Child Support (Registration and Collection) Amendment Regulations 2004 (No. 1) 2004 No. 45

EXPLANATORY STATEMENT

Statutory Rules 2004 No. 45

Issued by the Authority of the Parliamentary Secretary to the Minister for Family and Community Services

Child Support (Registration and Collection) Act 1988

Child Support (Registration and Collection) Amendment Regulations 2004 (No. 1)

Section 125 of the *Child Support (Registration and Collection) Act 1988* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 113 of the Act allows the Commonwealth to recover debts. Paragraph 113(1)(a) of the Act specifically provides that debts due to the Commonwealth under the Act are payable to the Child Support Registrar (the Registrar) in the manner and place prescribed. No arrangements have been made to prescribe this.

Prior to 1 July 2001, the Commissioner of Taxation had the general administration of child support laws as well as being the Registrar. At this tune the Child Support Agency (CSA) relied on Regulation 18 of the *Taxation Administration Regulations 1976*, which prescribes appropriate payment methods for taxation liabilities. Now the Secretary of the Department of Family and Community Services has administration of the Act, and the General Manager of the CSA is the Registrar. The CSA can no longer rely on the power of the Commissioner to make regulations determining how child support payments can be made.

The purpose of the Regulations is to amend the *Child Support (Registration and Collection) Amendment Regulations 1988* by prescribing the methods by which a child support debt is payable to the Registrar. The amendments will enable a debt to be paid to the Registrar at:

- the CSA;
- a payment agency that accepts such payments under arrangement with the CSA; or
- a financial institution that maintains an account for receipt of such payments under arrangement with the CSA.

The amendments will also enable a debt to be paid to the Registrar by:

- cheque, money order or electronic means if the payment is made direct to the CSA; or

- payment through a payment agency or financial institution by a means capable of being processed by the payment agency or financial institution.

Payments continue to be made and accepted under arrangements that existed prior to the General Manager of the CSA becoming Registrar, by payment methods as set out in the proposed Regulation. This applies to all payments which are paid to the Registrar, including payments made directly by a payer, payments paid by a payee towards a consolidated revenue debt, payments made by an employer who has made deductions from the payer's salary and payments by a third party such as a bank. The Regulations will formalise these arrangements and address the regulatory gap.

The Regulations commenced on gazettal.