 1988* was amended by section 125 only of the *Corporate Law Reform Act 1992*, subsection 2(3) of which provides as follows:
- (3) Subject to subsection (4), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
- (d) Section 2 of the *Child Support Legislation Amendment Act 1995* provides as follows:
- (1) This Act (other than section 22) commences on the day on which it receives the Royal Assent.
  - (2) Section 22 commences immediately after the commencement of section 16.
- (e) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 1 (Part 3) only of the *Family Law Reform (Consequential Amendments) Act 1995*, subsection 2(2) of which provides as follows:
- (2) The amendments made by Parts 1, 2, 3, 4, 6, 8, 9, and 10 of Schedule 1 commence on the commencement of section 31 of the *Family Law Reform Act 1995*.
- (f) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 2 (item 58) only of the *Taxation Laws Amendment Act (No. 3) 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (g) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 1 (items 29–39) only of the *Child Support Legislation Amendment Act (No. 1) 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the 28th day after the day on which it receives the Royal Assent.
- (h) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 2 (items 605–620) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (i) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 4 (items 2 and 3) only of the *Taxation Laws Amendment Act (No. 3) 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (j) The *Child Support (Registration and Collection) Act 1988* was amended by the *Child Support Legislation Amendment Act 1998*, subsections 2(1)–(3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (2) Subject to subsection (10), the amendments of the *Child Support (Registration and Collection) Act 1988* made by this Act (other than by Part 2 of Schedule 12 or by Schedule 22) commence on a day or days to be fixed by Proclamation.
  - (3) Part 2 of Schedule 12 commences on 1 July 1999.

**Act Notes**

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- (k) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 7 (items 16–18) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(2)(e) and (16) of which provide as follows:
- (2) The following provisions commence on the transfer date:
    - (e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).
  - (16) The Governor-General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.
- (l) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 1 (items 287 and 288) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (m) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 11 (items 4–9) only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(9)(b) of which provides as follows:
- (9) The following provisions commence on 1 July 2000:
    - (b) Schedule 11 (other than item 44).
- (n) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 9 only of the *Federal Magistrates (Consequential Amendments) Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the commencement of the *Federal Magistrates Act 1999*.
- (o) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 1 (items 59 and 60) only of the *New Business Tax System (Alienation of Personal Services Income) Act 2000*, subsection 2(2) of which provides as follows:
- (2) Part 3 of Schedule 1 (other than items 61, 62 and 72) commences immediately after the commencement of item 2 of Schedule 5 to the *A New Tax System (Tax Administration) Act 1999*.
- Item 2 of Schedule 5 to the *A New Tax System (Tax Administration) Act 1999* commenced on 1 July 2000.
- (p) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 3 (items 4C and 5) only of the *Family Law Amendment Act 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (1A) and (2), this Act commences 28 days after the day on which it receives the Royal Assent.
- (q) The *Child Support (Registration and Collection) Act 1988* was amended by Schedule 3 (items 98 and 99) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (r) The *Child Support (Registration and Collection) Act 1988* was amended by the *Child Support Legislation Amendment Act 2001*, subsections 2(1), (1A)(a), (4)(b) and (10) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (1A) Items 22, 23, 24, 25 and 26 of Schedule 1A commence on whichever of the following days applies:
    - (a) if this Act receives the Royal Assent on or before 1 July 2002—on 1 July 2002;
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**Act Notes**

- (4) Part 2 of Schedule 6 commences at whichever of the following times applies:

- (b) if Parts 4 to 10 of the Act that establishes the Administrative Review Tribunal commence after Part 1 of Schedule 6 to this Act—the time when Parts 4 to 10 of the Act that establishes the Administrative Review Tribunal commence.

Note: The short title of the Act that establishes the Administrative Review Tribunal is either the *Administrative Review Tribunal Act 2000* or the *Administrative Review Tribunal Act 2001*.

- (10) Items 29, 30, 31, 32, 33 and 34 of Schedule 10 are taken to have commenced immediately after the commencement of Schedule 17 to the *Child Support Legislation Amendment Act 1998*.

Schedule 17 commenced on 1 July 1999 (see *Gazette* 1999, No. S261).

The *Administrative Review Tribunal Bill* has not been enacted. Therefore these amendments do not commence.

- (s) Subsection 2(1) (items 6, 8 and 9) of the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

**Commencement information**

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
6. Schedule 4	Immediately after the commencement of Schedule 3 to this Act.	1 January 2007
8. Schedule 5, Part 1, Division 2	Immediately after the commencement of Schedule 1 to this Act.	1 July 2008
9. Schedule 5, Part 1, Division 3	Immediately after the commencement of Division 2 of Part 1 of Schedule 5 to this Act.	1 July 2008

- (t) Subsection 2(1) (items 2, 5, 7, 8, 11 and 13) of the *Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedule 1, Part 1	Immediately after the commencement of section 2 of the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .	6 December 2006



**Act Notes**

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
5. Schedule 1, items 99 and 100	Immediately before the commencement of items 92 to 96 of Schedule 2 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .	1 January 2008
7. Schedule 1, Part 4, Division 1	Immediately after the commencement of Part 2 of Schedule 2 to this Act.	1 July 2008
8. Schedule 1, item 212	Immediately before the commencement of item 104 of Schedule 2 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .	1 July 2008
11. Schedule 2, Part 2	Immediately after the commencement of Division 3 of Part 1 of Schedule 5 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .	1 July 2008
13. Schedule 3, Part 2	Immediately after the commencement of Part 2 of Schedule 2 to this Act.	1 July 2008

(ta) Subsection 2(1) (item 52) of the *Statute Law Revision Act 2008* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
52. Schedule 2, item 16	Immediately after the commencement of section 2 of the <i>Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007</i> .	21 June 2007

(u) Subsection 2(1) (items 21 and 22) of the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

**Act Notes**

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
21. Schedule 6, items 16 and 17	Immediately after the commencement of items 73 and 74 of Schedule 5 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .	6 December 2006
22. Schedule 6, items 18 to 20	Immediately after the commencement of item 8 of Schedule 7 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .	1 July 2008
(v) Subsection 2(1) (items 2 and 6) of the <i>Child Support and Family Assistance Legislation Amendment (Budget and Other Measures) Act 2010</i> provides as follows:		
(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.		

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
2. Schedules 1 and 2	1 July 2010.	1 July 2010
6. Schedule 4, items 2 and 3	Immediately after the commencement of the provisions covered by table item 2.	1 July 2010

**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 146, 2006
<b>Part I</b>	
S. 1 .....	am. No. 124, 1989
S. 3 .....	am. No. 140, 1995; No. 49, 2000
S. 3A .....	ad. No. 137, 2001
S. 4 .....	am. No. 124, 1989; No. 216, 1991; Nos. 151 and 210, 1992; Nos. 39 and 140, 1995; Nos. 29 and 152, 1997; No. 120, 1998; Nos. 194 and 179, 1999; Nos. 86 and 143, 2000; Nos. 55 and 75, 2001; No. 8, 2005; Nos. 22, 46 and 146, 2006; Nos. 8, 15 and 82, 2007; Nos. 115 and 144, 2008; Nos. 38, 56, 65 and 105, 2010; Nos. 5, 32 and 46, 2011; No. 154, 2012
S. 4A .....	ad. No. 98, 2012
Heading to s. 5 .....	am. No. 53, 2006
Subhead. to s. 5(1) .....	ad. No. 53, 2006
Subhead. to s. 5(3) .....	ad. No. 53, 2006
Subhead. to s. 5(4) .....	ad. No. 53, 2006
S. 5 .....	am. No. 53, 2006; No. 82, 2007
Note to s. 5(4) .....	ad. No. 53, 2006
Heading to s. 6 .....	am. No. 53, 2006
S. 6 .....	am. No. 82, 2007
S. 7 .....	am. No. 146, 2006
<b>Part II</b>	
S. 10 .....	am. No. 75, 2001; No. 32, 2011
S. 10A .....	ad. No. 32, 2011
Heading to s. 11 .....	am. No. 75, 2001
S. 11 .....	am. No. 75, 2001
S. 12 .....	am. No. 163, 1989 rep. No. 75, 2001
S. 14 .....	am. No. 75, 2001
S. 15 .....	am. No. 124, 1989; No. 29, 1997; No. 146, 1999; No. 75, 2001; Nos. 32 and 88, 2011
S. 16 .....	rs. No. 124, 1989 am. No. 138, 1990; No. 151, 1992; No. 140, 1995; No. 29, 1997; No. 120, 1998; No. 146, 1999; Nos. 75 and 137, 2001; No. 156, 2006; No. 82, 2007; No. 143, 2008; Nos. 5 and 32, 2011; No. 154, 2012
S. 16AA .....	ad. No. 82, 2007 am. No. 32, 2011
S. 16AB .....	ad. No. 32, 2011
S. 16A .....	ad. No. 120, 1998
Ss. 16B, 16C .....	ad. No. 75, 2001

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part III</b>	
<b>Division 1</b>	
S. 17 .....	am. No. 124, 1989; No. 146, 2006
S. 17A .....	ad. No. 146, 2006 am. No. 82, 2007
Heading to s. 18.....	am. No. 115, 2008
S. 18 .....	am. No. 115, 2008
S. 18A.....	ad. No. 82, 2007
S. 19 .....	am. No. 124, 1989; No. 140, 1995; No. 146, 2006; No. 82, 2007
<b>Division 2</b>	
S. 23 .....	am. No. 132, 1988; No. 124, 1989; No. 151, 1992; No. 120, 1998; No. 137, 2001; No. 146, 2006; No. 82, 2007
S. 24 .....	am. No. 163, 1989; No. 151, 1992; No. 120, 1998
S. 24A .....	ad. No. 124, 1989 am. No. 13, 1992; No. 120, 1998; No. 146, 2006; No. 82, 2007
S. 25 .....	am. No. 120, 1998; No. 82, 2007
Note to s. 25.....	ad. No. 82, 2007
Note to s. 25(1) .....	ad. No. 120, 1998 rep. No. 82, 2007
Ss. 25A–25C.....	ad. No. 82, 2007
S. 26 .....	am. No. 124, 1989; No. 84, 1997 rs. No. 120, 1998 am. No. 82, 2007; No. 154, 2012
S. 26A.....	ad. No. 120, 1998 am. No. 46, 2011
Subhead. to s. 26B(5) .....	am. No. 82, 2007
S. 26B.....	ad. No. 120, 1998 am. No. 82, 2007; No. 46, 2011
S. 26C.....	ad. No. 120, 1998
S. 27 .....	am. No. 124, 1989
S. 28 .....	am. Nos. 124 and 163, 1989; No. 82, 2007
S. 28A .....	ad. No. 39, 1995 am. No. 120, 1998; No. 82, 2007
Note to s. 28A(3).....	ad. No. 120, 1998
S. 28B.....	ad. No. 120, 1998
S. 29 .....	am. No. 120, 1998
S. 30 .....	rs. No. 120, 1998 am. No. 146, 2006; No. 82, 2007
S. 30AA.....	ad. No. 82, 2007
S. 30A .....	ad. No. 13, 1992 rs. No. 82, 2007
S. 32 .....	rs. No. 120, 1998

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Division 3</b>	
S. 33 .....	am. No. 132, 1988; No. 124, 1989; No. 120, 1998; No. 137, 2001; No. 146, 2006; No. 82, 2007
Note to s. 33(1) .....	ad. No. 120, 1998
S. 34 .....	am. No. 124, 1989; No. 120, 1998; No. 137, 2001; No. 82, 2007
Notes to s. 34(1) .....	ad. No. 120, 1998
Note to s. 34(1) (first occurring) .....	rep. No. 82, 2007
S. 35 .....	am. No. 124, 1989; No. 120, 1998
Note to s. 35(2) .....	ad. No. 120, 1998
S. 36 .....	rs. No. 120, 1998 am. No. 82, 2007
S. 37 .....	am. No. 124, 1989; No. 120, 1998; No. 146, 2006; No. 82, 2007
S. 37A .....	ad. No. 124, 1989
S. 37B .....	ad. No. 39, 1995 am. No. 120, 1998; No. 146, 2006; No. 82, 2007
Note to s. 37B(2) .....	ad. No. 120, 1998
S. 38 .....	am. No. 39, 1995 rs. No. 120, 1998
S. 38A .....	ad. No. 120, 1998 am. No. 82, 2007
S. 38B .....	ad. No. 120, 1998
S. 38C .....	ad. No. 82, 2007
S. 39 .....	am. No. 39, 1995 rs. No. 120, 1998 am. No. 146, 2006; No. 82, 2007
Heading to s. 39A .....	am. No. 120, 1998
Subhead. to s. 39A(2) .....	am. No. 120, 1998
S. 39A .....	ad. No. 39, 1995 am. No. 120, 1998; No. 82, 2007
Note to s. 39A(4) .....	ad. No. 120, 1998
S. 39B .....	ad. No. 39, 1995 am. No. 120, 1998
Note to s. 39B(3) .....	ad. No. 120, 1998
Ss. 42A, 42B .....	ad. No. 120, 1998
<b>Division 4</b>	
Div. 4 of Part III .....	ad. No. 146, 2006
S. 42C .....	ad. No. 146, 2006 am. No. 82, 2007
S. 42D .....	ad. No. 82, 2007

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part IV</b>	
<b>Division 1</b>	
Heading to Div. 1 of Part IV .....	rs. No. 84, 1997
S. 43 .....	am. No. 163, 1989; No. 84, 1997
Heading to s. 44 .....	am. No. 84, 1997
S. 44 .....	am. No. 163, 1989; No. 84, 1997; No. 120, 1998; No. 46, 2011
Note to s. 44(3) .....	ad. No. 120, 1998
S. 45 .....	am. No. 163, 1989
S. 46 .....	am. No. 216, 1991; No. 179, 1999; No. 137, 2001; No. 88, 2011
S. 47 .....	am. No. 163, 1989; No. 120, 1998; No. 137, 2001; Nos. 46 and 88, 2011
Note to s. 47(1) .....	ad. No. 120, 1998
S. 49 .....	am. No. 163, 1989
S. 50 .....	am. No. 32, 1993; No. 170, 1995; No. 47, 1998; No. 101, 2006
Note to s. 50(2) .....	am. No. 47, 1998
<b>Division 2</b>	
S. 53 .....	am. No. 152, 1997; No. 8, 2005; No. 46, 2011
S. 54 .....	am. No. 146, 2006
<b>Division 3</b>	
S. 57 .....	am. No. 137, 2001
S. 58 .....	rs. No. 137, 2001
S. 59 .....	am. No. 84, 1997; No. 137, 2001; No. 88, 2011
Ss. 60, 61 .....	am. No. 137, 2001
S. 62 .....	am. No. 180, 2012
Note to s. 62(2) .....	ad. No. 180, 2012
S. 62A .....	ad. No. 180, 2012
<b>Division 5</b>	
Div. 5 of Part IV .....	ad. No. 82, 2007
S. 65AA .....	ad. No. 82, 2007
<b>Part IVA</b>	
Part IVA .....	ad. No. 120, 1998
S. 65A .....	ad. No. 120, 1998 am. No. 46, 2011
S. 65B .....	ad. No. 120, 1998
<b>Part V</b>	
S. 66 .....	rs. No. 120, 1998 am. No. 146, 2006; No. 82, 2007; No. 46, 2011
S. 67 .....	am. No. 151, 1992; No. 75, 2001; No. 82, 2007; No. 46, 2011
S. 67A .....	ad. No. 75, 2001
S. 68 .....	am. No. 146, 2006

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 69A.....	ad. No. 146, 2006 am. No. 82, 2007
S. 70 .....	am. No. 146, 2006; No. 82, 2007
S. 71 .....	am. No. 120, 1998; No. 82, 2007
S. 71AA.....	ad. No. 120, 1998 am. No. 146, 2006; No. 46, 2011
S. 71A .....	ad. No. 13, 1992 am. No. 120, 1998; No. 146, 2006; No. 82, 2007
Note to s. 71A .....	ad. No. 120, 1998
S. 71B.....	ad. No. 120, 1998 am. No. 82, 2007
Heading to s. 71C .....	am. No. 53, 2006
S. 71C.....	ad. No. 120, 1998 am. No. 75, 2001; Nos. 53 and 146, 2006; No. 82, 2007; No. 143, 2008
S. 71D.....	ad. No. 120, 1998 am. No. 120, 1998
S. 71E .....	ad. No. 146, 2006 am. No. 82, 2007
Heading to s. 72.....	am. No. 82, 2007
S. 72 .....	rs. No. 75, 2001 am. No. 82, 2007
S. 72A .....	ad. No. 13, 1992 am. No. 44, 1999; No. 137, 2001; No. 82, 2007
S. 72AA.....	ad. No. 120, 1998 am. No. 75, 2001; No. 63, 2008
S. 72AB.....	ad. No. 75, 2001 am. No. 146, 2006
S. 72AC .....	ad. No. 146, 2006 am. No. 63, 2008
S. 72AD .....	ad. No. 105, 2010
S. 72B .....	ad. No. 13, 1992 am. No. 179, 1999; No. 101, 2006
S. 72C .....	ad. No. 13, 1992
<b>Part VA</b>	
Part VA .....	ad. No. 75, 2001
<b>Division 1</b>	
Ss. 72D, 72E .....	ad. No. 75, 2001 am. No. 146, 2006; No. 143, 2008
<b>Division 2</b>	
S. 72F .....	ad. No. 75, 2001
<b>Division 3</b>	
S. 72G .....	ad. No. 75, 2001 am. No. 5, 2011
Ss. 72H–72J .....	ad. No. 75, 2001

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Division 4</b>	
Ss. 72K–72P .....	ad. No. 75, 2001
<b>Division 5</b>	
S. 72Q .....	ad. No. 75, 2001 am. No. 23, 2006
Ss. 72R–72T .....	ad. No. 75, 2001
<b>Division 6</b>	
Ss. 72U, 72V .....	ad. No. 75, 2001
S. 72W .....	ad. No. 75, 2001 am. No. 88, 2011
<b>Division 7</b>	
Ss. 72X, 72Y .....	ad. No. 75, 2001
<b>Part VI</b>	
<b>Division 1</b>	
Heading to Div. 1 of Part VI .....	am. No. 152, 1997 rs. No. 8, 2005
Div. 1 of Part VI .....	rs. No. 8, 2005
S. 73 .....	am. No. 152, 1997 rs. No. 8, 2005
Heading to s. 74 .....	am. No. 152, 1997 rs. No. 8, 2005
S. 74 .....	am. No. 152, 1997 rs. No. 8, 2005 am. No. 30, 2006
Heading to s. 75 .....	am. No. 152, 1997 rs. No. 8, 2005
S. 75 .....	am. No. 152, 1997 rs. No. 8, 2005 am. No. 30, 2006
<b>Division 2</b>	
S. 76 .....	am. No. 120, 1998; No. 146, 2006; No. 46, 2011
Ss. 77, 78 .....	am. No. 152, 1997; No. 8, 2005; No. 46, 2011
S. 79 .....	am. No. 151, 1992; No. 120, 1998
<b>Division 3</b>	
Heading to Div. 3 of Part VI .....	ad. No. 146, 2006
Heading to s. 79A .....	am. No. 82, 2007 rs. No. 82, 2007
S. 79A .....	ad. No. 120, 1998 rs. No. 146, 2006 am. No. 82, 2007
Note 1 to s. 79A(2) .....	am. No. 82, 2007
S. 79B .....	ad. No. 146, 2006 am. No. 146, 2006; No. 82, 2007
S. 79C .....	ad. No. 146, 2006



**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part VII</b>	
Part VII .....	rs. No. 146, 2006
<b>Division 1</b>	
Ss. 79D, 79E .....	ad. No. 146, 2006
<b>Division 2</b>	
Heading to s. 80 .....	am. No. 65, 2010
S. 80 .....	rs. No. 146, 2006 am. No. 146, 2006; No. 82, 2007; No. 65, 2010
Note to s. 80(4) .....	rs. No. 82, 2007 am. No. 82, 2007
Note to s. 80(5) .....	rs. No. 82, 2007
S. 80A .....	ad. No. 65, 2010
<b>Division 3</b>	
S. 81 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 65, 2010
Ss. 82, 83 .....	rs. No. 146, 2006 am. No. 82, 2007
<b>Division 4</b>	
Heading to Div. 4 of Part VII .....	rs. No. 82, 2007
S. 84 .....	rs. No. 146, 2006 am. No. 65, 2010
S. 84A .....	ad. No. 151, 1992 am. No. 75, 2001 rep. No. 146, 2006
Heading to s. 85 .....	am. No. 82, 2007
S. 85 .....	am. No. 146, 2006; No. 82, 2007; No. 65, 2010
S. 85A .....	ad. No. 65, 2010
Heading to s. 86 .....	am. No. 65, 2010
S. 86 .....	rs. No. 146, 2006 am. No. 82, 2007
S. 86A .....	ad. No. 65, 2010
<b>Division 5</b>	
S. 87 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 65, 2010
<b>Division 6</b>	
Div. 6 of Part VII .....	ad. No. 65, 2010
S. 87AA .....	ad. No. 65, 2010
<b>Part VIIA</b>	
Part VIIA .....	ad. No. 146, 2006
<b>Division 1</b>	
S. 87A .....	ad. No. 146, 2006
S. 88 .....	rs. No. 146, 2006 am. No. 154, 2012

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Division 2</b>	
<b>Subdivision A</b>	
S. 89 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 65, 2010
<b>Subdivision B</b>	
S. 90 .....	rep. No. 163, 1989 ad. No. 146, 2006 am. No. 82, 2007; No. 65, 2010
S. 91 .....	am. No. 163, 1989 rs. No. 146, 2006 am. No. 38, 2010
Heading to s. 92.....	am. No. 82, 2007
Ss. 92, 93 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010
<b>Subdivision C</b>	
S. 94 .....	rs. No. 146, 2006 am. Nos. 5 and 32, 2011; No. 154, 2012
S. 95 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010; No. 32, 2011; No. 154, 2012
S. 96 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010; No. 154, 2012
S. 97 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010; No. 154, 2012
S. 98 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010; No. 154, 2012
<b>Subdivision D</b>	
S. 99 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010
<b>Subdivision E</b>	
S. 99A .....	ad. No. 146, 2006
S. 100 .....	rs. No. 146, 2006 am. No. 82, 2007; No. 38, 2010; No. 154, 2012
S. 100A.....	ad. No. 82, 2007 am. No. 154, 2012
<b>Division 3</b>	
Subhead. to s. 101(2).....	am. No. 38, 2010
Subhead. to s. 101(5).....	am. No. 38, 2010
Ss. 101, 102 .....	rs. No. 146, 2006 am. No. 146, 2006; No. 38, 2010
<b>Division 3A</b>	
Heading to Div. 3A .....	rs. No. 154, 2012 of Part VIIA
Heading to s. 103.....	rs. No. 154, 2012
S. 103 .....	rs. No. 146, 2006 am. No. 38, 2010; No. 154, 2012
Note to s. 103(2) .....	am. No. 154, 2012

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Division 4</b>	
<b>Subdivision A</b>	
S. 103A .....	ad. No. 146, 2006 am. No. 38, 2010; No. 154, 2012
<b>Subdivision B</b>	
S. 103B .....	ad. No. 146, 2006
S. 103C .....	ad. No. 146, 2006 am. No. 38, 2010; No. 154, 2012
Note to s. 103C(1) .....	am. No. 38, 2010
Ss. 103D, 103E .....	ad. No. 146, 2006 am. No. 38, 2010
<b>Subdivision C</b>	
Subhead. to s. 103F(4) .....	rs. No. 154, 2012
S. 103F .....	ad. No. 146, 2006 am. No. 38, 2010; No. 154, 2012
<b>Subdivision D</b>	
S. 103G .....	ad. No. 146, 2006
S. 103H .....	ad. No. 146, 2006 am. No. 146, 2006
S. 103J .....	ad. No. 146, 2006 am. No. 38, 2010
S. 103K .....	ad. No. 146, 2006 am. No. 82, 2007; No. 38, 2010
S. 103L .....	ad. No. 146, 2006 am. No. 38, 2010
<b>Subdivision E</b>	
S. 103M .....	ad. No. 146, 2006 am. No. 38, 2010
S. 103N .....	ad. No. 146, 2006 am. No. 154, 2012
Note to s. 103N(2) .....	am. No. 38, 2010
S. 103P .....	ad. No. 146, 2006 am. No. 38, 2010
S. 103Q .....	ad. No. 146, 2006 am. No. 38, 2010 rep. No. 154, 2012
S. 103R .....	ad. No. 146, 2006 am. No. 154, 2012
<b>Division 5</b>	
<b>Subdivision A</b>	
S. 103S .....	ad. No. 146, 2006 am. No. 65, 2010
Ss. 103T, 103U .....	ad. No. 146, 2006
S. 103V .....	ad. No. 146, 2006 am. No. 65, 2010
Heading to s. 103VA .....	am. No. 65, 2010

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 103VA.....	ad. No. 146, 2006 am. No. 65, 2010
<b>Subdivision B</b>	
S. 103W .....	ad. No. 146, 2006 am. No. 154, 2012
<b>Subdivision C</b>	
S. 103X.....	ad. No. 146, 2006 am. No. 146, 2006; No. 82, 2007; No. 154, 2012
S. 103Y.....	ad. No. 146, 2006
<b>Subdivision D</b>	
S. 103Z .....	ad. No. 146, 2006
<b>Division 6</b>	
Subhead. to s. 103ZA(1) .....	am. No. 38, 2010
S. 103ZA .....	ad. No. 146, 2006 am. No. 38, 2010; No. 154, 2012
S. 103ZAA .....	ad. No. 154, 2012
S. 103ZAB .....	ad. No. 154, 2012
S. 103ZAC .....	ad. No. 154, 2012
<b>Part VIII</b>	
Heading to Part VIII .....	rs. No. 146, 2006
<b>Division 1</b>	
S. 103ZB .....	ad. No. 146, 2006 am. No. 82, 2007; No. 154, 2012
<b>Division 2</b>	
Heading to Div. 2 of Part VIII ...	ad. No. 146, 2006
S. 103ZC .....	ad. No. 146, 2006
Ss. 104–106 .....	am. No. 124, 1989; No. 194, 1999
Heading to s. 107.....	am. No. 194, 1999; No. 22, 2006
S. 107 .....	am. No. 124, 1989; No. 194, 1999; No. 143, 2000
Heading to s. 107A.....	am. No. 22, 2006
S. 107A .....	ad. No. 194, 1999 am. Nos. 22 and 23, 2006
S. 108 .....	am. No. 194, 1999; No. 22, 2006
S. 110 .....	am. No. 124, 1989; No. 194, 1999; No. 22, 2006
<b>Division 3</b>	
<b>Subdivision A</b>	
S. 110A .....	ad. No. 146, 2006 am. No. 154, 2012
<b>Subdivision B</b>	
S. 110B.....	ad. No. 146, 2006 rs. No. 154, 2012
S. 110C.....	ad. No. 146, 2006

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 110D .....	ad. No. 146, 2006 am. No. 154, 2012
Note to s. 110D .....	ad. No. 154, 2012
S. 110E .....	ad. No. 146, 2006 am. No. 82, 2007
S. 110F .....	ad. No. 146, 2006 am. No. 154, 2012
S. 110G.....	ad. No. 146, 2006 am. No. 154, 2012
<b>Subdivision C</b>	
S. 110H.....	ad. No. 146, 2006 am. No. 38, 2010; No. 154, 2012
Heading to s. 110J .....	rs. No. 82, 2007
S. 110J.....	ad. No. 146, 2006 am. No. 82, 2007
<b>Subdivision D</b>	
S. 110K.....	ad. No. 146, 2006 rs. No. 82, 2007 am. No. 38, 2010; No. 154, 2012
<b>Part VIIIA</b>	
Part VIIIA .....	ad. No. 146, 2006
<b>Division 1A</b>	
S. 110N .....	ad. No. 146, 2006 am. No. 65, 2010
<b>Division 1</b>	
<b>Subdivision A</b>	
Ss. 110P, 110Q .....	ad. No. 146, 2006
<b>Subdivision B</b>	
Ss. 110R–110T .....	ad. No. 146, 2006
Heading to s. 110U .....	am. No. 65, 2010
S. 110U.....	ad. No. 146, 2006 am. No. 65, 2010
<b>Division 2</b>	
S. 110V .....	ad. No. 146, 2006
<b>Division 3</b>	
S. 110W .....	ad. No. 146, 2006 am. No. 82, 2007
<b>Division 4</b>	
S. 110X.....	ad. No. 146, 2006 am. No. 82, 2007
<b>Division 5</b>	
Div. 5 of Part VIIIA.....	ad. No. 65, 2010
Ss. 110XA–110XF.....	ad. No. 65, 2010
<b>Division 6</b>	
Div. 6 of Part VIIIA.....	ad. No. 65, 2010

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Ss. 110Y, 110Z .....	ad. No. 65, 2010
<b>Part VIII B</b>	
Part VIII B .....	ad. No. 146, 2006
S. 111A .....	ad. No. 146, 2006 am. No. 82, 2007
S. 111B .....	ad. No. 146, 2006
S. 111C .....	ad. No. 146, 2006 am. No. 82, 2007
S. 111CA .....	ad. No. 82, 2007
Ss. 111D, 111E .....	ad. No. 146, 2006
S. 111F .....	ad. No. 146, 2006 rs. No. 82, 2007
S. 111G .....	ad. No. 146, 2006
S. 111H .....	ad. No. 82, 2007
<b>Part IX</b>	
Heading to s. 111 .....	am. No. 82, 2007
S. 111 .....	am. No. 39, 1995; No. 120, 1998; No. 137, 2001; No. 82, 2007
Note to s. 111(1) .....	ad. No. 120, 1998
S. 112 .....	am. No. 132, 1988; No. 115, 2008
Subhead. to s. 113(2) .....	ad. No. 146, 2006
S. 113 .....	am. No. 124, 1989; No. 138, 1990; No. 151, 1992; No. 75, 2001; No. 146, 2006
S. 113A .....	ad. No. 146, 2006 am. No. 82, 2007
S. 114 .....	rs. No. 151, 1992
S. 116 .....	am. No. 151, 1992; No. 75, 2001; No. 146, 2006
Ss. 117, 118 .....	am. No. 75, 2001
S. 120 .....	am. No. 137, 2001; No. 146, 2006; No. 82, 2007
S. 121 .....	am. No. 124, 1989; No. 137, 2001; No. 88, 2011
Ss. 121A–121C .....	ad. No. 82, 2007
S. 123 .....	rep. No. 75, 2001
S. 124A .....	ad. No. 49, 2000 am. No. 82, 2007

**Table A**

**Table A**

**Application, saving or transitional provisions**

*Taxation Laws Amendment Act (No. 3) 1995* (No. 170, 1995)

**Schedule 2**

**64 Application**

The amendments made by this Part do not apply to:

- (a) amounts that became payable under section 221F or 221P of the *Income Tax Assessment Act 1936* (the **Tax Act**) before this Part commenced; or
- (b) amounts payable under section 221G of the Tax Act in relation to tax deduction sheets that were required to be kept before the 28th day after the day on which this Part commences; or
- (c) amounts credited or applied against income tax under section 221K of the Tax Act as continued in force by subitem 53(1).

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*Child Support Legislation Amendment Act 1998* (No. 120, 1998)

**4 Application**

- (2) The amendments made by Schedules 6 and 19 do not apply to applications for administrative assessment made before the prescribed day.

**Schedule 4**

**8 Transitional**

- (1) If, before the commencement of this Schedule, the Registrar had received an election under section 38 of the *Child Support (Registration and Collection) Act 1988* but had not varied the particulars of the Child Support Register as required by section 38 of that Act as in force immediately before the commencement of this Schedule, the Registrar

---

**Table A**

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must deal with the election as if the amendments made by this Schedule had not been made.

- (2) If, before the commencement of this Schedule, the Registrar had received an application under section 39 of the *Child Support (Registration and Collection) Act 1988* as required by section 39 of that Act as in force immediately before the commencement of this Schedule, the Registrar must deal with the application as if the amendments made by this Schedule had not been made.
- (3) The reference in subsection 39(1) of the *Child Support (Registration and Collection) Act 1988* as in force immediately after the commencement of this Schedule to an election made under section 38A includes a reference to an election made under section 38 of that Act as in force immediately before the commencement of this Schedule.

**Schedule 19**

**20 Transitional**

If an application under section 25 of the *Child Support (Assessment) Act 1989 (the Act)* was made in relation to the 1998-99 child support year, but not determined before the commencement of this Schedule, the application is taken to have been made under the Act as in force after the commencement of this Schedule.

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*Child Support Legislation Amendment Act 2001* (No. 75, 2001)

**Schedule 5**

**74 Saving provision**

To avoid doubt, the validity of anything done by a Deputy Registrar before the commencement of this item is not affected by the amendments of the *Child Support (Assessment) Act 1989* and the *Child Support (Registration and Collection) Act 1988* made by this Schedule.

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**Table A**

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*Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001* (No. 137, 2001)

**4 Application of amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

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*Financial Framework Legislation Amendment Act 2005* (No. 8, 2005)

**4 Saving of matters in Part 2 of Schedule 1**

- (1) If:
  - (a) a decision or action is taken or another thing is made, given or done; and
  - (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;
 then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

- (2) In this section:

**Part 2 Act** means an Act that is amended by an item in Part 2 of Schedule 1.

**Schedule 1**

**496 Saving provision—Finance Minister's determinations**

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.

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**Table A**

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*Jurisdiction of Courts (Family Law) Act 2006* (No. 22, 2006)

**Schedule 1**

**27 Application**

- (1) The amendments made by items 3, 5, 8, 10 to 18 and 25 apply to proceedings instituted before or after the commencement of this Part in the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia.
- (2) The amendments made by items 1, 2, 4, 6, 7, 9, 19, 20 to 24 and 26 apply to proceedings instituted after the commencement of this Part in the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia.

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*Jurisdiction of the Federal Magistrates Court Legislation Amendment Act 2006*  
(No. 23, 2006)

**Schedule 4**

**2 Application of amendment of section 72Q**

The amendment of section 72Q of the *Child Support (Registration and Collection) Act 1988* made by this Schedule applies in relation to departure prohibition orders made before, on or after the commencement of this Schedule.

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*Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Act 2006* (No. 53, 2006)

**4 Extension of amended Child Support Acts to Western Australia in relation to exnuptial children**

- (1) The Parliament of the Commonwealth intends that a Child Support Act, so far as it is amended by this Act and any other later Act in relation to the maintenance of exnuptial children, not extend to Western Australia, unless and until one of the following events occurs:

**Table A**

- (a) the Parliament of Western Australia refers to the Parliament of the Commonwealth the matter of the maintenance of exnuptial children or matters that include that matter;
  - (b) Western Australia adopts the Child Support Act, as so amended.
- (2) The Parliament of the Commonwealth also intends that, unless and until one of those events occurs, the Child Support Act continue to extend to Western Australia in relation to the maintenance of exnuptial children as if those amendments had not been made.

Note: If a Child Support Act is amended by this Act and any other later Act in relation to the maintenance of exnuptial children, unless and until one of the events mentioned in subsection (1) occurs, there are effectively 2 versions of the Child Support Act that apply in Australia. The Child Support Act, as amended, applies:

- (a) in all States and Territories in relation to children of marriages; and
- (b) in all States and Territories, except Western Australia, in relation to exnuptial children.

The Child Support Act continues to apply in Western Australia in relation to exnuptial children as if those amendments had not been made.

- (3) In this section:

***Child Support Act*** means:

- (a) the *Child Support (Registration and Collection) Act 1988*; or
- (b) the *Child Support (Assessment) Act 1989*.

**Schedule 4****2 Application**

The amendment made by this Schedule applies in respect of any uncredited amount (whether arising before, on or after the day on which this Schedule commences) that is credited on or after that day.

**Schedule 5****18 Definition of *Child Support Act***

In this Part:

***Child Support Act*** means:

- (a) the *Child Support (Registration and Collection) Act 1988*; or
- (b) the *Child Support (Assessment) Act 1989*.

**Table A**

**19 Extension of amended Child Support Acts to Western Australia in relation to exnuptial children**

- (1) The Parliament of the Commonwealth intends, and is taken always to have intended, that a Child Support Act, so far as it was amended, before the commencement of this item, by one or more of the Acts mentioned in subitem (3) in relation to the maintenance of exnuptial children, not extend to Western Australia, unless and until Western Australia adopted or adopts the Child Support Act, as so amended.
- (2) The Parliament of the Commonwealth intends, and is taken always to have intended, that:
  - (a) unless and until that occurred, the Child Support Act continued to extend to Western Australia; or
  - (b) unless and until that occurs, the Child Support Act continues to extend to Western Australia;

in relation to the maintenance of exnuptial children as if those amendments had not been made.

Note: If a Child Support Act is amended in relation to the maintenance of exnuptial children, unless and until Western Australia adopts the Child Support Act, as amended, there are effectively 2 versions of the Child Support Act that apply in Australia. The Child Support Act, as amended, applies:

- (a) in all States and Territories in relation to children of marriages; and
- (b) in all States and Territories, except Western Australia, in relation to exnuptial children.

The Child Support Act continues to apply in Western Australia in relation to exnuptial children as if those amendments had not been made.

- (3) The following Acts amended one or both Child Support Acts:
  - (a) the *Child Support Amendment Act 1988*;
  - (b) the *Social Security and Veterans' Affairs Legislation Amendment Act (No. 3) 1989*;
  - (c) the *Child Support Legislation Amendment Act 1990*;
  - (d) the *Taxation Laws Amendment Act (No. 3) 1991*;
  - (e) the *Child Support Legislation Amendment Act 1992*;
  - (f) the *Child Support Legislation Amendment Act (No. 2) 1992*;
  - (g) the *Corporate Law Reform Act 1992*;
  - (h) the *Insolvency (Tax Priorities) Legislation Amendment Act 1993*;
  - (i) the *Child Support Legislation Amendment Act 1995*;

**Table A**

- 
- (j) the *Social Security Legislation Amendment (Family Measures) Act 1995*;
  - (k) the *Family Law Reform (Consequential Amendments) Act 1995*;
  - (l) the *Taxation Laws Amendment Act (No. 3) 1995*;
  - (m) the *Statute Law Revision Act 1996*;
  - (n) the *Commonwealth Services Delivery Agency (Consequential Amendments) Act 1997*;
  - (o) the *Income Tax (Consequential Amendments) Act 1997*;
  - (p) the *Child Support Legislation Amendment Act (No. 1) 1997*;
  - (q) the *Audit (Transitional and Miscellaneous) Amendment Act 1997*;
  - (r) the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997*;
  - (s) the *Taxation Laws Amendment Act (No. 3) 1998*;
  - (t) the *Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998*;
  - (u) the *Child Support Legislation Amendment Act 1998*;
  - (v) the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*;
  - (w) the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*;
  - (x) the *Public Employment (Consequential and Transitional) Amendment Act 1999*;
  - (y) the *A New Tax System (Tax Administration) Act 1999*;
  - (z) the *Federal Magistrates (Consequential Amendments) Act 1999*;
  - (za) the *A New Tax System (Family Assistance and Related Measures) Act 2000*;
  - (zb) the *Child Support Legislation Amendment Act 2000*;
  - (zc) the *New Business Tax System (Alienation of Personal Services Income) Act 2000*;
  - (zd) the *Family Law Amendment Act 2000*;
  - (ze) the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*;
  - (zf) the *Child Support Legislation Amendment Act 2001*;
  - (zg) the *Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001*;
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**Table A**

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- (zh) the *Financial Framework Legislation Amendment Act 2005*;
- (zi) the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005*;
- (zj) the *Jurisdiction of Courts (Family Law) Act 2006*;
- (zk) the *Jurisdiction of the Federal Magistrates Court Legislation Amendment Act 2006*;
- (zl) the *Financial Framework Legislation Amendment Act (No. 1) 2006*;
- (zm) the *Family Law Amendment (Shared Parental Responsibility) Act 2006*.

**20 Payments and amounts referred to in section 75 of the  
*Child Support (Registration and Collection) Act 1988***

(1) If:

- (a) a payment purported to be a payment or repayment of an amount referred to in section 75 of the *Child Support (Registration and Collection) Act 1988* in relation to the maintenance of an exnuptial child because of the extension of that Act to Western Australia; and
- (b) the payment was made:
  - (i) after a Child Support Act was amended by one or more other Acts in relation to the maintenance of exnuptial children; and
  - (ii) before the earlier of the day on which Western Australia adopted the Child Support Act, as so amended, or the day on which this item commences;

then the payment may, to the extent that it has not already been repaid to the Commonwealth before this item commences, be recovered by the Commonwealth from the person as a debt due to the Commonwealth.

- (2) A person to whom a payment referred to in subitem (1) was made is entitled, on the commencement of this item, to be paid, by the Commonwealth, an amount equal to the amount of the debt due to it by the person under subitem (1).
- (4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (1) against an amount that is payable to that person under subitem (2).

**Table A**

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- (5) Despite subitems (1) and (2), in applying section 79 of the *Child Support (Registration and Collection) Act 1988* after the commencement of this item, any payment referred to in subitem (1) is to be counted as though it had been validly made under section 76 of that Act.
- Note: A person will therefore be liable to repay to the Commonwealth the amount of any overpayment of that purported payment to the person.
- (6) This item does not, by implication, affect the recovery or set-off of other overpayments purporting to be made under the *Child Support (Registration and Collection) Act 1988*.
- (7) To avoid doubt, this item applies to a payment that, because of section 71AA of the *Child Support (Registration and Collection) Act 1988*, is taken to have been paid under section 76 of that Act.

## **21 Validation of past rights and liabilities**

- (1) This item applies if, and during the period when, the rights and liabilities of a person under a Child Support Act were different from the rights and liabilities that the person would have had under that Act because:
- (a) the Child Support Act was amended, before the commencement of this item, by one or more of the Acts mentioned in subitem 19(3) in relation to the maintenance of exnuptial children; and
  - (b) Western Australia did not adopt the Child Support Act, as so amended.
- (2) During that period, the rights and liabilities of the person are, by force of this item, declared to be, and always to have been, the same as if:
- (a) the Child Support Act, as so amended, did not extend to Western Australia; and
  - (b) the Child Support Act continued to extend to Western Australia in relation to the maintenance of exnuptial children as if those amendments had not been made.
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**Table A**

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*Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*  
(No. 101, 2006)

**Schedule 6**

**1 Application of Schedule 1 and 2 amendments**

Except as mentioned in items 2 and 3, the repeals and amendments made by Schedules 1 and 2 apply:

- (a) so far as they affect assessments—to assessments for the 2006-07 income year and all later income years; and
- (b) otherwise—to acts done or omitted to be done, or states of affairs existing, after the commencement of the repeals and amendments.

**6 Object**

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or
- (c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

**7 Making and amending assessments, and doing other things, in relation to past matters**

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

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**Table A**

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year. Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd's liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd's right, under former section 160ART of that Act, to object against the Commissioner's amended assessment (including the penalty), since the objection is the exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees' wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company's records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.

## **8 Saving of provisions about effect of assessments**

If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal

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**Table A**

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or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

**9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty**

If:

- (a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
  - (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the *Income Tax Assessment Act 1936*); or
  - (ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
- (b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

**10 Repeals disregarded for the purposes of dependent provisions**

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

**11 Schedule does not limit operation of section 8 of the *Acts Interpretation Act 1901***

This Schedule does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

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**Table A**

*Child Support Legislation Amendment (Reform of the Child Support Scheme—  
New Formula and Other Measures) Act 2006*  
(No. 146, 2006)

**Schedule 2**

**115 Application**

- (1) The amendments made by Schedule 1 to this Act, and this Schedule (other than items 1 and 2 and 92 to 96 of this Schedule), apply in relation to a day in a child support period, being a day that is, or is after, the day on which this item commences.
- (2) The amounts referred to in subsections 65A(2) and 66(5) of the Assessment Act (as inserted by Schedule 1 to this Act) are to be indexed in accordance with section 153A of that Act on and after 1 January 2007 as if item 1 of Schedule 1 had commenced on that day.

**Schedule 3**

**77 Application—review of decisions**

*Decisions of the Registrar—internal review pending or not yet started at commencement*

- (1) Subject to subitem (3), Part VII (internal review) of the Registration and Collection Act (as amended by this Schedule) applies in relation to a decision made by the Registrar under that Act or the Assessment Act before or after the commencement of this item.

Note: Part VII of the Registration and Collection Act (as amended by this Schedule) also applies if a proceeding for internal review was pending under that Part or Part 6B of the Assessment Act immediately before the commencement of this item (see subitem (4)).

- (2) Part VIIA (SSAT review) of the Registration and Collection Act (as inserted by this Schedule) applies in relation to a decision made by the Registrar under subsection 83(1) or 87(1) of the Registration and Collection Act after the commencement of this item.

*Decisions of the Registrar—internal review completed before commencement*

- (3) If, before the commencement of this item:
  - (a) a person objected under:

**Table A**

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- (i) Part 6B of the Assessment Act; or
  - (ii) Part VII of the Registration and Collection Act;
- to a decision (however described) of the Registrar (the ***original decision***); and
- (b) the Registrar made a decision (the ***objection decision***) on the objection under:
    - (i) subsection 98ZC(1) of the Assessment Act; or
    - (ii) subsection 87(1) or 98(1) of the Registration and Collection Act;

those Acts, as in force immediately before that commencement, continue to apply in relation to the original decision and the objection decision.

*Pending proceedings—internal reviews*

- (4) A proceeding before the Registrar that, immediately before the commencement of this item, was pending under:
  - (a) Part 6B of the Assessment Act; or
  - (b) Part VII of the Registration and Collection Act;
 is taken, at that commencement, to be pending under Part VII of the Registration and Collection Act as amended by this Schedule.
- (5) The Assessment Act and the Registration and Collection Act, as in force immediately before the commencement of this item, continue to apply in relation to a decision made by the Registrar before that commencement under:
  - (a) subsection 98ZE(1) of the Assessment Act; or
  - (b) subsection 91(1) or 101(1) of the Registration and Collection Act.

*Pending proceedings—court and AAT reviews*

- (6) The amendments of the Assessment Act and the Registration and Collection Act made by this Schedule do not affect:
  - (a) any proceeding pending before a court under:
    - (i) Part 7 of the Assessment Act; or
    - (ii) section 88 of the Registration and Collection Act;
 immediately before the commencement of this item; or
  - (b) any proceeding pending before the Administrative Appeals Tribunal under:

**Table A**

- (i) subsection 98ZE(7) or 98ZF(1) of the Assessment Act;  
or
- (ii) subsection 91(5), 99(1) or 101(5) of the Registration  
and Collection Act;  
immediately before the commencement of this item; or
- (c) any order or declaration:
  - (i) made by a court or the Administrative Appeals Tribunal  
under those Acts; and
  - (ii) in force immediately before the commencement of this  
item; or
- (d) any appeal to a court in relation to a proceeding referred to in  
paragraph (a) or (b).

## **78 Application and saving—notices**

- (2) The amendments of the Registration and Collection Act made by  
items 59, 60, 64 and 65 of this Schedule apply in relation to decisions of  
the Registrar made under that Act after the commencement of this item.
- (3) The amendments of the Assessment Act and the Registration and  
Collection Act made by this Schedule do not affect the validity of a  
notice given by the Registrar under any provision of those Acts before  
the commencement of this item.

## **79 Application—section 110X of the Registration and Collection Act**

Section 110X of the Registration and Collection Act (as inserted by this  
Schedule) applies in relation to proceedings commenced under  
Part VIIA, or Division 3 of Part VIII, of that Act after the  
commencement of this item.

## **80 Application of amendments in relation to Western Australian exnuptial children**

If, immediately after the commencement of this item, the Assessment  
Act and the Registration and Collection Act do not extend to Western  
Australia in relation to the maintenance of exnuptial children because:

- (a) the Parliament of Western Australia has not referred to the  
Parliament of the Commonwealth the matter of the  
maintenance of exnuptial children or matters that include that  
matter; and

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**Table A**

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- (b) Western Australia has not adopted those Acts as amended by this Act;

items 77 to 79 of this Schedule apply in Western Australia, after Western Australia adopts those Acts as amended by this Act, in relation to the maintenance of exnuptial children as if references in those items to the commencement of those items were references to the adoption of those Acts by Western Australia as amended by this Act.

**Schedule 4****44 Application**

The amendments made by items 24 to 26 and 31 to 35 of this Schedule apply in respect of a court order made under section 143 of the Assessment Act in response to a declaration made under section 107 of that Act, whether the order under section 143 was made before or after the commencement of this Schedule.

**45 Application**

The amendments made by items 27 and 37 to 41 of this Schedule apply to debts due to the Commonwealth under that Act that are outstanding on and after the commencement of this Schedule, whether the debt arose before or after the commencement of this Schedule.

**46 Application of amendments in relation to Western Australian exnuptial children**

If, immediately after the commencement of this Schedule, the Assessment Act and the Registration and Collection Act do not extend to Western Australia in relation to the maintenance of exnuptial children because:

- (a) the Parliament of Western Australia has not referred to the Parliament of the Commonwealth the matter of the maintenance of exnuptial children or matters that include that matter; and
- (b) Western Australia has not adopted those Acts as amended by this Act;

items 42 to 45 of this Schedule apply in Western Australia, after Western Australia adopts those Acts as amended by this Act, in relation to the maintenance of exnuptial children as if references in those items to the commencement of this Schedule were references to the adoption of those Acts by Western Australia as amended by this Act.

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**Schedule 5****73 Application of amendments in relation to child support agreements**

- (1) The amendments made by this Schedule (other than item 58) apply (subject to subitems (2) and (3)) in respect of a child support agreement if:
- (a) the application for acceptance of the agreement is made after Division 3 of Part 1 of this Schedule commences; and
  - (b) the agreement period for the agreement ends on or after 1 July 2008.

Note: For the definition of *agreement period*, see subitem (6).

*Child support agreements that span 1 July 2008*

- (2) If the agreement period for a child support agreement covered by subitem (1) begins before 1 July 2008, then:
- (a) the agreement is taken to be 2 separate agreements; and
  - (b) the first agreement is taken to have effect for the period that:
    - (i) begins at the beginning of the agreement period; and
    - (ii) ends on 30 June 2008 (including that day); and
  - (c) the second agreement is taken to have effect for the period that:
    - (i) begins on 1 July 2008 (including that day); and
    - (ii) ends at the end of the agreement period.
- (3) If a child support agreement is taken to be 2 separate agreements under subitem (2), then the Assessment Act, the Registration and Collection Act, the *A New Tax System (Family Assistance) (Administration) Act 1999* and the *Social Security Act 1991*, as in force immediately before 1 July 2008, continue to apply, after that time, in respect of the first agreement mentioned in paragraph (2)(b).

Note: Those Acts as in force on and after 1 July 2008 apply, under subitem (1), in respect of the second agreement mentioned in paragraph (2)(c).

- (4) The Registrar or a court may make different decisions, or take different actions, in relation to the 2 separate agreements mentioned in subitem (2).

Example: The Registrar might refuse to accept the first agreement, while accepting the second agreement.

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**Table A**

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*Effect of old law continues in certain cases*

- (5) To avoid doubt, if:
- (a) an application is made for acceptance of a child support agreement before Division 3 of Part 1 of this Schedule commences; and
  - (b) immediately before that Division commences, the agreement has been neither accepted nor refused by the Registrar;
- then the Assessment Act, the Registration and Collection Act, the *A New Tax System (Family Assistance) (Administration) Act 1999* and the *Social Security Act 1991*, as in force immediately before 1 July 2008, continue to apply, after that time, in respect of the child support agreement.

*Definition of **agreement period***

- (6) In this item:
- agreement period**, for a child support agreement covered by subitem (1), means the period for which the child support agreement has effect.

**73A Application of amendments in relation to court orders**

- (1) The amendments made by this Schedule (other than item 58) apply (subject to subitem (2)) in respect of an application made to a court for an order if:
- (a) the application is made after Division 3 of Part 1 of this Schedule commences; and
  - (b) the application relates to a period that ends on or after 1 July 2008.

*Applications that span 1 July 2008*

- (2) If the application relates to a period that begins on a day (the **first day**) before 1 July 2008, then:
- (a) the Assessment Act and the Registration and Collection Act, as in force immediately before 1 July 2008, apply in relation to the period mentioned in paragraph (b), in relation to the following:
    - (i) making an order in response to the application;
    - (ii) any appeal to another court in relation to an order made in response to the application;



**Table A**

- (iii) any decision or action taken by the Registrar in relation to an order made in response to the application; and
- (b) for the purposes of paragraph (a), the period is the period that:
  - (i) begins on the first day (including that day); and
  - (ii) ends on 30 June 2008 (including that day).

Note: Those Acts as in force on and after 1 July 2008 apply, under subitem (1), in respect of the period that begins on 1 July 2008.

- (3) A court may, in response to an application, make different orders for:
  - (a) the period that ends on 30 June 2008; and
  - (b) the period that begins on 1 July 2008.
- (4) The Registrar may make different decisions, and take different actions, in relation to different orders made in response to an application.

*Effect of old law continues in certain cases*

- (5) To avoid doubt, if:
  - (a) an application is made to a court before Division 3 of Part 1 of this Schedule commences; and
  - (b) immediately before that Division commences, the application has not been finally dealt with by the court;
 then the Assessment Act and the Registration and Collection Act, as in force immediately before 1 July 2008, continue to apply after that time in relation to the following:
  - (c) making an order in response to the application;
  - (d) any appeal to another court in relation to an order made in response to the application;
  - (e) any decision or action taken by the Registrar in relation to an order made in response to the application.

## **74 Registrar to review all agreements**

- (1) Before 1 July 2008, the Registrar must:
  - (a) review every child support agreement made before that day that will be in force:
    - (i) immediately before that day; or
    - (ii) after that day; and
  - (b) determine in writing whether each such agreement is:
    - (i) to be taken to be a binding child support agreement; or

**Table A**

- (ii) to be terminated.
  - (2) If, in accordance with subitem 73(5), the Registrar accepts a child support agreement on or after 1 July 2008 under the Assessment Act as in force immediately before that day, the Registrar must:
    - (a) review the agreement; and
    - (b) determine in writing whether the agreement is:
      - (i) to be taken to be a binding child support agreement; or
      - (ii) to be terminated.
  - (3) After the Registrar makes a determination under subitem (1) or (2), the Registrar must serve notice in writing of the determination on each of the parties to the agreement.
  - (4) The notice must include, or be accompanied by, a statement to the effect:
    - (a) that the party may, subject to the Registration and Collection Act, object to the decision (the ***original decision***); and
    - (b) that if the party is aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection), the party may apply, subject to that Act, to the SSAT for review of the later decision.
  - (5) A contravention of subitem (4) in relation to a decision does not affect the validity of the decision.
  - (6) The Registration and Collection Act (as amended by Schedule 3 of this Act) applies as if the table in subsection 80(1) of that Act (as inserted by Schedule 3 of this Act) included the following table item:
- |    |   |                          |
|----|---|--------------------------|
| 16 | a determination under item 74 of<br>Schedule 5 to the <i>Child Support<br/>         Legislation Amendment (Reform of<br/>         the Child Support Scheme—New<br/>         Formula and Other Measures) Act<br/>         2006</i> that an agreement is to be a<br>binding child support agreement or<br>is to be terminated | a party to the agreement |
|----|---|--------------------------|

**Table A****75 Effect of determinations***Effect of determinations*

- (1) If the Registrar makes a determination under subparagraph 74(1)(b)(i) or (2)(b)(i), then, for the purposes of the Assessment Act and the Registration and Collection Act, at the time specified in subitem (4) (if the agreement has not been previously terminated):
  - (a) the agreement is taken to be a binding child support agreement; and
  - (b) the amendments made by this Schedule do not affect the continuity of any assessment, in force at that time, of the annual rate of child support that is payable under the agreement.
- (2) If the Registrar makes a determination under subparagraph 74(1)(b)(ii) or (2)(b)(ii), then, for the purposes of the Assessment Act and the Registration and Collection Act, for any day in a child support period that is on or after the time specified in subitem (4) (if the agreement has not been previously terminated), the agreement is terminated by force of this item.
- (3) Subitems (1) and (2) do not affect the operation of provisions in an agreement that do not have effect for the purposes of the Assessment Act or the Registration and Collection Act.

*When determinations take effect*

- (4) For the purposes of subitems (1) and (2), the following time is specified:
  - (a) if the determination is made under subparagraph 74(1)(b)(i)—the time that item 5 of this Schedule commences;
  - (b) otherwise—the latest of the following times:
    - (i) if the decision of the Registrar to make the determination becomes final—at the time when that decision becomes final;
    - (ii) if a decision of the SSAT relating to the Registrar's determination becomes final—at the time when that decision becomes final (within the meaning of subsection 110W(1) of the Registration and Collection Act);

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**Table A**

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- (iii) if neither subparagraph (i) nor (ii) applies—at the time when a decision of a court relating to the Registrar’s determination becomes final (within the meaning of subsection 110W(2) or (3) of that Act);
  - (iv) at the time when the agreement takes effect.
- (5) For the purposes of subparagraph (4)(b)(i), a decision of the Registrar becomes final at the end of the period within which an application could have been made to the SSAT under section 80 of the Registration and Collection Act (as it applies because of subitem 74(6) of this Schedule).

**76 Delegation**

- (1) The Registrar may, by writing, delegate all or any of his or her powers and functions under item 74 of this Schedule to an SES employee, or acting SES employee, of the Department.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Registrar.

**77 Application**

The amendment made by item 58 of this Schedule applies in relation to lump sum payments that are paid by a payer:

- (a) in accordance with lump sum payment provisions in an agreement under paragraph 84(1)(e) of the Assessment Act or a court order made under section 123A of that Act (as amended or inserted by this Schedule); and
- (b) after the commencement of Division 2 of Part 1 of this Schedule.

**Schedule 7****13 Application**

The amendment made by item 3 of this Schedule applies in relation to applications made under section 39 of the Registration and Collection Act after the commencement of this Schedule.

**14 Application**

The amendment made by item 6 of this Schedule applies in relation to amounts that are received, after the commencement of this Schedule, by a third party (as mentioned in subsection 71A(2) of the Registration and Collection Act as inserted by this Schedule).

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**Table A**

## **15 Application**

- (1) The amendment made by item 7 of this Schedule applies in relation to payments, made after the commencement of this Schedule, of the kind referred to in subsection 71C(1) of the Registration and Collection Act (as inserted by this Schedule).
- (2) To avoid doubt, the amendment does not apply to payments made before the commencement of this Schedule which have not, at the time of commencement, been credited under section 71C of that Act.

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*Superannuation Legislation Amendment (Simplification) Act 2007*  
(No. 15, 2007)

## **Schedule 3**

### **66 Application**

- (1) The amendments made to the following Acts by this Schedule apply to the 2007-2008 income year and later years:
  - (a) the *Child Support (Registration and Collection) Act 1988*; and
  - (b) the *Income Tax Assessment Act 1997*; and
  - (c) the *Income Tax (Transitional Provisions) Act 1997*; and
  - (d) the *Taxation Administration Act 1953*.

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*Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007*  
(No. 82, 2007)

## **4 Application, saving and transitional provisions**

- (1) If:
  - (a) on 1 July 2008, a provision of an Act is amended by an item in a Schedule to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006* (the **New Formula Act**); and
  - (b) after that time, the provision is amended by an item in a Schedule to this Act; and

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**Table A**

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- (c) the New Formula Act contains an application provision, a saving provision or a transitional provision in relation to the amendment made by the New Formula Act;  
(so far as the context permits), the application provision, saving provision or transitional provision in the New Formula Act applies in respect of the amendment made by this Act in the same way as that provision applied in respect of the amendment made by the New Formula Act.
- (2) In subsection (1), a reference to an item amending a provision of an Act includes a reference to an item that inserts a provision into an Act or repeals a provision from an Act.

**Schedule 1**

**80 Application of item 20**

The amendment made by item 20 of this Schedule applies in respect of requirements made after this item commences.

**81 Application of item 24**

The amendment made by item 24 of this Schedule applies in respect of liabilities that are registered after this item commences.

**82 Application of items 25 to 27**

The amendments made by items 25 to 27 of this Schedule apply in respect of:

- (a) registrable maintenance liabilities that are registered after this item commences; and
- (b) registered maintenance liabilities whose particulars are varied after this item commences.

**83 Application of item 29**

The amendment made by item 29 of this Schedule applies in respect of payments made to the Registrar after this item commences.

**84 Application of item 32**

The amendment made by item 32 of this Schedule applies in respect of any suspension determination (whether the determination is made before or after this item commences).

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**Table A**

**85 Application of items 34 to 39**

The amendments made by items 34 to 39 of this Schedule apply in respect of objections lodged with the Registrar under section 80 of the Registration and Collection Act after this item commences.

**86 Application of items 40 to 54**

The amendments made by items 40 to 54 of this Schedule apply in respect of applications made under section 89 of the Registration and Collection Act after this item commences.

**87 Application of items 55 to 57**

The amendments made by items 55 to 57 of this Schedule apply in respect of any applications made under section 89 (whether the application is made before or after this item commences).

**88 Application of item 64**

The amendment made by item 64 of this Schedule applies in respect of any appeal instituted in a court, and any question of law referred to a court, under Division 3 of Part VIII of the Registration and Collection Act (whether the appeal is instituted or the question referred before or after this item commences).

**89 Application of item 71**

The amendment made by item 71 of this Schedule applies in respect of any proceedings instituted under Part 6A or 7 of the Assessment Act (whether the proceedings are instituted before or after this item commences).

**90 Application of item 74**

The amendment made by item 74 of this Schedule applies in respect of any orders made after this item commences (whether the proceedings are instituted under section 113A before or after this item commences).

**91 Application of item 75**

The amendment made by item 75 of this Schedule applies in respect of terminating events that happen after this item commences (whether the relevant court order is made before or after this item commences).

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**Table A**

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**Schedule 4**

**46 Application**

The amendment made by item 45 of this Schedule applies to any person who changes his or her name or address after the commencement of that item.

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*Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008*  
(No. 63, 2008)

**4 Review of operation of amendments**

- (1) The Minister must cause an independent review of the operation of the amendments made by this Act to be undertaken and completed by 30 June 2010.
- (2) The persons who undertake the review under subsection (1) must give the Minister a written report of the review.
- (3) The Minister must cause a copy of the report of the review under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of the day on which the report is given to the Minister.
- (4) The review must be conducted by a panel of not less than 5 persons, of which at least:
  - (a) 3 persons must be nominated by relevant key stakeholder organisations; and
  - (b) 2 persons must be nominated by the Minister.

**Schedule 6**

**20 Transitional**

- (1) The amendment made by item 18 does not affect the validity of a notice given under subsection 72AA(2) of the *Child Support (Registration and Collection) Act 1988* before the commencement of this item.
- (2) Regulations made before the commencement of this item for the purposes of paragraph 72AA(2)(d) of the *Child Support (Registration*



**Table A**

*and Collection) Act 1988* and expressed to commence on 1 July 2008 have effect, after the commencement of this item, as if they had been made for the purposes of subparagraph 72AA(2)(d)(i) of that Act.

- (3) Regulations made before the commencement of this item for the purposes of paragraph 72AC(2)(d) of the *Child Support (Registration and Collection) Act 1988* and expressed to commence on 1 July 2008 have effect, after the commencement of this item, as if they had been made for the purposes of subparagraph 72AC(2)(d)(i) of that Act.

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*Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Act 2008* (No. 143, 2008)

### **Schedule 3**

#### **13 Application**

The amendment made by item 12 applies in relation to decisions of the SSAT made before, on or after the commencement of that item.

#### **54 Application**

The amendments made by items 51 to 53 apply in relation to registrable overseas maintenance liabilities arising before, on or after the commencement of those items.

#### **57 Application**

- (1) The amendment made by item 55 applies in relation to payments made on or after the commencement of that item.
- (2) The amendment made by item 56 applies in relation to payments mentioned in paragraph 71C(1)(a) of the *Child Support (Registration and Collection) Act 1988* made on or after the commencement of that item (regardless of whether the lump sum payment is made before, on or after that commencement).
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**Table A**

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*Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010* (No. 38, 2010)

**Schedule 3**

**157 Definitions**

In this Part:

***commencement day*** means the day this item commences.

***Director*** means a Director of the SSAT.

***Executive Director*** means the Executive Director of the SSAT.

***Principal Member*** means the Principal Member of the SSAT.

***Senior Member*** means a Senior Member of the SSAT.

***SSAT*** means the Social Security Appeals Tribunal.

**158 Existing members of the SSAT**

***Executive Director***

- (1) The person holding office as the Executive Director under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* immediately before the commencement day is taken, at the start of the commencement day, to have been duly appointed as the Principal Member by the Governor-General under that clause:
- (a) for the balance of the person's term of appointment that remained immediately before the commencement day; and
  - (b) on the same terms and conditions as applied to the person immediately before the commencement day.
- (2) This item does not prevent those terms and conditions being varied on or after the commencement day.

***Directors***

- (3) A person holding office as a Director under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* immediately before the commencement day is taken, at the start of the commencement day, to have been duly appointed as a Senior Member by the Governor-General under that clause:
- (a) for the balance of the person's term of appointment that remained immediately before the commencement day; and
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**Table A**

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- (b) on the same terms and conditions as applied to the person immediately before the commencement day.
- (4) This item does not prevent those terms and conditions being varied on or after the commencement day.
- Assistant Directors*
- (5) If:
- (a) before the commencement day, a person was appointed under clause 3 of Schedule 3 to the *Social Security (Administration) Act 1999* as a member of the SSAT referred to in paragraph 1(c) of that Schedule; and
  - (b) the person was described in the instrument of appointment as an Assistant Director of the SSAT; and
  - (c) the appointment was in force immediately before the commencement day;
- the person is taken, at the start of the commencement day, to have been duly appointed as an Assistant Senior Member by the Governor-General under that clause:
- (d) for the balance of the person's term of appointment that remained immediately before the commencement day; and
  - (e) on the same terms and conditions as applied to the person immediately before the commencement day.
- (6) This item does not prevent those terms and conditions being varied on or after the commencement day.

## **159 Operation of laws**

### *Things done by Executive Director taken to be done by Principal Member*

- (1) If, before the commencement day, a thing was done by, or in relation to, the Executive Director, then, for the purposes of the operation of any law of the Commonwealth on and after the commencement day, the thing is taken to have been done by, or in relation to, the Principal Member.

### *Things done by Director taken to be done by Senior Member*

- (2) If, before the commencement day, a thing was done by, or in relation to, a person in the capacity as a Director, then, for the purposes of the
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**Table A**

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operation of any law of the Commonwealth on and after the commencement day, the thing is taken to have been done by, or in relation to, the person in the capacity as a Senior Member.

*Minister may provide otherwise*

- (3) The Minister may, by writing, determine that subitem (1) or (2) does not apply in relation to a specified thing.

*Meaning of **doing***

- (4) To avoid doubt, for the purposes of this item, **doing** a thing includes making an instrument.

*Determinations are not legislative instruments*

- (5) A determination made under subitem (3) is not a legislative instrument.

**160 References in instruments**

*References to Executive Director taken to be references to Principal Member*

- (1) If:
- (a) an instrument is in force immediately before the commencement day; and
  - (b) the instrument contains a reference to the Executive Director;
- the instrument has effect from the commencement day as if the reference were a reference to the Principal Member.

*References to a Director taken to be references to Senior Member*

- (2) If:
- (a) an instrument is in force immediately before the commencement day; and
  - (b) the instrument contains a reference to a Director;
- the instrument has effect from the commencement day as if the reference were a reference to a Senior Member.

**Table A**

*Minister may provide otherwise*

- (3) The Minister may, by writing, determine that subitem (1) or (2) does not apply in relation to a specified reference.

*Determinations are not legislative instruments*

- (4) A determination under subitem (3) is not a legislative instrument.

### **161 Substitution of Principal Member or Senior Member as a party to pending proceedings**

- (1) If any proceedings to which the Executive Director was a party were pending in any court or tribunal immediately before the commencement day, the Principal Member is substituted for the Executive Director, from the commencement day, as a party to the proceedings.
- (2) If any proceedings to which a person, in the capacity as a Director, was a party were pending in any court or tribunal immediately before the commencement day, the person, in the capacity as a Senior Member, is substituted for the Director, from the commencement day, as a party to the proceedings.

### **162 Reviews by SSAT**

If:

- (a) before the commencement day, a person who was the Executive Director or a Director was one of the members who constituted the SSAT for the purposes of the review of a decision; and
- (b) the SSAT had not made its decision on the review before that day;

then, from the commencement day, that person is taken to be one of the members who constitute the SSAT for the purposes of the review in the capacity as the Principal Member or a Senior Member, as the case may be.

### **163 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Part to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

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**Table A**

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- (2) The regulations may prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments made by Part 2 of this Schedule.

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*Paid Parental Leave (Consequential Amendments) Act 2010*  
(No. 105, 2010)

**Schedule 2**

**1 Employer determination made where expected or actual date of birth is before 1 July 2011**

- (1) The *Paid Parental Leave Act 2010* applies, with the modifications set out in this item, in relation to a person who has made a claim for parental leave pay for a child, if:
- (a) for a claim made before the day the child is born—the expected date of birth of the child is before 1 July 2011; or
  - (b) for a claim made after the child is born—the day the child is born is before 1 July 2011.

Note: For a claim made before the day the child is born, see subitem (9) if the expected date of birth of the child is before 1 July 2011, but the child is born on or after that date.

- (2) Section 101 of that Act (and the other provisions of that Act so far as they relate to that section) applies in relation to the person as if subsections (1) and (2) of that section were omitted and the following subsection substituted:
- (1) The Secretary must make a determination under this section (the ***employer determination***) that a person's employer is to pay the person instalments if the Secretary is satisfied, when making the determination, that:
    - (a) a payability determination that parental leave pay is payable to the person, or an initial eligibility determination for the person, is in force; and
    - (b) the employer has made an election under section 109 that applies to the person; and
    - (c) the person has consented in the claim to the employer paying instalments to the person; and
    - (d) the person is likely to be an Australian-based employee of the employer during whichever of the following periods applies:
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**Table A**

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- (i) if the Secretary has made a payability determination that parental leave pay is payable to the person—the person’s PPL period;
    - (ii) otherwise—the period of days for which instalments are likely, if the determination is made, to be payable to the person by the employer; and
  - (e) the employer has an ABN; and
  - (f) if paragraphs (b) to (e) are satisfied in relation to more than one employer of the person—the person nominated the employer in the claim as the employer who would be required to pay instalments to the person.
- (3) For the purposes of this item, an employer determination made under subsection 101(1), as that subsection applies because of subitem (2) of this item, is a ***transitional employer determination***.
  - (4) The following provisions of that Act do not apply in relation to a transitional employer determination:
    - (a) section 103 (which deals with responding to a notice of an employer determination);
    - (b) subsection 107(2) (which deals with when an employer determination comes into force);
    - (c) subsections 207(3) and 224(1) (which deal with applying for review of employer determination decisions).
  - (5) Within 14 days after the date of the notice given under section 102 of that Act in relation to the transitional employer determination, the employer may give the Secretary a written notice (the ***acceptance notice***) that complies with section 104 of that Act.
  - (6) If the employer gives the acceptance notice to the Secretary within that 14 day period, the transitional employer determination comes into force on the day the Secretary receives the acceptance notice.
  - (7) If the employer does not give the acceptance notice to the Secretary within that 14 day period, the following paragraphs have effect:
    - (a) the Secretary must revoke the transitional employer determination;
    - (b) the revocation comes into force on the day of the revocation;
    - (c) to avoid doubt, subsection 108(5) of that Act (which deals with giving notice of the revocation) applies in relation to the revocation.
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- (8) The Secretary may extend the 14 day period referred to in subitem (5) in relation to an employer. If the Secretary does so, subitems (6) and (7) have effect accordingly.
- (9) Despite paragraph (1)(a) and subitem (2) of this item, if the person's child is born on or after 1 July 2011, then the following paragraphs have effect:
  - (a) the Secretary may make an employer determination for the person and the person's employer under section 101 of the *Paid Parental Leave Act 2010*, as that section applies apart from this item;
  - (b) if the Secretary does so and has previously made a transitional employer determination for the person and the employer, the Secretary is taken never to have made the transitional employer determination.
- (10) The following provisions of the *Paid Parental Leave Act 2010*, apply in relation to this item as if it were a provision of that Act:
  - (a) section 275 (which deals with how that Act applies to an adopted child);
  - (b) section 276 (which deals with how that Act applies to claims made in exceptional circumstances).

**2 Employer determination made where expected date of birth is on or after 1 July 2011 but child born before that date**

- (1) This item applies if:
  - (a) the Secretary makes an employer determination for an employer and a person under the *Paid Parental Leave Act 2010*; and
  - (b) the person's claim is made before the day the child is born; and
  - (c) the expected date of birth of the child is on or after 1 July 2011; and
  - (d) the child is born before 1 July 2011; and
  - (e) the person's employer has not made an election under section 109 of that Act that applies to the person.
- (2) If, after the employer determination is made, the Secretary makes a payability determination that parental leave pay is payable to the person for the child, the notice given to the employer under section 113 of that Act must:



**Table A**

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- (a) state the day the child was born; and
  - (b) be dated as at the date the preparation of the notice was completed; and
  - (c) contain a statement to the effect that the employer determination will be revoked, unless the employer:
    - (i) agrees to being required to pay instalments to the person, even though the child was born before 1 July 2011; and
    - (ii) gives the Secretary a written notice indicating that agreement within 14 days of the date referred to in paragraph (b).
- (3) If the employer does not give the notice referred to in subparagraph (2)(c)(ii) to the Secretary within that 14 day period, the following paragraphs have effect:
- (a) the Secretary must revoke the employer determination;
  - (b) the revocation comes into force on the day of the revocation;
  - (c) to avoid doubt, subsection 108(5) of that Act (which deals with giving notice of the revocation) applies in relation to the revocation;
  - (d) section 103 of that Act (which deals with responding to a notice of an employer determination) is taken to have never applied in relation to the employer determination.
- (4) The following provisions of that Act apply in relation to this item as if it were a provision of that Act:
- (a) section 275 (which deals with how that Act applies to an adopted child);
  - (b) section 276 (which deals with how that Act applies to claims made in exceptional circumstances).

## **6 Existing notifications given under section 45 of the *Child Support (Registration and Collection) Act 1988***

To avoid doubt, if:

- (a) a notice was given under section 45 of the *Child Support (Registration and Collection) Act 1988* before the commencement of this item instructing an employer to make periodic deductions from a person's salary or wages; and
  - (b) the notice was in force immediately before that commencement;
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**Table A**

the notice continues in force after that commencement as if those salary or wages included the person's instalments of parental leave pay.

**7 Application of section 72AD of the *Child Support (Registration and Collection) Act 1988* to existing liabilities**

To avoid doubt, section 72AD of the *Child Support (Registration and Collection) Act 1988* as inserted by this Act applies in relation to:

- (a) a liability of a kind referred to in subparagraph (1)(b)(i) of that section; or
- (b) a debt of a kind referred to in subparagraph (1)(b)(ii) of that section;

that existed immediately before the commencement of this item in the same way that it applies to such a liability or debt that comes into existence after that commencement.

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*Acts Interpretation Amendment Act 2011* (No. 46, 2011)

**Schedule 3**

**10 Saving—appointments**

The amendments made by Schedule 2 do not affect the validity of an appointment that was made under an Act before the commencement of this item and that was in force immediately before that commencement.

**11 Transitional regulations**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by Schedules 1 and 2.

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*Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012* (No. 154, 2012)

**Schedule 3****163 Application of amendments relating to non-disclosure directions and orders under the *Child Support (Registration and Collection) Act 1988***

- (1) A direction given to a person under subsection 96(2) of the *Child Support (Registration and Collection) Act 1988* before the day on which this item commences continues to have effect on and after that day:
  - (a) as if subsections 96(2) and (3) of that Act had not been repealed by this Act; and
  - (b) as if, on and after that day, the defence in subitem (3) existed in relation to an offence under subsection 96(3) of that Act.
- (2) An order made under subsection 103Q(1) of the *Child Support (Registration and Collection) Act 1988* before the day on which this item commences continues to have effect on and after that day:
  - (a) as if section 103Q of that Act had not been repealed by this Act; and
  - (b) as if, on and after that day, the defence in subitem (3) existed in relation to an offence under subsection 103Q(2) of that Act.
- (3) A direction or order referred to in this item does not apply to information which the person to whom the direction was given, or in relation to whom the order was made, knew before the disclosure of the information was made to the person.

Note: A defendant bears an evidential burden in relation to the matter in subitem (3): see subsection 13.3(3) of the *Criminal Code*.

**164 Application of subsection 16(3A) of the *Child Support (Registration and Collection) Act 1988***

Subsection 16(3A) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, applies in relation to the communication of protected information after the commencement of this item (whether the information was obtained before or after that commencement).

**Table A**

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**165 Application of subsections 100(3), (4) and (5) of the *Child Support (Registration and Collection) Act 1988***

Subsections 100(3), (4) and (5) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, apply in relation to applications dismissed on or after the commencement of this item (whether the application was made before or after that commencement).

**166 Application of amendments of subsections 100A(3) and (4) of the *Child Support (Registration and Collection) Act 1988***

Subsections 100A(3) and (4) of the *Child Support (Registration and Collection) Act 1988*, as amended by this Act, apply in relation to notifications given under subsection 100A(1) of that Act after the commencement of this item.

**167 Application of amendment of section 103C of the *Child Support (Registration and Collection) Act 1988***

The amendment of section 103C of the *Child Support (Registration and Collection) Act 1988* made by this Act applies in relation to applications for review made after the commencement of this item.

**168 Application of paragraph 103F(4)(aa) of the *Child Support (Registration and Collection) Act 1988***

Paragraph 103F(4)(aa) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, applies in relation to:

- (a) hearings pending immediately before the commencement of this item; and
- (b) hearings commencing after the commencement of this item.

**169 Application of subsection 103X(6) of the *Child Support (Registration and Collection) Act 1988***

Subsection 103X(6) of the *Child Support (Registration and Collection) Act 1988*, as inserted by this Act, applies in relation to a decision made after the commencement of this item (whether the application to which the decision relates was made before or after that commencement).