Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007

No. 82, 2007

An Act to amend the law relating to child support, and for other purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

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Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007

No. 82, 2007

An Act to amend the law relating to child support, and for other purposes

[*Assented to 21 June 2007*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007*.

2 Commencement

(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**
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	21 June 2007
2. Schedule 1, Part 1	Immediately after the commencement of section 2 of the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	6 December 2006
3. Schedule 1, Part 2	The day after this Act receives the Royal Assent.	22 June 2007
4. Schedule 1, items 92 to 98	1 January 2008.	1 January 2008
5. Schedule 1, items 99 and 100	Immediately before the commencement of items 92 to 96 of Schedule 2 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 January 2008
6. Schedule 1, item 101	1 January 2008.	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,	Immediately before the commencement of	1 July 2008

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
item 212	Schedule 2 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	
9. Schedule 1, items 213 and 214	Immediately before the commencement of Schedule 6 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 July 2008
10. Schedule 2, Part 1	The 28th day after the day on which this Act receives the Royal Assent.	19 July 2007
11. Schedule 2, Part 2	Immediately after the commencement of Division 3 of Part 1 of Schedule 5 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 July 2008
12. Schedule 3, Part 1	1 January 2008.	1 January 2008
13. Schedule 3, Part 2	Immediately after the commencement of Part 2 of Schedule 2 to this Act.	1 July 2008
14. Schedule 4, Part 1	The day after this Act receives the Royal Assent.	22 June 2007
15. Schedule 4, Part 2	1 January 2008.	1 January 2008
16. Schedule 4, Part 3	Immediately after the commencement of Part 2 of Schedule 3 to this Act.	1 July 2008
17. Schedule 5, Part 1	Immediately after the commencement of Division 3 of Part 1 of Schedule 5 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 July 2008
18. Schedule 5, Part 2	Immediately after the commencement of item 155 of Schedule 8 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 July 2008
19. Schedule 5,	Immediately after the commencement of	1 July 2006

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
Part 3, Division 1	Schedule 5 to the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006.*	
20. Schedule 5, Part 3, Division 2	1 July 2007.	1 July 2007
21. Schedule 5, Part 3, Division 3	Immediately after the commencement of Division 3 of Part 1 of Schedule 5 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 July 2008
22. Schedule 6	1 July 2007.	1 July 2007
23. Schedule 7, items 1 and 2	1 July 2007.	1 July 2007
24. Schedule 7, item 3	Immediately after the commencement of item 84 of Schedule 8 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.	1 July 2008
25. Schedule 8	At the same time as items 15 to 19 of Schedule 8 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006* commence.	1 July 2008
26. Schedule 9	At the same time as items 15 to 19 of Schedule 8 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006* commence.	1 July 2008
27. Schedule 10	1 July 2007.	1 July 2007
28. Schedule 11, items 1 to 12	The day on which this Act receives the Royal Assent.	21 June 2007
29. Schedule 11, item 13	At the same time as Part 2 of Schedule 8 to the *Tax Laws Amendment (Simplified Superannuation) Act 2007* commences.	1 July 2007
30. Schedule 11, items 14 to 25	The day on which this Act receives the Royal Assent.	21 June 2007

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
31. Schedule 11, item 26	At the same time as Part 2 of Schedule 9 to the *Tax Laws Amendment (Simplified Superannuation) Act 2007* commences.	1 July 2007
32. Schedule 12, Part 1	Immediately after the commencement of section 7 of the *Social Security (Administration) Act 1999*.	20 March 2000
33. Schedule 12, item 7	The day on which this Act receives the Royal Assent.	21 June 2007
34. Schedule 12, item 8	Immediately after the commencement of item 50 of Schedule 3 to the *Aged Care (Consequential Provisions) Act 1997*.	1 October 1997
35. Schedule 12, item 9	Immediately after the commencement of item 6 of Schedule 1 to the *Social Security Legislation Amendment (Youth Allowance) Act 1998*.	1 July 1998
36. Schedule 12, item 10	Immediately after the commencement of item 5 of Schedule 4 to the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006*.	1 December 2006
37. Schedule 12, items 11 to 13	The day on which this Act receives the Royal Assent.	21 June 2007
38. Schedule 12, items 14 and 15	Immediately after the commencement of item 5 of Schedule 4 to the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006*.	1 December 2006
39. Schedule 12, item 16	Immediately after the commencement of item 42 of Schedule 3 to the *A New Tax System (Family Assistance and Related Measures) Act 2000*.	1 July 2000
40. Schedule 12, item 17	The day on which this Act receives the Royal Assent.	21 June 2007
41. Schedule 12, Part 3	The day on which this Act receives the Royal Assent.	21 June 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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

(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—Main amendments

Part 1—Amendments commencing on 6 December 2006

Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006

1 Subsection 2(1) (table item 3)

Repeal the item, substitute:

3. Schedule 2, items 1 to 91	1 July 2008.	1 July 2008
3A. Schedule 2, items 92 to 96	1 January 2008.	1 January 2008
3B. Schedule 2, items 97 to 116	1 July 2008.	1 July 2008
3C. Schedule 2, item 116A	1 January 2008.	1 January 2008
3D. Schedule 2, item 117	1 July 2008.	1 July 2008

Part 2—Amendments commencing the day after Royal Assent

Division 1—Amendments

Child Support (Assessment) Act 1989

2 Section 98V

Omit "140", substitute "111C of the Registration and Collection Act".

3 Section 98W

Omit:

> • If a proceeding has been instituted in a court, or before the Registrar under Part 6A, a court may make an order staying or otherwise affecting the operation of this Act during the proceeding.

4 Subsection 109(1)

Omit "140", substitute "111C of the Registration and Collection Act".

5 After subsection 112(3)

Insert:

(3A) To avoid doubt, the court may grant leave for the Registrar to make a determination under section 98S, or for the court to make an order under section 118, irrespective of what the applicant applied for under section 111.

6 Section 113A

Omit "140", substitute "111C of the Registration and Collection Act".

7 Paragraph 116(1)(a)

Repeal the paragraph, substitute:

(a) all of the following apply:

(i) the Registrar has, under section 98E or 98R, refused to make a determination under Part 6A in respect of the administrative assessment;

(ii) an objection to the refusal has been lodged;

(iii) the Registrar has disallowed the objection; or

(aa) all of the following apply:

(i) a decision has been made in respect of the administrative assessment;

(ii) an objection to the decision has been lodged;

(iii) in making a decision on the objection, the Registrar has, under section 98E or 98R, refused to make a determination under Part 6A in respect of the administrative assessment; or

(ab) the SSAT has, under section 98E or 98R, refused to make a determination under Part 6A in respect of the administrative assessment; or

8 Subparagraphs 117(2)(a)(iv) and (b)(i)

Omit "to care for", substitute "to spend time with, or communicate with,".

9 Subsection 117(3)

Omit "to care for", substitute "to spend time with, or communicate with,".

Note: The heading to subsection 117(3) is altered by omitting "*have contact with*" and substituting "*spend time or communicate with a*".

10 Subsection 117(3)

Omit "sub-subparagraph (2)(b)(i)(A)", substitute "subparagraph (2)(b)(i)".

11 Subsections 117(3A) and (3B)

Omit "sub-subparagraph 117(2)(b)(i)(C)", substitute "subparagraph (2)(b)(ib)".

Note 1: The heading to subsection 117(6) is replaced by the heading "*Proper needs of the child*".

Note 2: The heading to subsection 117(7) is replaced by the heading "*Income, earning capacity, property and financial resources*".

Note 3: The headings to subsections 117(7A) and (7B) are deleted.

Note 4: The heading to subsection 117(8) is replaced by the heading "*Direct and indirect costs in providing care*".

12 Section 120

Omit "140", substitute "111C of the Registration and Collection Act".

13 Division 7 of Part 7 (heading)

Repeal the heading, substitute:

Division 7—Urgent maintenance orders

14 Section 138A

Omit:

> • If a proceeding has been instituted in a court, or before the Registrar under Part 6A, a court may make an order staying or otherwise affecting the operation of this Act during the proceeding.

15 Section 140

Repeal the section.

16 Paragraph 143(3B)(a)

Omit "knew, or should reasonably have known", substitute "knew or suspected, or should reasonably have known or suspected".

17 Section 143A

Repeal the section, substitute:

143A Simplified outline

The following is a simplified outline of this Division:

> • A court may dismiss, or make orders in respect of, a frivolous or vexatious proceeding.
>
> • A decision of a court becomes final at the end of the period for appealing against the decision if no appeal is made.

- The Registrar may intervene in any proceeding under this Act.

18 After section 143A

Insert:

143B 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;

(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 Registration and Collection 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 Registration and Collection Act.

(3) A court may discharge or vary an order made by that court under subsection (1).

19 Subsection 161(5)

Repeal the subsection.

Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006

20 At the end of section 4

Add:

(3) A person commits an offence if the person fails to comply with a requirement under subsection (1).

Penalty: 60 penalty units.

(4) Subsection (3) is an offence of strict liability.

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

21 At the end of the Act

Add:

Schedule 9—Transitional provision relating to court orders made before 1 July 2008

1 Assessments in relation to court orders made before 1 July 2008

(1) The Registrar is not required, after 1 July 2008:

(a) to make an administrative assessment under Part 4A of the Assessment Act; or

(b) to amend an administrative assessment under section 75 of the Assessment Act;

in respect of an order made, before that time, by a court under Division 4 of Part 7 of that Act.

(2) If such an order will be in force immediately before 1 July 2008, the Registrar must:

(a) review the administrative assessment that relates to that order; and

(b) amend the assessment, or make an administrative assessment, (as the case requires) in accordance with regulations made for the purposes of this item.

(3) For the purposes of this item, the regulations may specify how rights and obligations arising under an order made, before 1 July 2008, by a court under Division 4 of Part 7 of the Assessment Act correspond to rights and obligations under that Act as amended by:

(a) this Act; and

(b) the *Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007*.

(4) The notice given under section 76 of the Assessment Act in relation to the assessment must (in addition to the requirements under that section)

include, or be accompanied by, a statement to the effect that the party may apply, under section 116 of the Assessment Act, to a court having jurisdiction under that Act.

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

(6) The Assessment Act (as amended by this Act) applies as if subsection 116(1) of that Act included the following paragraph:

(ac) the assessment is amended or made under item 1 of Schedule 9 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*;

(7) To the extent that a person who applies to court under section 116 of the Assessment Act by virtue of subitem (6) of this item would not otherwise have special circumstances, the person is taken to have special circumstances for the purposes of that section.

Child Support (Registration and Collection) Act 1988

22 Subsection 4(1) (at the end of the definition of *final*)

Add:

; and (c) in relation to a decision of the Registrar—has the meaning given by subsection 110W(4).

23 Section 17A

Before "Subject", insert "(1)".

24 At the end of section 17A

Add:

(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.

25 Paragraph 26B(3)(c)

Repeal the paragraph, substitute:

(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;

26 Paragraph 26B(5)(b)

Repeal the paragraph, substitute:

(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;

Note: The heading to subsection 26B(5) is altered by omitting "*made*" and substituting "*is made or election is rejected*".

27 Subsection 26B(5)

Omit "a month", substitute "any payment period determined by the Registrar to be a convenient payment period for the payer to accrue debts".

28 At the end of Part IV

Add:

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.

29 Subsection 70(1)

Repeal the subsection, substitute:

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

30 After subsection 72A(1)

Insert:

(1A) A notice given under subsection (1) requires the notified person to continue to make payments in accordance with that subsection until the support debt is satisfied.

31 Paragraph 79B(1)(a)

Omit "by the payer under item 9 of the table in subsection 80(1)", substitute "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".

32 Subparagraph 79B(3)(b)(i)

Repeal the subparagraph, substitute:

(i) finally refused by the Registrar, the SSAT or a court (within the meaning of section 110W); or

33 Division 4 of Part VII (heading)

Repeal the heading, substitute:

Division 4—Requirements relating to objections

34 Section 85 (table heading)

Omit "**Recipients of grounds of objections**", substitute "**Recipients of objections and accompanying documents**".

Note: The heading to section 85 is altered by omitting "**grounds of objections**" and substituting "**objections and accompanying documents**".

35 Section 85 (table, heading to column 3)

Omit "**grounds of objection**", substitute "**objection, and any document that accompanied the objection,**".

36 Subsection 86(1)

Omit "grounds of objection", substitute "objection and any accompanying documents".

37 Subsection 86(2)

Omit "grounds of objection", substitute "objection and any accompanying documents".

38 Paragraph 87(2)(b)

Omit "grounds of objection", substitute "objection and the accompanying documents".

39 Subsection 89(1) (table item 2, column headed "Who may apply for review")

Omit "grounds of objection", insert "objection and any accompanying documents".

40 Subsection 89(2)

Repeal the subsection, substitute:

(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.

41 Subsection 92(2)

Repeal the subsection.

Note: The heading to section 92 is altered by omitting "**lodging objections**" and substituting "**applying for review**".

42 Before paragraph 93(a)

Insert:

(aa) the Registrar must send to the SSAT Executive Director the statement described in paragraph 95(3)(a), within 28 days after receiving a request for the statement from the SSAT Executive Director; and

43 Paragraph 95(3)(b)

Omit "the original or".

44 Subsection 96(1)

Omit "Within", substitute "Subject to sections 97 and 98, within".

45 Subsection 96(2)

Omit "has received", substitute "is entitled to receive".

46 Subsection 97(1)

Omit "subsection 93(5)", substitute "subsection 95(5)".

47 Paragraph 97(1)(e)

Omit "application for" (second occurring).

48 After subsection 97(1)

Insert:

(1A) Subject to section 98, the Registrar is not required, under subsection 96(1), 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.

49 Subsection 97(2)

Repeal the subsection, substitute:

(2) Subsections (1) and (1A) do not affect the obligation of the Registrar to comply with paragraph 95(3)(b) or subsection 95(5) or 96(1) in relation to any document or part of a document to which subsection (1) or (1A) does not apply.

50 Subsection 98(1)

Omit "send the document or the part of the document under paragraph 95(3)(b) or subsection 93(5)", substitute "give each party to a review, under subsection 96(1), the document or the part of the document referred to in paragraph 95(3)(b)".

51 At the end of section 98

Add:

(3) The SSAT Executive Director must give a copy of a direction given under subsection (2) to each party to the review.

52 Subsection 99(3)

Omit "either".

53 Paragraph 99(3)(d)

Repeal the paragraph, substitute:

(d) request the SSAT Executive Director to dismiss the application under section 100; or

(e) notify, under section 100A, the SSAT that the application is discontinued or withdrawn.

54 Subsection 100(1)

Omit "the application of", substitute "the request of".

55 At the end of Division 2 of Part VIIA

Add:

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 is taken to have dismissed the application without proceeding to review the decision.

(3) If the SSAT dismisses an application under subsection (2), a party to the review may, within 28 days after receiving notification that the application has been dismissed, request that the SSAT reinstate the application.

(4) If it considers it appropriate to do so, the SSAT may reinstate the application and give such directions as appear to it to be appropriate in the circumstances.

(5) If it appears to the SSAT that an application has been dismissed under subsection (2) in error, the SSAT may, on the request of a party to the review or on its own initiative, reinstate the application and give such directions as appear to it to be appropriate in the circumstances.

56 Paragraph 103K(1)(b)

Omit "the SSAT Executive Director (or an officer authorised by the SSAT Executive Director for the purpose)", substitute "the SSAT".

57 Paragraph 103X(1)(b)

Before "document", insert "original".

58 Section 103ZB

Omit:

- If a proceeding has been instituted in a court or before the SSAT or the Registrar, the court may make an order staying or otherwise affecting the operation of the Assessment Act or this Act during the proceeding.

59 Paragraph 110E(a)

After "Full Court", insert "(if the court can be constituted as a Full Court)".

60 Paragraph 110E(b)

Omit "Judge", substitute "judge (including a Federal Magistrate) or by a single magistrate".

61 Section 110J

Omit "must", substitute "may".

62 Paragraph 110J(a)

After "Full Court", insert "(if the court can be constituted as a Full Court)".

Note: The heading to section 110J is replaced by the heading "**Constitution of courts**".

63 Paragraph 110J(b)

Omit "Judge", substitute "judge (including a Federal Magistrate) or by a single magistrate".

64 Section 110K

Repeal the section, substitute:

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 Executive Director must cause to be sent to the court all documents:

(a) that were before the SSAT in relation to the proceeding to which the appeal or the reference relates; and

(b) that are relevant to the appeal or the reference.

65 At the end of section 110W

Add:

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.

66 Subparagraph 110X(1)(b)(i)

After "proceedings", insert "(other than the Registrar)".

67 Subparagraph 110X(1)(b)(ii)

After "person", insert "(other than the Registrar)".

68 Paragraph 110X(3)(b)

After "parties to the proceedings", insert "(other than by reference to the Registrar)".

69 Section 111A

After:

> • 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.

insert:

> • A court may dismiss, or make orders in respect of, a frivolous or vexatious proceeding.

70 At the end of section 111A

Add:

- A court order might cease to be in effect because a terminating event happens.

71 At the end of subsection 111C(1)

Add:

; or (d) under Part 6A or 7 of the Assessment Act.

72 Subsection 111C(6)

Repeal the subsection.

73 After section 111C

Insert:

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;

(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).

74 Section 111F

Repeal the section, substitute:

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.

75 At the end of Part VIIIB

Add:

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.

76 Subsections 113A(2) and (3)

Repeal the subsections, substitute:

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.

77 Subsection 113A(5)

Omit "or of the receipt of the relevant payment, as the case may be".

Division 2—Application provisions

78 Application of item 7

The amendment made by item 7 of this Schedule applies in respect of any decision made under section 98E or 98R of the Assessment Act (whether the decision is made before or after this item commences).

79 Application of item 16

The amendment made by item 16 of this Schedule applies in respect of any order made after this item commences in a proceeding instituted under section 143 of the Assessment Act (whether the proceeding was instituted before or after this item commences).

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).

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).

Part 3—Amendments commencing on 1 January 2008

Child Support (Assessment) Act 1989

92 Section 59 (sub-subparagraph (a)(i)(A) of the definition of *income amount order*)

After "to the carer", insert "by setting that annual rate".

93 Section 59 (sub-subparagraph (a)(i)(B) of the definition of *income amount order*)

Omit "or making provision with respect to the calculation of that amount", substitute "by setting that amount".

94 Section 59 (sub-subparagraph (a)(i)(C) of the definition of *income amount order*)

Repeal the sub-subparagraph.

95 Section 59 (sub-subparagraph (b)(i)(A) of the definition of *income amount order*)

After "by the liable parent", insert "by setting that annual rate".

96 Section 59 (sub-subparagraph (b)(i)(B) of the definition of *income amount order*)

Omit "or making provision with respect to the calculation of either amount", substitute "by setting either amount".

97 Section 59 (sub-subparagraph (b)(i)(C) of the definition of *income amount order*)

Repeal the sub-subparagraph.

98 Application of items 92 to 97

The amendments made by items 92 to 97 of this Schedule apply in respect of elections made under section 60 of the Assessment Act after this item commences.

Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006

99 Subitem 115(1) of Schedule 2

After "items 1 and 2", insert "and 92 to 96".

100 After item 116 of Schedule 2

Insert:

116A Application

The amendments made by items 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, 1 January 2008.

Child Support (Registration and Collection) Act 1988

101 Subsection 72A(1A)

Omit "support debt", substitute "maximum notified deduction total".

Part 4—Amendments commencing on 1 July 2008

Division 1—Amendment of principal Acts

A New Tax System (Family Assistance) Act 1999

102 Subclauses 20C(1) and (2) of Schedule 1

After "*1988* against", insert "the amount payable under".

Child Support (Assessment) Act 1989

103 Subsection 5(1) (definition of *administrative assessment*)

After "means assessment", insert "(other than assessment for the purposes of a notional assessment)".

104 Subsection 5(1) (definition of *costs of a child*)

After "55H", insert "or 55HA (as the case requires)".

105 Subsection 5(1) (subparagraph (a)(i) of the definition of *income amount order*)

After "child support case", insert "by setting that annual rate".

106 Subsection 5(1) (subparagraph (a)(ii) of the definition of *income amount order*)

Omit "or provides for the calculation of that amount", substitute "by setting that adjusted taxable income or child support income".

107 Subsection 5(1) (definition of *multi-case child costs*)

Omit "step 4", substitute "step 3".

108 Subsection 5(1) (subparagraph (b)(ii) of the definition of *relevant dependent child*)

Repeal the subparagraph, substitute:

(ii) if the child or step-child is not under 18—a child support terminating event has not happened under subsection 151D(1) in relation to the child; and

109 Section 35 (method statement, step 7)

Omit "(see sections 55G and 55H)", substitute "under sections 55G and 55H".

110 Section 37 (method statement, step 1)

Omit "1 to 8", substitute "1 to 6".

111 Section 37 (method statement, after step 1)

Insert:

Step 1A. Work out the costs of the child for the day under section 55HA.

Step 1B. If a parent has a positive child support percentage under step 6 of the method statement in section 35, work out the following rate:

$$\text{Parent's child support percentage for the child for the day} \times \text{Costs of the child for the day}$$

112 Section 37 (method statement, step 3, paragraph (a))

Repeal the paragraph, substitute:

(a) the rate worked out under step 1B of the method statement in this section; and

113 Subsection 38(2)

Omit "1 to 8", substitute "1 to 6".

114 After subsection 38(2)

Insert:

(2A) Work out the costs of the child for the day under section 55HA.

(2B) If a parent has a positive child support percentage under step 6 of the method statement in section 35, work out the following rate:

$$\text{Parent's child support percentage for the child for the day} \times \text{Costs of the child for the day}$$

115 Paragraph 38(4)(a)

Repeal the paragraph, substitute:

(a) the rate worked out under subsection (2B); and

116 Section 39 (method statement, step 4)

Repeal the step, substitute:

Step 4.	If the parent is assessed in respect of the costs of another child who is in another child support case, work out the costs of the child for the day under section 55HA. Otherwise, work out the costs of the child for the day under sections 55G and 55H. Assume, in applying section 55G or 55HA and Schedule 1, that the reference to the child support income of the parent in the Costs of the Children Table is a reference to the amount worked out under step 1.

117 Section 40 (method statement, step 4)

Repeal the step, substitute:

Step 4.	If the parent is assessed in respect of the costs of another child who is in another child support case, work out the costs of the child for the day under section 55HA. Otherwise, work out the costs of the child for the day under sections 55G and 55H.

118 Paragraph 44(1)(b)

Repeal the paragraph, substitute:

(b) the separation, following that 6 month period, of the applicant from the other parent occurred:

(i) within the last 3 years; and

(ii) before the application for administrative assessment of child support for the child was made under section 25 or 25A; and

119 Paragraph 44(1)(d)

Omit "the applicant earned, derived or received income", substitute ", or in the remaining period (if the parent has made an election under section 60), the applicant earns, derives or receives income".

120 Subparagraph 44(1)(d)(i)

Repeal the subparagraph, substitute:

(i) in accordance with a pattern of earnings, derivation or receipt that is established after the applicant and the other parent first separate; and

121 Section 46 (method statement, step 4)

Omit "(see sections 55G and 55H)", substitute "under sections 55G and 55H".

122 Subsection 47(1) (method statement, steps 3, 4 and 5)

Repeal the steps, substitute:

Step 3.	For each of the children (the ***multi-case children***) for whom the parent is assessed in respect of the costs of the child for the day, work out the ***multi-case child costs*** for the particular child for the day under section 55HA, as if: (a) the parent's annual rate of child support were assessed under Subdivision D of Division 2; and (b) the reference in subsection 55HA(2) to the parent's child support income were a reference to the amount worked out under step 1 or 2 (as the case requires); and (c) references in section 55HA to children in the child support case that relates to the child were references to all of the parent's multi-case children.
Step 4.	The parent's ***multi-case allowance*** for the particular child for the day is the sum of the multi-case child costs for each of the other multi-case children (excluding the particular child and any other children in the child support case that relates to the particular child).

123 Subparagraph 48(1)(b)(i)

After "person has", insert "that affects the annual rate of child support payable for the child".

124 At the end of subsection 48(1)

Add:

; or (c) if the child is a relevant dependent child in respect of whom section 73A applies—the day specified in that section as the first day on which the parent is taken to have had the child.

125 Subsection 55G(1)

Omit ", 36, 37 or 38 (Formulas 1 to 4)", substitute "or 36 (Formulas 1 and 2)".

126 Subsection 55G(2)

Repeal the subsection, substitute:

(2) If:

(a) an annual rate of child support for a day in a child support period is assessed for a child under Subdivision D of Division 2 (Formulas 5 and 6); and

(b) the parent of the child is not assessed in respect of the costs of another child who is in another child support case;

identify the column in the Costs of the Children Table for that child support period that covers the child support income of the parent of the child.

Note: This subsection also applies in working out the relevant dependent child amount (see step 4 of the method statement in section 46).

127 Subsection 55G(4)

Omit "at the time the administrative assessment is made", substitute "on the day".

128 Section 55H

Omit "The", substitute "For the purposes of section 55G, the".

129 At the end of Division 6 of Part 5

Add:

55HA Working out the costs of the child if parents have multiple child support cases

(1) If an annual rate of child support for a day in a child support period is assessed for a child under section 37 or 38 (Formulas 3 and 4), identify the column in the Costs of the Children Table for that child support period that covers the combined child support income of the parents of the child.

Note: The Secretary publishes the updated Costs of the Children Table in the *Gazette* each year for child support periods that begin in the next year (see section 155).

(2) If:

(a) an annual rate of child support for a day in a child support period is assessed for a child under Subdivision D of Division 2 (Formulas 5 and 6); and

(b) the parent of the child is assessed in respect of the costs of another child who is in another child support case;

identify the column in the Costs of the Children Table for that child support period that covers the child support income of the parent of the child.

Note: This subsection also applies in working out the multi-case allowance (step 3 of the method statement in section 47).

(3) Identify the number of children (the ***child support children***) in the child support case that relates to the child.

(4) Identify the ages of the child support children on the day.

(5) In respect of each of the child support children:

(a) assume that all of the child support children are the same age as that child; and

(b) identify the item in the relevant column in the Costs of the Children Table that covers that number of child support children of that age.

(If there are more than 3 child support children, use the row for 3 children.)

(6) For the purposes of this section, the ***costs of the child*** for a day in a child support period, in respect of each child, is the amount worked out, in accordance with Schedule 1 to this Act, for the item identified for that child divided by the number of child support children.

130 Subsection 58(3)

After "determined to be", insert "at least".

131 After subsection 58(3)

Insert:

Determination if tax return lodged 2 years ago

(3A) The Registrar may make a determination if:

(a) a parent has not, under an Income Tax Assessment Act, lodged a tax return for the year of income; and

(b) the parent lodged a tax return under that Act for the previous year of income; and

(c) the amount determined by the Registrar under subsection (1) is the amount based on the tax return for the previous year of income multiplied by a factor specified in the regulations for the purposes of this subsection.

132 Paragraph 58(4)(b)

Repeal the paragraph.

133 After paragraph 58A(2)(b)

Insert:

or (c) neither paragraph (a) nor (b) applies, but circumstances prescribed by the regulations for the purposes of this section apply in relation to the parent;

134 Subsection 60(3)

Repeal the subsection, substitute:

First election must be for amount less than adjusted taxable income for last relevant year of income

(3) The parent may make a first election relating to a child support period only if the amount that he or she works out under this section is not more than 85% of:

(a) the total of the parent's adjusted taxable income determined in accordance with section 43 for the last relevant year of income for the child support period; or

(b) an amount that:

(i) the parent declares is the total of the parent's adjusted taxable income for the last relevant year of income for the child support period; and

(ii) the Registrar is satisfied is correct.

135 Subsection 64(2)

After "child support period,", insert "subject to subsections (2A) and (3),".

136 After subsection 64(2)

Insert:

(2A) If, under section 63A, 63B or 63C, the Registrar amends an assessment of child support payable by or to a parent, subsection (2) only applies in respect of the parent if the Registrar determines that subsection (2) should apply.

137 Subsection 65B(3) (second occurring)

Renumber as subsection (5).

138 Paragraph 66(1)(b)

Repeal the paragraph, substitute:

(b) the total payable by the parent for all the children in the child support case would (apart from this section) be assessed as less than the minimum annual rate of child support for the child support period.

139 Subsection 66(3)

Repeal the subsection (not including the heading).

140 Subsection 66(4)

Omit "subparagraph (1)(b)(ii)", substitute "paragraph (1)(b)".

141 After section 66A

Insert:

66B Amendment of assessment made under section 65B or 66A

The Registrar may amend an assessment at any time if:

(a) either:

(i) under section 65B, the Registrar has determined that section 65A does not apply to a parent; or

(ii) under section 66A, the Registrar has reduced an annual rate of child support payable by a parent to nil; and

(b) the Registrar becomes satisfied that the parent does not satisfy the condition in subsection 65B(4) or 66A(2) (as the case requires).

142 Subsection 66C(1)

After "66A,", insert "or amends an assessment in accordance with section 66B,".

143 Paragraph 66C(2)(a)

Repeal the paragraph, substitute:

(a) that the parent may, subject to the Registration and Collection Act, object to the particulars of:

(i) the assessment in relation to which the unsuccessful application was made; or

(ii) the assessment that was amended;

(as the case requires); and

144 Subparagraph 74A(b)(i)

After "7.1%", insert ", and the change affects the annual rate of child support payable for the child".

145 After paragraph 74A(c)

Insert:

and (d) section 53 (Registrar determinations if care less than 14%) does not apply in respect of the child;

146 Section 74A (note)

Omit "Note", substitute "Note 1".

147 At the end of section 74A

Add:

Note 2: If the Registrar becomes aware of a relevant dependent child who was not taken into account for the purposes of making an assessment, the Registrar must take action in accordance with section 73A.

148 Subsection 75(1)

After "this Act", insert "or the Registration and Collection Act".

149 Paragraph 75(2)(a)

After "7.1%", insert ", and the change affects the annual rate of child support payable for the child".

150 At the end of subsection 75(2)

Add:

; or (d) the child is a relevant dependent child and the Registrar has become aware that the child was not taken into account for the purpose of making the assessment.

151 Paragraph 75(3)(c)

After "this Act", insert "or the Registration and Collection Act, or in the SSAT,".

152 Paragraph 75(4)(d)

After "this Act", insert "or the Registration and Collection Act".

153 Paragraph 75(4)(f)

After "this Act", insert "or the Registration and Collection Act, or of the SSAT".

154 Subsection 75(5)

After "this Act", insert "or the Registration and Collection Act".

155 Subsection 75(6)

After "this Act" (first occurring), insert "or the Registration and Collection Act".

156 Subsection 75(6)

After "this Act" (second occurring), insert "and the Registration and Collection Act".

157 Paragraph 76(2)(f)

Repeal the paragraph.

158 Paragraph 76(3)(ca)

After "credited against", insert "the amount payable under".

159 Subsection 78(2)

Omit "the liability to pay child support in relation to all or part of that amount", substitute "that amount".

160 Section 80A

Omit:

> • Payments made under lump sum payment provisions are credited against the liability of a party to the agreement (rather than reducing the annual rate of child support payable).

substitute:

> • Payments made under lump sum payment provisions are credited against the amount payable under the liability of a party to the agreement (rather than reducing the annual rate of child support payable).

161 Subparagraph 84(1)(e)(ii)

Repeal the subparagraph, substitute:

(ii) that the lump sum payment is to be credited against the amount payable under the liable party's liability under the relevant administrative assessment;

162 Subsection 84(7) (note)

After "Act against", insert "the amount payable under".

163 Subsection 84(8)

Repeal the subsection, substitute:

(8) An agreement that includes lump sum payment provisions may also state that the lump sum payment is to be credited against 100%, or another specified percentage that is less than 100%, of the amount payable under the liability.

Note: If an agreement does not specify a percentage, the lump sum payment is credited against 100% of the amount payable under the liability (see section 69A of the Registration and Collection Act).

164 Paragraph 117(2)(aa)

Omit "another child (the ***resident child***) of the parent", substitute "a resident child of the parent (see subsection (10))".

165 Subsection 117(2A)

Repeal the subsection.

166 Subsection 117(2C)

Omit "to care for", substitute "to spend time with, or communicate with,".

167 At the end of paragraph 117(4)(g)

Add:

; and (iii) to any resident child of the parent (see subsection (10)) by the making of, or the refusal to make, the order.

168 At the end of section 117

Add:

*Definition of **resident child***

(10) For the purposes of this section, a child is a ***resident child*** of a person only if:

(a) the child normally lives with the person, but is not a child of the person; and

(b) the person is, or was, for 2 continuous years, a member of a couple; and

(c) the other member of the couple is, or was, a parent of the child; and

(d) the child is aged under 18; and

(e) the child is not a member of a couple; and

(f) one or more of the following applies in respect of each parent of the child:

(i) the parent has died;

(ii) the parent is unable to support the child due to the ill-health of the parent;

(iii) the parent is unable to support the child due to the caring responsibilities of the parent; and

(g) the court is satisfied that the resident child requires financial assistance.

169 Paragraph 123(1)(b)

Repeal the paragraph, substitute:

(b) an order that a liable parent provide child support in the form of a lump sum payment to be credited against the amount payable under the liability under the relevant administrative assessment.

170 Subsection 123A(1)

Omit "the liability under the relevant administrative assessment in relation to amounts payable under the liability", insert "the amount payable under the liability under the relevant administrative assessment".

Note: The heading to section 123A is altered by inserting "**amounts payable under**" after "**credited against**".

171 Subsection 123A(1) (note)

After "Act against", insert "the amount payable under".

172 Paragraph 123A(3)(b)

Repeal the paragraph, substitute:

(b) must specify that the lump sum payment is to be credited against 100%, or another specified percentage that is less than 100%, of the amounts payable under the liability.

173 Paragraph 129(1)(f)

Omit "statement made by a court under section 125 in an order made under section 124", substitute "matter specified under subsection 123A(3), or any statement made under section 125, included in the order".

174 Subsection 129(2)

Omit "any statement included in the last-mentioned order under section 125", substitute "any matter specified under subsection 123A(3), or any statement made under section 125".

175 Subsection 129(4)

Repeal the subsection, substitute:

(4) If the court proposes to vary an order made under section 123A or 124 otherwise than by varying any matter specified in the order under subsection 123A(3), or any statement included in the order under section 125, the court must consider whether, having regard to the proposed variation, it should also order the variation of any such matter or statement.

176 Section 135

Repeal the section, substitute:

135 Simplified outline

The following is a simplified outline of this Division:

- Certain courts may set aside a child support agreement or a termination agreement if:
  - (a) the agreement of one of the parties was obtained by fraud, undue influence or unconscionable conduct; or
  - (b) there has been a significant change in circumstances; or
  - (c) the annual rate of child support payable under the agreement is not proper or adequate; or
  - (d) exceptional circumstances arise after the agreement is made.

177 Paragraphs 136(2)(c) and (d)

Repeal the paragraphs, substitute:

(c) in the case of a limited child support agreement:

(i) that because of a significant change in the circumstances of one of the parties to the agreement, or a child in respect of whom the agreement is made, it would be unjust not to set aside the agreement; or

(ii) that the agreement provides for an annual rate of child support that is not proper or adequate, taking into account all the circumstances of the case (including the

financial circumstances of the parties to the agreement); or

(d) in the case of a binding child support agreement—that because of exceptional circumstances, relating to a party to the agreement or a child in respect of whom the agreement is made, that have arisen since the agreement was made, the applicant or the child will suffer hardship if the agreement is not set aside.

178 Subsection 146B(2)

After "Part 7", insert ", and taking into account section 146BA".

179 After section 146B

Insert:

146BA Application of Part 5 to provisional notional assessments

(1) In making a provisional notional assessment, Part 5 applies as if:

(a) subject to this section, a reference in the Part to an assessment, or an administrative assessment, were a reference to a provisional notional assessment; and

(b) subsections 44(5) and (6), Subdivision C of Division 7, and sections 35C, 66C, 69 and 76 to 79 did not apply; and

(c) in paragraph 48(1)(a), the reference to the day on which an application is made under section 25 or 25A were a reference to the particular day in respect of which the provisional notional assessment is made; and

(d) in subparagraph 65A(1)(b)(ii):

(i) a reference to section 60 were a reference to section 146G; and

(ii) a reference to the amount worked out for the parent under step 2 of the method statement in subsection 60(5) using the parent's estimate were a reference to the amount estimated by the parent under subsection 146G(1).

(2) Part 5 ceases to apply once a provisional notional assessment becomes a notional assessment.

180 After paragraph 146C(1)(a)

Insert:

(aa) by making an application under section 44 to amend the provisional notional assessment;

(ab) by making an application under section 66A to reduce the annual rate of child support payable to nil;

181 After subparagraph 146C(2)(b)(i)

Insert:

(ia) if paragraph (1)(ab) applies—the Registrar makes a determination under subsection 44(2);

(ib) if paragraph (1)(aa) applies—the Registrar reduces the annual rate of child support payable to nil;

182 After subparagraph 146C(3)(b)(i)

Insert:

(ia) if paragraph (1)(ab) applies—the Registrar refuses to make a determination under subsection 44(2);

(ib) if paragraph (1)(aa) applies—the Registrar refuses to grant an application under section 66A;

183 After section 146E

Insert:

146EA Amendment of notional assessment

(1) The Registrar must amend a notional assessment of the annual rate of child support that would be payable for a child (the ***first child***) for a particular day in a child support period if:

(a) another child in the child support case that relates to the first child is not covered by the relevant child support agreement or the order that was made in relation to the first child; and

(b) the administrative assessment of the child support payable for the other child for any day (the ***changed assessment day***) in any child support period changes.

(2) The Registrar must amend the notional assessment as if:

(a) despite subsection 146BA(2), section 67A (offsetting) applied on the changed assessment day; and

(b) the annual rate of child support that would be payable for the first child for the particular day were instead payable for the changed assessment day.

184 Subsection 146G(2)

After "in force", insert ", or would be in force but for the existence of the relevant child support agreement,".

185 At the end of section 150E

Add:

Parent taken not to be assessed in respect of the costs of the child

(6) For the purposes of this Act and the Registration and Collection Act, a parent of a child is taken not to be assessed in respect of the costs of the child during the period in which child support is not payable by or to the parent under subsection (2).

186 Paragraphs 153(c) and (d)

Repeal the paragraphs, substitute:

(c) that a specified person applied on a specified day for one or both parents of a child to be assessed in respect of the costs of the child; or

(d) that a specified person did not apply on or before a specified day for one or both parents of a child to be assessed in respect of the costs of the child; or

187 Schedule 1 (note to heading)

Omit "section 55G", substitute "sections 55G and 55HA".

188 Subclauses 3(2) and (3) of Schedule 1

After "55G", insert "or 55HA".

189 Paragraph 3(3)(a) of Schedule 1

Repeal the paragraph, substitute:

(aa) the amount worked out for the item in that row in the first column by multiplying the percentage specified in that item by the highest combined child support income, or child support income, covered by that column;

(a) if the relevant column is the third, fourth or fifth column—the amounts worked out for each item in that row in each of the previous columns (other than the first column) by multiplying the percentage specified in that item by the difference between:

(i) the highest combined child support income, or child support income, covered by that column; and

(ii) the highest combined child support income or child support income in the previous column;

190 Paragraph 3(3)(b) of Schedule 1

Before "the amount", insert "in any case—".

191 Subclause 3(4) of Schedule 1

After "55G", insert "or 55HA".

192 Subclause 3(4) of Schedule 1

Omit "paragraph (3)(a)", substitute "paragraphs (3)(aa) and (a)".

Child Support (Registration and Collection) Act 1988

193 Subsection 4(1) (paragraph (c) of the definition of *appealable refusal decision*)

After "amount against", insert "the amount payable under".

194 Subsection 4(1) (definition of *child support assessment*)

After "an assessment", insert "(other than a notional assessment)".

195 Subsection 4(1)

Insert:

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*).

196 Subsections 28A(7) and 39A(8)

Omit "against that liability", insert "against that unpaid amount".

197 Subsection 66(3)

Omit "a liability in relation to all or part of that amount", substitute "that amount".

198 Paragraph 69A(2)(a)

Repeal the paragraph, substitute:

(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

199 Subsections 69A(4) and (5)

Repeal the subsections, substitute:

(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:

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

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.

200 Subsection 71(1)

Omit "against the liability of the payer to the Commonwealth in relation to the amount payable under the liability", substitute "against the amount payable under the enforceable maintenance liability".

201 Subsection 71A(1)

Omit "credit the amount, or part of the amount, received by the third party against the liability of the payer to the Commonwealth in relation to the amount payable under the enforceable maintenance liability", substitute "credit the amount, or part of the amount, received by the third party against the amount payable under the enforceable maintenance liability".

202 Subsections 71A(2) and (3)

Repeal the subsections, substitute:

(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.

203 Subsection 71B(2)

After "against", insert "the amount payable under".

204 Paragraph 71C(1)(c)

After "section against", insert "the amount payable under".

205 Subsection 71C(1)

Omit ", up to a maximum amount that is equal to 30% of the amount payable under the payer's liability for the period, against the liability in relation to the amount payable under the liability for the period", substitute "against the amount payable under the payer's liability for the period, up to a maximum of 30% of the amount payable".

206 Subsection 71C(4)

Omit "the liability of the payer in relation to the amount payable under the enforcement maintenance liability", substitute "the amount payable under the enforceable maintenance liability".

207 Subsection 71C(5)

Repeal the subsection, substitute:

(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.

208 Subsection 71E(1)

After "against", insert "the amount payable under".

209 Subsection 80(1) (table item 5)

Omit "against the liability of the payer of the liability to the Commonwealth", substitute "against the amount payable under the liability".

210 Subsection 80(1) (table item 9)

Repeal the item, substitute:

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

211 Subsection 85(1) (table item 2)

Omit "against the liability of the payer of the liability to the Commonwealth", substitute "against the amount payable under the liability".

Division 2—Amendment of the New Formula Act

Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006

212 Item 104 of Schedule 2

Repeal the item, substitute:

104 Subsection 85(1) (table item 4)

Omit "the person to whom or from whom the application seeks payment of child support, as the case requires", substitute "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)".

213 Items 1 and 2 of Schedule 6

Repeal the items.

214 Item 4 of Schedule 6

Repeal the item.

Schedule 2—Incorporation in primary legislation of matters dealt with by regulation

Part 1—Amendments commencing 28 days after Royal Assent

Child Support (Assessment) Act 1989

1 Section 5

Insert:

overseas income, in relation to a person, means income determined under Subdivision AA of Division 3 of Part 5 to be the overseas income of that person.

2 At the end of subsection 12(1) (before the note)

Add:

; or (g) the circumstances described in subsection 30AA(1) of the Registration and Collection Act apply in relation to the child.

3 After subsection 12(2)

Insert:

(2A) A child support terminating event happens in relation to a person who is a carer entitled to child support in relation to a child if:

(a) an international maintenance arrangement applies in respect of the person and the child; and

(b) the person is a resident of a reciprocating jurisdiction; and

(c) the person ceases to be a resident of the reciprocating jurisdiction; and

(d) the person does not, immediately after so ceasing, become a resident of another reciprocating jurisdiction or of Australia.

4 After subsection 12(3)

Insert:

(3A) A child support terminating event happens in relation to a person who is a liable parent in relation to a child if:

(a) an international maintenance arrangement applies in respect of the person and the child; and

(b) the person is a resident of a reciprocating jurisdiction; and

(c) the person ceases to be a resident of the reciprocating jurisdiction; and

(d) the person does not, immediately after so ceasing, become a resident of another reciprocating jurisdiction or of Australia.

(3B) A child support terminating event happens in relation to a person who is a liable parent in relation to a child if:

(a) an international maintenance arrangement applies in respect of the person and the child; and

(b) the person is a resident of a reciprocating jurisdiction; and

(c) the reciprocating jurisdiction becomes specified in regulations made for the purposes of section 30A as a reciprocating jurisdiction for a resident of which an application for:

(i) an administrative assessment of child support for a child; or

(ii) acceptance of a child support agreement;

may not be accepted.

5 At the end of section 12

Add:

(4A) Subject to subsection (4B):

(a) if an international maintenance arrangement applies in respect of a child—a circumstance set out in paragraph (1)(f) is not a child support terminating event in relation to the child; and

(b) if an international maintenance arrangement applies in respect of a person who is a liable parent in respect of a child—a circumstance set out in paragraph (3)(b) is not a child support terminating event in relation to the person.

(4B) Subsection (4A) does not apply if:

(a) where one only of the carer entitled to child support in relation to a child and the liable parent in relation to the child

is a resident of Australia—that carer or that liable parent ceases to be a resident of Australia; or

(b) where both the carer entitled to child support in relation to a child and the liable parent in relation to the child are residents of Australia—that carer and that liable parent both cease to be residents of Australia.

6 At the end of section 13

Add:

(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.

7 At the end of section 14

Add:

(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.

8 Section 24

Before "Application", insert "(1)".

9 Paragraph 24(b)

Omit "either or both", substitute "except in a circumstance referred to in subsection (2), either or both".

10 At the end of section 24

Add:

(2) Paragraph (1)(b) does not apply to an application for administrative assessment of child support if the application is made under section 25 by an eligible carer who is a resident of a reciprocating jurisdiction.

11 Paragraph 25(2)(b)

Repeal the paragraph, substitute:

(b) the person is seeking payment of child support for the child from a person who:

(i) is a parent of the child; and

(ii) satisfies the residence requirement in subsection (3) on the day the application is made; and

12 At the end of section 25

Add:

(3) The residence requirement mentioned in subparagraph (2)(b)(ii) is that the person from whom payment of child support is sought:

(a) is a resident of Australia; or

(b) unless subsection 24(2) applies to the application—is a resident of a reciprocating jurisdiction.

(4) If the person applying is a resident of a reciprocating jurisdiction, the application must be either:

(a) made by an overseas authority of the reciprocating jurisdiction on behalf of the person; or

(b) made by the person and given to the Registrar by such an overseas authority.

(5) If an application is made by an overseas authority of a reciprocating jurisdiction on behalf of a person, the regulations may prescribe actions the overseas authority may take for the person.

(6) If an application is made by a person and given to the Registrar by an overseas authority of a reciprocating jurisdiction, the regulations may prescribe actions the overseas authority may take for the person with the person's consent.

13 Paragraph 25A(2)(b)

Repeal the paragraph, substitute:

(b) the person satisfies the residence requirement in subsection (3) on the day the application is made; and

14 At the end of section 25A

Add:

(3) The residence requirement mentioned in paragraph (2)(b) is that the person:

(a) is a resident of Australia; or

(b) unless the person seeks in the application to pay child support to another person who is a resident of a reciprocating jurisdiction—is a resident of a reciprocating jurisdiction.

(4) If the person applying is a resident of a reciprocating jurisdiction, the application must be either:

(a) made directly to the Registrar by the person; or

(b) made by the person and given to the Registrar by an overseas authority of the reciprocating jurisdiction.

(5) If an application is made by a person and given to the Registrar by an overseas authority of a reciprocating jurisdiction, the regulations may prescribe actions the overseas authority may take for the person with the person's consent.

15 At the end of section 30

Add:

(3) This section is subject to sections 30A and 30B.

16 After section 30

Insert:

30A No administrative assessment or acceptance of agreement if contrary to international maintenance arrangement

(1) An application for:

(a) an administrative assessment of child support for a child; or

(b) acceptance of a child support agreement;

must not be accepted under this Act in relation to a liable parent who is a resident of a reciprocating jurisdiction specified in regulations made for the purposes of this section.

(2) A reciprocating jurisdiction may be specified in regulations made for the purposes of this section if the acceptance of an application for:

(a) an administrative assessment of child support for a child; or

(b) a child support agreement;

in relation to a liable parent who is a resident of the jurisdiction would not be permitted by the law of the jurisdiction.

(3) This section has effect despite paragraph 25(3)(b).

30B Registrar may refuse application for administrative assessment if overseas liability already registered

If:

(a) a registered maintenance liability of a kind mentioned in section 18A of the Registration and Collection Act relates to a particular child, a particular payer (the ***liable parent***) and a particular payee (the ***eligible carer***); and

(b) after the registration of the liability, an application is made for an administrative assessment of child support in relation to the child, the liable parent and the eligible carer; and

(c) either the liable parent or the eligible carer is a resident of a reciprocating jurisdiction;

the Registrar may refuse to accept the application.

17 At the end of section 31

Add:

(3) Despite subsections (1) and (2), the liability of a liable parent who is a resident of a reciprocating jurisdiction to pay child support does not arise until all prior requirements (if any) under the applicable international maintenance arrangement, and under the laws of the reciprocating jurisdiction, have been complied with.

Example 1: Some reciprocating jurisdictions require that a person from whom the payment is sought must be given notice about the making and substance of the application for administrative assessment of child support and about how the person may object to the application.

Example 2: Some reciprocating jurisdictions require that the person have an opportunity to be heard before the making of a decision on the application.

18 After subsection 38A(2)

Insert:

(2A) In working out the liable parent's exempt foreign income under subsection (2), there should be excluded from the total amount of the liable parent's exempt foreign income any overseas income of the liable parent determined for the purpose of working out the liable parent's child support income amount.

19 After subsection 39(3)

Insert:

(3A) If the liable parent referred to in subsection (3) is a resident of a reciprocating jurisdiction, that subsection has effect as if the references in paragraphs (3)(c) and (d) to 28 days were references to 90 days.

20 After subsection 45A(2)

Insert:

(2A) For the purpose of working out the entitled carer's exempt foreign income under subsection (2), there should be excluded from the total amount of the entitled carer's exempt foreign income any overseas income of the entitled carer determined for the purpose of working out the entitled carer's child support income amount.

21 Paragraph 54(1)(b) (definition of *total number of children*)

Repeal the definition, substitute:

total number of children means the total number of children in a carer's care for each carer entitled to child support in relation to whom:

(a) the liable parent is a liable parent under this Act; or

(b) the liable parent is liable to pay child support under an administrative assessment under the law of a reciprocating jurisdiction.

22 After Subdivision A of Division 3 of Part 5

Insert:

Subdivision AA—Overseas income

58A Inclusion of overseas income in working out a person's child support income amount

For the purposes of working out the child support income amount of a person who is a resident of a reciprocating jurisdiction, a reference in this Division to the person's taxable income includes a reference to the person's overseas income as determined under this Subdivision.

58B Determination of overseas income if information and documents in Registrar's possession are sufficient

(1) This section applies if the Registrar possesses sufficient information and documents to determine a person's overseas income (whether as a result of seeking information or documents under section 162A or not).

(2) The Registrar may, in making an administrative assessment of the child support payable by or to the person in relation to a child support period, determine from the information and documents in the Registrar's possession an amount to be the person's overseas income for the year of income for the purpose of working out the person's child support income amount.

58C Determination of overseas income if information and documents in Registrar's possession are insufficient

(1) This section applies if:

(a) the Registrar does not possess sufficient information and documents to determine a person's overseas income; and

(b) despite requesting, under section 162A, information or documents from the person or from an overseas authority that are necessary to determine the person's overseas income, the information or documents requested have not been supplied.

(2) The Registrar may, in making an administrative assessment of the child support payable by or to the person in relation to a child support period, determine that the person's overseas income for the year of income, for the purpose of working out the person's child support income amount, is such amount as the Registrar considers appropriate, not exceeding 2.5 times the yearly equivalent of the relevant EAWE amount for the child support period.

23 Paragraph 63A(1)(b)

Omit "section 160 requiring", substitute "section 160 or subsection 162A(2) requiring or requesting".

24 Subsections 63A(2) and (3)

Omit "as required by section 160", substitute "as required or requested under section 160 or subsection 162A(2)".

25 Paragraph 63A(4)(a)

After "section 160", insert "or 162A".

26 Paragraph 63B(1)(b)

Omit "section 161 requiring", substitute "section 161 or subsection 162A(1) or (4) requiring or requesting".

27 Subsections 63B(2) and (3)

After "section 161" (wherever occurring), insert "or subsection 162A(1) or (4)".

28 Paragraph 63B(4)(a)

After "section 161", insert "or 162A".

29 Subparagraph 83(1)(b)(ii)

After "Australia", insert "or of a reciprocating jurisdiction".

30 Section 86

Repeal the section.

31 At the end of section 88

Add:

; and (c) either of the parties to the agreement is entitled to make an application for administrative assessment of child support in relation to the child.

32 At the end of section 92

Add:

(5) The Registrar must refuse to accept the agreement if:

(a) immediately before the application is made, an administrative assessment is in force in relation to the child and the 2 parties to the agreement; and

(b) the party referred to in paragraph 83(1)(a) is a carer entitled to child support in relation to the child as a result of acceptance of a carer application; and

(c) the application was made, under paragraph 25(4)(a), by an overseas authority of a reciprocating jurisdiction; and

(d) the overseas authority does not approve the acceptance of the agreement.

33 After subsection 93(1)

Insert:

(1A) However, if the applicant for acceptance of the agreement is a resident of a reciprocating jurisdiction, subsection (1) has effect as if the references in sub-subparagraphs (1)(g)(i)(A) and (B) to 28 days were references to 90 days.

34 After subsection 142(1)

Insert:

(1A) Sub-subparagraph (1)(c)(ii)(B) does not apply in relation to an international maintenance arrangement.

35 At the end of Part 8

Add:

150DA Registrar's jurisdiction to cease in certain circumstances

If the Registrar receives notice, in accordance with an article that is prescribed by the regulations, of an international treaty that is so prescribed, that an eligible carer is habitually resident in a foreign country that is a party to the treaty, the jurisdiction of the Registrar ceases in accordance with that article.

36 At the end of section 151

Add:

(5) If:

(a) a person makes an election under subsection (1) in respect of a child; and

(b) the person is a carer entitled to child support in relation to the child as a result of acceptance of a carer application; and

(c) the application was made, under paragraph 25(4)(a), by an overseas authority of a reciprocating jurisdiction on behalf of the person;

the election has no effect unless and until the overseas authority approves the election.

37 Section 152

Omit "Where", substitute "(1) If".

38 After paragraph 152(b)

Insert:

and (c) the court order, maintenance agreement or financial agreement did not give rise to an overseas maintenance liability;

39 At the end of section 152

Add:

(2) If:

(a) at any time, an amount of child support for a child becomes payable by a liable parent to another person under an administrative assessment; and

(b) at that time, the liable parent and the other person are both residents of Australia; and

(c) immediately before that time, an overseas maintenance liability had effect under which maintenance for the child was payable by the liable parent to the other person;

the overseas maintenance liability ceases, at that time, to have effect.

40 At the end of section 160

Add:

(5) This section does not apply to a person:

(a) in respect of whom an international maintenance arrangement applies; and

(b) who is a resident of a reciprocating jurisdiction.

41 At the end of section 161

Add:

(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.

42 After section 162

Insert:

162A Obtaining information in relation to residents of reciprocating jurisdictions

(1) If the Registrar does not possess sufficient information and documents to determine the overseas income of a person who is or was a resident of a reciprocating jurisdiction, the Registrar may, by written notice, request the person or an overseas authority of the reciprocating jurisdiction to give to the Registrar such information, or to produce to the Registrar such documents, as are necessary to enable the Registrar to determine the person's overseas income.

(2) The Registrar may, by written notice given:

(a) to a person:

(i) to or by whom child support is payable; and

(ii) who is or was a resident of a reciprocating jurisdiction; or

(b) to an overseas authority of the reciprocating jurisdiction;

request the person or authority to notify the Registrar, within 60 days and in the manner specified in the notice, if:

(c) an event or change of circumstances specified in the notice happens; or

(d) the person or authority becomes aware that an event or change of circumstances specified in the notice is likely to happen.

(3) An event or change of circumstances must not be specified in a notice under subsection (2) unless the happening of the event or change of circumstances might affect the payment of child support or the rate at which it is payable.

(4) The Registrar may, where it is reasonably necessary for the purposes of this Act, by written notice, request a person who is or was a resident of a reciprocating jurisdiction, or an overseas authority of the reciprocating jurisdiction:

(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.

(5) For the purposes of paragraph (4)(a), the reasonable period that is specified in the notice cannot be less than 28 days.

162B 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 person who is a resident of a reciprocating jurisdiction.

43 Subsection 163B(1)

Repeal the subsection, substitute:

(1) The regulations may make provision for, and in relation to, giving effect to international maintenance arrangements.

44 Subsections 163B(3) and (4)

Repeal the subsections.

Child Support (Registration and Collection) Act 1988

45 Subsection 4(1)

Insert:

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.

46 Subsection 4(1) (after paragraph (a) of the definition of *appealable refusal decision*)

Insert:

(aaaa) a decision under section 25A refusing to enter the particulars of a liability; or

47 Subsection 4(1)

Insert:

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.

48 Subsection 4(1)

Insert:

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.

49 Subsection 4(1)

Insert:

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

50 Subsection 4(1)

Insert:

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.

51 Subsection 4(1) (definition of *payee*)

Repeal the definition, substitute:

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.

52 Subsection 4(1)

Insert:

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.

53 Subsection 4(1) (definition of *registrable maintenance liability*)

Omit "17A or 18", substitute "17A, 18 or 18A".

54 Subsection 4(1)

Insert:

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

55 Subsection 4(1)

Insert:

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

56 Subsection 4(1)

Insert:

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.

57 Subsection 4(1) (after paragraph (ca) of the definition of *terminating event*)

Insert:

(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

58 At the end of section 5

Add:

(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.

59 At the end of section 6

Add:

(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.

60 After section 18

Insert:

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.

61 Paragraph 19(2)(a)

Omit "or 18", substitute ", 18 or 18A".

62 After subsection 23(1)

Insert:

(1A) This section does not apply to a registrable overseas maintenance liability.

63 At the end of section 24A

Add:

(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.

64 Subsection 25(1) (note)

Repeal the note.

65 Before subsection 25(2)

Insert:

(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.

66 Subsection 25(2)

After "payee", insert "or payer".

67 After subsection 25(2)

Insert:

(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.

68 At the end of section 25

Add:

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.

69 After section 25

Insert:

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.

70 At the end of section 26

Add:

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.

71 Section 28

Before "A registered", insert "(1)".

72 At the end of section 28

Add:

; (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.

73 Subsection 30(1)

Omit "or maintenance agreement", substitute ", maintenance agreement, maintenance order or maintenance assessment".

74 After section 30

Insert:

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).

75 Section 30A

Repeal the section, substitute:

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 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.

76 Subsection 34(1) (note referring to full-time secondary education)

Repeal the note.

77 At the end of section 34

Add:

(5) This section does not apply to an enforceable maintenance liability that is a registrable overseas maintenance liability.

78 Section 36

Before "When", insert "(1)".

79 At the end of section 36

Add:

(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.

80 Subsection 37B(2)

After "subsection 17(1)", insert "or arising under a maintenance order made by, or a maintenance agreement registered by, a judicial authority of a reciprocating jurisdiction".

81 After subsection 38A(3)

Insert:

(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.

82 After section 38B

Insert:

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.

83 After subsection 39(4)

Insert:

(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.

84 Subsection 42C(4)

Omit "A notice", substitute "Subject to section 42D (notices in relation to registrable overseas maintenance liabilities), a notice".

85 At the end of Division 4 of Part III

Add:

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

(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.

86 At the end of section 71

Add:

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

87 At the end of section 71A

Add:

(1A) This section does not apply to an enforceable maintenance liability of a kind referred to in paragraph 18A(3)(a).

88 At the end of section 71C

Add:

(6) This section does not apply in relation to an enforceable maintenance liability of a kind mentioned in section 18A.

89 At the end of section 81

Add:

(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.

90 After subsection 83(1)

Insert:

(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).

91 Subsection 83(2)

Omit "that period of 60 days", substitute "the period applicable under subsection (1) or (1A)".

92 After subsection 86(2)

Insert:

(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.

93 After subsection 87(1)

Insert:

(1A) However, if either the person objecting, or a person served with a copy of the objection and any accompanying documents, is a resident of a reciprocating jurisdiction, the Registrar has 120 days, instead of 60 days, to act under paragraph (1)(b).

94 Section 90

Before "An", insert "(1)".

95 At the end of section 90

Add:

(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 subsection (1), instead of within 28 days.

96 After subsection 92(1)

Insert:

(1A) However, if the person applying is a resident of a reciprocating jurisdiction, the SSAT Executive Director has 90 days, instead of 60 days, to act under paragraph (1)(b).

97 At the end of section 120

Add:

(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.

98 After section 121

Insert:

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:

(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.

99 Subsection 124A(1)

Repeal the subsection, substitute:

(1) The regulations may make provision for, and in relation to, giving effect to international maintenance arrangements.

100 Subsections 124A(3) and (4)

Repeal the subsections.

Family Law Act 1975

101 Subsection 31(2)

After "as are contained in", insert "section 111AA,".

102 Subsections 39(5), (5AA), (5A) and (6)

After "Subject to this Part", insert "and to section 111AA".

103 Section 66G

After "subject to this Division", insert "and to section 111AA".

104 Subsection 66S(1A)

After "the court may", insert ", subject to section 111AA,".

105 Paragraph 69S(1)(a)

After "a prescribed court", insert "(other than a court of a prescribed overseas jurisdiction)".

106 After subsection 69S(1)

Insert:

(1A) If:

(a) during the lifetime of a particular person, a court of a reciprocating jurisdiction within the meaning of section 110 or a jurisdiction mentioned in Schedule 4 or 4A to the regulations has:

(i) found expressly that the person is a parent of a particular child; or

(ii) made a finding that it could not have made unless the person was a parent of a particular child; and

(b) the finding has not been altered, set aside or reversed;

the person is presumed to be a parent of the child.

107 After section 69X

Insert:

69XA Matters related particularly to parentage testing for purposes of an international agreement or arrangement

(1) The Secretary may commence or continue proceedings under section 69W if it is necessary or convenient to do so for the purposes of an international agreement or arrangement.

(2) Despite section 69X, a court must order that the costs of any parentage testing procedure ordered in proceedings mentioned in subsection (1) are payable by a party to those proceedings who:

(a) contested the making of a maintenance assessment or court order for child support on the ground of not being the parent of the child; or

(b) contested the enforcement of an overseas maintenance order, agreement or assessment on the ground of not being the parent of the child.

(3) If a parentage testing procedure that is ordered by a court in proceedings mentioned in subsection (1) establishes that a party contesting parentage in those proceedings was not a parent of the child, the court may order that the costs of the procedure are payable by the Secretary.

(4) A report in relation to information obtained as a result of a parentage testing procedure, received by the Secretary from an administrative or judicial authority in a reciprocating jurisdiction within the meaning of section 110 or a jurisdiction mentioned in Schedule 4 or 4A to the regulations, may be received in evidence in any proceedings under this Act.

108 After paragraph 69ZD(b)

Insert:

or (ba) the Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations signed at The Hague on 2 October 1973; or

(bb) the Agreement between the Government of Australia and the Government of New Zealand on Child and Spousal Maintenance signed at Canberra on 12 April 2000; or

(bc) the Agreement between the Government of the United States of America and the Government of Australia for the Enforcement of Maintenance (Support) Obligations, which was concluded and entered into force on 12 December 2002;

109 Subsection 83(1)

After "the court may", insert ", subject to section 111AA".

110 At the end of Division 1 of Part XIIIAA

Add:

111AA Maintenance obligations with New Zealand

(1) This section has effect despite anything in Part VII.

(2) A court must not determine an application for payment of child or spousal maintenance (whether under this Act or the regulations) if:

(a) the person seeking payment is habitually resident in New Zealand; and

(b) determining the application would require the court to make a decision mentioned in Article 1.2 of the Australia-New Zealand Agreement.

Note: Article 1.2 of the Agreement is as follows:

For the purposes of this Agreement a decision shall include:

(a) a child support assessment issued by an administrative authority;

(b) an agreement to make payments for the maintenance of a child or spouse which has been registered with an administrative authority;

(c) an assessment, order or agreement suspending, modifying or revoking a decision of the kind referred to in (a) or (b);

(d) an order for child maintenance made by a judicial authority;

(e) an order for spousal maintenance made by a judicial authority;

(f) an agreement to make payments for the maintenance of a child or spouse which has been registered with a judicial authority;

(g) an order or agreement suspending, modifying or revoking a decision of the kind referred to in (d), (e) or (f);

(h) a liability to pay an amount to an administrative authority for the maintenance of a child or as contribution to the cost of government benefits paid to a payee for the maintenance of a child.

(3) In this section:

Australia-New Zealand Agreement means the Agreement between the Government of Australia and the Government of New Zealand on Child and Spousal Maintenance signed at Canberra on 12 April 2000.

111AB Agreement between the Government of the United States of America and the Government of Australia for the enforcement of Maintenance (Support) Obligations

The regulations may make such provision as is necessary or convenient to enable the performance of the obligations of Australia, or to obtain for Australia any advantage or benefit, under the Agreement between the Government of the United States of America and the Government of Australia for the enforcement of Maintenance (Support) Obligations, which was concluded and entered into force on 12 December 2002.

111 Subsection 117(1)

After "117AB", insert ", 117AC".

112 After section 117AB

Insert:

117AC Security for costs

Despite section 117, a court must not make an order for security for costs in a proceeding involving a Convention country that is listed in Schedule 4A to the regulations.

113 Subsection 124A(3)

Repeal the subsection.

Part 2—Amendments commencing on 1 July 2008

Child Support (Assessment) Act 1989

114 Subsection 5(1) (definition of *overseas income*)

Repeal the definition, substitute:

> ***overseas income***, in relation to a parent, means income determined under Subdivision BA of Division 7 of Part 5 to be the overseas income of that parent.

115 After subsection 5B(1)

Insert:

(1A) In working out a parent's target foreign income under subsection (1), exclude any overseas income that was determined for the purpose of working out the parent's adjusted taxable income.

116 Subsection 24(2)

Repeal the subsection, substitute:

(2) Paragraph (1)(b) does not apply to an application for administrative assessment of child support if:

(a) all of the following apply:

(i) the application is made under section 25 for a parent to be assessed in respect of the costs of the child;

(ii) the parent of the child is a resident of a reciprocating jurisdiction;

(iii) the Registrar has not determined under section 29A that child support is reasonably likely to be payable by the parent; or

(b) both of the following apply:

(i) the application is made under section 25A by a non-parent carer;

(ii) the non-parent carer is a resident of a reciprocating jurisdiction.

117 At the end of section 25

Add:

; and (d) if either parent of the child is not a resident of Australia on the day on which the application is made—the application meets the requirements of sections 29A and 29B.

118 Section 25 (note)

Repeal the note.

119 Subparagraph 25A(b)(ii)

Omit "not a resident of Australia", substitute "neither a resident of Australia nor a resident of a reciprocating jurisdiction".

120 At the end of section 25A

Add:

; and (e) if a parent of the child who is to be assessed in respect of the costs of the child is not a resident of Australia on the day on which the application is made—the application meets the requirements of sections 29A and 29B.

121 Section 25A (note)

Repeal the note.

122 Section 29A

Repeal the section, substitute:

29A Person by whom child support is payable must be Australian resident or resident of reciprocating jurisdiction

(1) This section applies if:

(a) an application is made under section 25 or 25A for a parent to be assessed in respect of the costs of the child; and

(b) the parent is not a resident of Australia on the day on which the application is made.

(2) The Registrar must determine whether child support is reasonably likely to be payable by the parent.

(3) If the Registrar determines that child support is reasonably likely to be payable by the parent, the application is taken to have been properly made only if:

(a) subsection 24(2) does not apply in relation to the child (payee of child support resident in reciprocating jurisdiction); and

(b) the parent is a resident of a reciprocating jurisdiction on the day on which the application is made.

Note: If an application is not properly made, the Registrar must refuse the application under section 30.

29B Applications by residents of reciprocating jurisdictions

(1) If a person applying under section 25 or 25A is a resident of a reciprocating jurisdiction, the application must be made:

(a) by the person and given to the Registrar by an overseas authority of the reciprocating jurisdiction; or

(b) if an overseas authority of the reciprocating jurisdiction believes that child support is reasonably likely to be payable to the person in respect of a child—by the overseas authority on behalf of the person; or

(c) if the person believes that child support is reasonably likely to be payable by him or her to another person in respect of a child—directly to the Registrar by the person.

(2) If an application is made by an overseas authority of a reciprocating jurisdiction on behalf of a person, the regulations may prescribe actions the overseas authority may take for the person.

(3) If an application is made by a person and given to the Registrar by an overseas authority of a reciprocating jurisdiction, the regulations may prescribe actions the overseas authority may take for the person with the person's consent.

123 Subsection 30A(1)

Omit "must not be accepted under this Act in relation to a liable parent", substitute "is taken not to have been properly made by a parent by whom, under a determination made under section 29A, child support is reasonably likely to be payable and".

124 Subsection 30A(2)

Omit "a liable parent", substitute "a parent by whom, under a determination made under section 29A, child support is reasonably likely to be payable".

125 Subsection 30A(3)

Omit "paragraph 25(3)(b)", substitute "subsection 29A(3)".

126 Paragraph 30B(a)

Omit "a particular payer (the ***liable parent***) and a particular payee (the ***eligible carer***)", substitute "a liable parent and a carer entitled to child support".

127 Paragraph 30B(b)

Omit "and the eligible carer", substitute "and the carer entitled to child support".

128 Paragraph 30B(c)

Omit "or the eligible carer", substitute "or the carer entitled to child support".

129 Section 30B

Omit "the Registrar may refuse to accept the application", substitute "then the Registrar may determine that the application is taken not to have been properly made".

130 Paragraph 31(1)(b)

Repeal the paragraph, substitute:

(b) assess under Part 5 the annual rate of child support payable by a parent for the child for the days in the child support period that starts:

(i) if child support is payable by a parent who is a resident of a reciprocating jurisdiction—on the first day on which all prior requirements (if any) under the applicable international maintenance arrangement, and under the laws of the reciprocating jurisdiction, have been complied with; and

(ii) otherwise—on the day on which the application is made.

Example: Some reciprocating jurisdictions require that notice be given about the making and substance of the application for administrative assessment

of child support and how the person may object to the application, or require that a person have an opportunity to be heard before making a decision on an application.

131 At the end of section 34B

Add:

(3) However, if the applicant for acceptance of the agreement is a resident of a reciprocating jurisdiction, subsection (2) applies as if the references in subparagraphs (2)(a)(i), (b)(i) and (c)(i) were references to 90 days instead of 28 days.

132 Section 47

Before "A parent's", insert "(1)".

133 At the end of section 47

Add:

(2) For the purposes of step 3 of the method statement, a parent is taken to be assessed in respect of the costs of a child if the parent is liable to pay child support for the child under an administrative assessment under the law of a reciprocating jurisdiction.

134 After Subdivision B of Division 7 of Part 5

Insert:

Subdivision BA—Overseas income

58B Inclusion of overseas income in working out a parent's adjusted taxable income

For the purposes of working out a parent's adjusted taxable income for a child for a day in a child support period if the parent is a resident of a reciprocating jurisdiction, a reference in this Division to the parent's taxable income includes a reference to the parent's overseas income as determined under this Subdivision.

58C Determination of overseas income if information and documents in Registrar's possession are sufficient

(1) This section applies if the Registrar possesses sufficient information and documents to determine a parent's overseas

income (whether as a result of seeking information or documents under section 162A or not).

(2) In making an administrative assessment in relation to the parent and a child support period, the Registrar may determine, from the information and documents in the Registrar's possession, an amount to be the parent's overseas income for the year of income for the purpose of working out the person's adjusted taxable income.

58D Determination of overseas income if information and documents in Registrar's possession are insufficient

(1) This section applies if:

(a) the Registrar does not possess sufficient information and documents to determine a parent's overseas income; and

(b) despite requesting, under section 162A, information or documents from the parent or from an overseas authority that are necessary to determine the parent's overseas income, the information or documents requested have not been supplied.

(2) In making an administrative assessment of the child support in relation to the parent and a child support period, the Registrar may determine that the parent's overseas income for the year of income, for the purpose of working out the parent's adjusted taxable income, is an amount that the Registrar considers appropriate of at least two-thirds of the annualised MTAWE figure for the relevant September quarter.

135 Paragraph 63A(1)(b)

Omit "section 160 requiring", substitute "section 160 or subsection 162A(2) requiring or requesting".

136 Subsections 63A(2) and (3)

Omit "as required by section 160", substitute "as required or requested under section 160 or subsection 162A(2)".

137 Paragraph 63A(4)(a)

After "section 160", insert "or 162A".

138 Paragraph 63B(1)(b)

Omit "section 161 requiring", substitute "section 161 or subsection 162A(1) or (4) requiring or requesting".

139 Subsections 63B(2) and (3)

After "section 161" (wherever occurring), insert "or subsection 162A(1) or (4)".

140 Paragraph 63B(4)(a)

After "section 161", insert "or 162A".

141 Section 73A

Before "If", insert "(1)".

142 At the end of section 73A

Add:

(2) If the parent is a resident of a reciprocating jurisdiction, subsection (1) has effect as if the references in paragraphs (1)(c) and (d) to 28 days were references to 90 days.

143 After subsection 80G(1)

Insert:

(1A) If the parent is a resident of a reciprocating jurisdiction, subsection (1) has effect as if the reference in paragraph (1)(d) to 60 days were a reference to 90 days.

144 Paragraph 88(b)

Omit "89; and", substitute "89.".

145 Paragraph 88(c)

Repeal the paragraph.

146 Paragraphs 92(5)(b) and (c)

Repeal the paragraphs, substitute:

(b) the application for administrative assessment was made, in accordance with paragraph 29B(1)(b), by an overseas authority of a reciprocating jurisdiction on behalf of the one of the parties to the agreement; and

147 Subsection 93(1A)

Repeal the subsection.

148 Section 150DA

Omit "an eligible carer", substitute "a carer entitled to child support".

149 Paragraphs 151(5)(b) and (c)

Repeal the paragraphs, substitute:

(b) the application for administrative assessment under which the child support is payable was made, in accordance with paragraph 29B(1)(b), by an overseas authority of a reciprocating jurisdiction on behalf of the carer entitled to child support;

Child Support (Registration and Collection) Act 1988

150 Subsection 71A(1A)

Repeal the subsection.

151 At the end of section 71A

Add:

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

Schedule 3—Amendments relating to access to courts and review process

Part 1—Amendments commencing on 1 January 2008

Child Support (Assessment) Act 1989

1 Paragraph 33(2)(a)

After "carer application", insert "or a liable parent application".

2 Paragraph 33(2)(b)

Repeal the paragraph, substitute:

(b) one of the reasons for the Registrar refusing to accept the application was that the Registrar was not satisfied under section 29 that:

(i) in the case of a carer application—the person from whom the application sought payment of child support is a parent of the child; and

(ii) in the case of a liable parent application—the applicant is a parent of the child.

3 Paragraph 33(3)(b)

Repeal the paragraph, substitute:

(b) a statement to the effect that the applicant may apply to a court having jurisdiction under this Act for:

(i) in the case of a carer application—a declaration under section 106A that the applicant is entitled to administrative assessment of child support for a child because the person from whom the application sought payment of child support is a parent of the child; and

(ii) in the case of a liable parent application—a declaration under section 106B that the applicant is entitled to administrative assessment of child support because the applicant is a parent of the child.

4 Paragraph 33(4)(b)

After "original decision", insert "(no matter who lodges the objection)".

5 Paragraph 34(2)(a)

Before "that the person", insert "in the case of a carer application—".

Note: The heading to section 34 is replaced by the heading "**Giving notice of successful application**".

6 After paragraph 34(2)(a)

Insert:

(aa) in the case of a liable parent application—that the applicant may apply to a court having jurisdiction under this Act for a declaration under section 107A of this Act that the applicant was not entitled to administrative assessment of child support for the child because the applicant is not a parent of the child; and

7 Paragraph 34(2)(b)

Omit "that the person", insert "in any case—that the applicant or the person".

8 Subparagraph 34(2)(b)(i)

After "ground that", insert "the applicant or".

9 Section 98W (3rd dot point)

Omit "another person is, or is not, the parent", substitute "that person or another person is, or is not, a parent".

10 Section 106

After "because" (wherever occurring), insert "that person or".

11 After section 106A

Insert:

106B Declaration that a person is entitled to administrative assessment—liable parent applications

(1) This section applies if:

(a) the Registrar refuses to accept from an applicant a liable parent application for administrative assessment of child support for a child under subsection 30(2); and

(b) one of the reasons for the Registrar so refusing was that the Registrar was not satisfied under section 29 that the applicant is a parent of the child.

Applications for declarations

(2) The applicant may apply to a court having jurisdiction under this Act for a declaration that:

(a) if the reason referred to in paragraph (1)(b) was the only reason for the Registrar refusing to accept the application—the applicant is entitled to administrative assessment of child support for the child because the applicant is a parent of the child; and

(b) if the reason referred to in paragraph (1)(b) was one of the reasons for the Registrar refusing to accept the application—the applicant is entitled to have the Registrar reconsider the application under Division 2 of Part 4 because the applicant is a parent of the child.

(3) The application must be made within:

(a) the time prescribed by the applicable Rules of Court; or

(b) such further time as is allowed under the applicable Rules of Court.

Parties

(4) Subject to section 145 (Registrar may intervene in proceedings), the parties to the proceeding are:

(a) the applicant; and

(b) the person to whom the application sought to pay child support.

Declarations

(5) The court may grant the declaration if the court is satisfied that:

(a) if the reason referred to in paragraph (1)(b) was the only reason for the Registrar refusing to accept the application—the applicant is entitled to administrative assessment of child support because the applicant is a parent of the child; or

(b) if the reason referred to in paragraph (1)(b) was one of the reasons for the Registrar refusing to accept the application—the applicant is entitled to have the Registrar reconsider the

application under Division 2 of Part 4 because the applicant is a parent of the child.

(6) If the court grants the declaration:

(a) if the reason referred to in paragraph (1)(b) was the only reason for the Registrar refusing to accept the application—the Registrar is taken to have accepted the application for administrative assessment of child support; and

(b) if the reason referred to in paragraph (1)(b) was one of the reasons for the Registrar refusing to accept the application—the Registrar must reconsider the application under Division 2 of Part 4.

Note: The heading to section 106A is altered by adding at the end "**—carer applications**".

12 After section 107

Insert:

107A Declaration that a person is not entitled to administrative assessment—liable parent applications

(1) If the Registrar accepts a liable parent application for administrative assessment of child support for a child, the applicant may, subject to subsection (2), apply to a court having jurisdiction under this Act for a declaration that the applicant was not entitled to administrative assessment of child support for the child payable by the applicant because the applicant is not a parent of the child concerned.

(2) However, an applicant must not apply for a declaration in respect of a child if a court has already declared under section 106B that the applicant was entitled to administrative assessment of child support for the child, or to have the Registrar reconsider an application, because the applicant is a parent of the child.

Note: In that case, the applicant may be able to appeal against the declaration under Division 1 of Part 7.

(3) The application must be made within the time prescribed by the applicable Rules of Court or within such further time as is allowed under the applicable Rules of Court.

(4) Subject to section 145 (Registrar may intervene in proceedings), the parties to the proceeding are the applicant and the person to whom the application sought payment of child support.

(5) The court may grant the declaration if the court is satisfied that the applicant was not entitled to administrative assessment of child support for the child because the applicant is not a parent of the child.

(6) If the court grants the declaration, the application for administrative assessment of child support is to be taken never to have been accepted by the Registrar.

(7) If the court grants the declaration, the court must, as soon as practicable, consider making an order under section 143.

Note: The heading to section 107 is altered by adding at the end "**—carer applications**".

13 Paragraph 109(2)(a)

After "107", insert "or 107A".

14 Paragraph 139(2A)(d)

Repeal the paragraph, substitute:

(d) if:

(i) the decision of the Registrar does not become final; and

(ii) one of the reasons for the Registrar so refusing was that the Registrar was not satisfied under section 29 that the applicant or the person from whom the application sought payment of child support is a parent of the child;

at the time when a decision of a court becomes final, being a decision (whether under section 106A or 106B or on appeal from a decision of a court under that section) that the applicant or the person from whom the application sought payment of child support is not a parent of the child; or

15 Paragraph 139(2B)(a)

After "106A", insert "or 106B".

16 Paragraph 143(3A)(b)

Omit "107 that", insert "107 or 107A that the payer or".

17 Paragraph 143(3B)(c)

After "107", insert "or 107A".

Child Support (Registration and Collection) Act 1988

18 Paragraph 17A(1)(c)

Repeal the paragraph, substitute:

(c) the court made the order in response to:

(i) a declaration under section 107 of that Act that the payer was not entitled to an administrative assessment of child support for a child because the payee is not a parent of the child; or

(ii) a declaration under section 107A of that Act that the payee was not entitled to an administrative assessment of child support for a child because the payee is not a parent of the child.

19 Paragraph 79A(1)(a)

Repeal the paragraph, substitute:

(a) the Registrar has notice that:

(i) the payer has made an application under section 107 of the Assessment Act for a declaration that the payee was not entitled to administrative assessment of child support for the child because the payer is not a parent of the child; or

(ii) the payer has made an application under section 107A of the Assessment Act for a declaration that the payer was not entitled to administrative assessment of child support for the child because the payer is not a parent of the child; and

Note: The heading to section 79A is altered by omitting "**parent**" and substituting "**person**".

20 Subsection 79A(2) (note 1)

After "107", insert "or 107A".

21 Subsection 80(4)

Omit "the parent", substitute "a parent".

22 Subsection 80(4) (note)

Repeal the note, substitute:

Note: In that case, a person may be able to apply to a court under section 107 or 107A of the Assessment Act.

23 At the end of section 80

Add:

(6) An objection may not be lodged to a decision of the Registrar to refuse to accept a liable parent application for administrative assessment if one of the reasons for the Registrar so refusing was that the Registrar was not satisfied under section 29 that the applicant is a parent of the child concerned.

Note: In that case, the applicant may be able to apply to a court under section 106B of the Assessment Act for a declaration that the applicant is entitled to administrative assessment of child support for the child.

24 Subsection 82(1)

Repeal the subsection, substitute:

(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.

25 At the end of section 82

Add:

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

26 Section 85

Before "The following", insert "(1)".

27 Section 85 (after table item 3)

Insert:

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

28 At the end of section 85

Add:

(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.

Part 2—Amendments commencing on 1 July 2008

Child Support (Assessment) Act 1989

29 Subsection 33(3)

Repeal the subsection, substitute:

Refusals on ground that Registrar not satisfied that person a parent

(3) If one of the reasons the Registrar refused to accept the application was because the Registrar was not satisfied under section 29 that a person who was to be assessed in respect of the costs of the child is a parent of the child, the notice must include, or be accompanied by:

(a) a statement that the Registrar was not satisfied under section 29 that the person is a parent of the child; and

(b) a statement to the effect that an application may be made to a court having jurisdiction under this Act for a declaration under section 106A that the person should be assessed in respect of the costs of a child because the person is a parent of the child.

30 Paragraph 34(2)(a)

Repeal the paragraph, substitute:

(a) an application may be made to a court having jurisdiction under this Act for a declaration under section 107 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; and

31 Subparagraph 34(2)(b)(i)

Omit "the person" (first occurring), substitute "the applicant or a parent who is to be assessed in respect of the costs of the child".

Note: The heading to section 34 is replaced by the heading "**Giving notice of successful application**".

32 Subparagraph 34(2)(b)(i)

Omit "because the person", substitute "because a person".

33 Subparagraph 34(2)(b)(ii)

Omit "the person", substitute "the applicant or a parent who is to be assessed in respect of the costs of the child".

34 Section 98W

Omit:

> • A court may declare that a person is, or is not, entitled to administrative assessment of child support for a child because that person or another person is, or is not, the parent of the child.

substitute:

> • A court may declare that a person should, or should not, be assessed in respect of the costs of the child because the person is, or is not, a parent of the child.

35 Division 2 of Part 7 (heading)

Repeal the heading, substitute:

Division 2—Declarations relating to whether persons should be assessed in respect of the costs of the child

36 Section 106

Repeal the section, substitute:

106 Simplified outline

The following is a simplified outline of this Division:

> • A court may declare that a person should be assessed in respect of the costs of a child because the person is a parent of the child.

- A court may declare 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.

37 Subsection 106A(2)

Repeal the subsection, substitute:

Applications for declarations

(2) An application may be made to a court having jurisdiction under this Act for a declaration that:

(a) if the reason referred to in paragraph (1)(b) was the only reason for the Registrar refusing to accept the application—a person should be assessed in respect of the costs of the child because the person is a parent of the child; and

(b) if the reason referred to in paragraph (1)(b) was one of the reasons for the Registrar refusing to accept the application—the Registrar should reconsider the application under Division 2 of Part 4 because a person who was to be assessed in respect of the costs of the child is a parent of the child.

Note: The heading to section 106A is altered by omitting "**is entitled to administrative assessment—carer applications**" and substituting "**should be assessed in respect of the costs of the child**".

38 Subsections 106A(4) and (5)

Repeal the subsections, substitute:

Parties

(4) Subject to section 145 (Registrar may intervene in proceedings), the parties to the proceeding are:

(a) if the application for administrative assessment was made under section 25—each person who was to be assessed in respect of the costs of the child; and

(b) if the application for administrative assessment was made under section 25A—the non-parent carer who made the application and the person in respect of whom the declaration is sought.

Declarations

(5) The court may grant the declaration if the court is satisfied that:

(a) if the reason referred to in paragraph (1)(b) was the only reason for the Registrar refusing to accept the application—the person should be assessed in respect of the costs of the child because the person is a parent of the child; or

(b) if the reason referred to in paragraph (1)(b) was one of the reasons for the Registrar refusing to accept the application—the Registrar should reconsider the application under Division 2 of Part 4 because the person who was to be assessed in respect of the costs of the child is a parent of the child.

39 Section 106B

Repeal the section.

40 Subsection 107(1) and (1A)

Repeal the subsections, substitute:

(1) If the Registrar accepts an application for administrative assessment of child support for a child, an application may be made, subject to subsection (1A), to a court having jurisdiction under this 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.

(1A) However, an application must not be made in respect of a child and a person if a court has already declared under section 106A that the person should be assessed in respect of the costs of the child because the person is a parent of the child.

Note: In that case, an appeal may be made against the declaration under Division 1 of Part 7.

Note: The heading to section 107 is altered by omitting "**is not entitled to administrative assessment—carer applications**" and substituting "**should not be assessed in respect of the costs of the child**".

41 Subsection 107(4)

Repeal the subsection, substitute:

(4) The court may grant the declaration if the court is satisfied that the person should not be assessed in respect of the costs of the child because the person is not a parent of the child.

42 Section 107A

Repeal the section.

43 Paragraph 109(2)(a)

Omit "or 107A".

44 Paragraph 139(2A)(d)

Repeal the paragraph, substitute:

(d) if:

(i) the decision of the Registrar does not become final; and

(ii) 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 the child is a parent of the child;

at the time when a decision of a court becomes final, being a decision (whether under section 106A or on appeal from a decision of a court under that section) that the person is not a parent of the child; or

45 Paragraph 139(2B)(a)

Omit "or 106B".

46 Paragraph 143(3A)(b)

Repeal the paragraph, substitute:

(b) the court has made a declaration under section 107 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

47 Paragraph 143(3B)(a)

Omit "the parent", substitute "a parent".

48 Paragraph 143(3B)(c)

Omit "or 107A".

49 Paragraphs 143(3B)(c) and (d)

Omit "the parent", substitute "a parent".

Child Support (Registration and Collection) Act 1988

50 Paragraph 17A(1)(c)

Repeal the paragraph, substitute:

(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.

51 Paragraph 79A(1)(a)

Repeal the paragraph, substitute:

(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

Note: The heading to section 79A is replaced by the heading "**Suspension determinations—pending declarations that person should not be assessed in respect of the costs of the child**".

52 Subsection 79A(2) (note 1)

Omit "or 107A".

53 Subsection 80(4) (note)

Omit "or 107A of the Assessment Act", substitute "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".

54 Subsection 80(5) (note)

Repeal the note, substitute:

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.

55 Subsection 80(6)

Repeal the subsection.

Schedule 4—Miscellaneous amendments

Part 1—Amendments commencing the day after Royal Assent

Child Support (Assessment) Act 1989

1 Subsection 150(1) (definition of *law enforcement officer*)

Repeal the definition.

2 Subsection 150(1) (definition of *person to whom this section applies*)

Repeal the definition, substitute:

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 is 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*.

3 Subsection 150(1) (definition of *protected document*)

Repeal the definition, substitute:

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.

4 Subsection 150(1) (definition of *protected information*)

Repeal the definition, substitute:

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.

5 Subsection 150(1)

Insert:

relevant Minister means:

(a) a Minister who administers this Act; or

(b) the Prime Minister.

6 Subsection 150(2)

Omit "subsection (3)", substitute "this section".

7 At the end of subsection 150(2A)

Add:

; or (c) for the purpose for which the information was communicated under this section.

8 Paragraph 150(3)(e)

Repeal the paragraph, substitute:

(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.

9 Subsection 150(4)

Repeal the subsection, substitute:

(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 the 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 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 Child Support Agency; 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 Registration and Collection Act, 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.

10 After section 150

Insert:

150AA 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 150(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 150(4G); and

(b) that person makes a record of, or communicates, the information for the purpose of a proceeding under section 113A of the Registration and Collection Act;

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 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 Child Support Agency.

Child Support (Registration and Collection) Act 1988

11 Subsection 16(1) (definition of *law enforcement officer*)

Repeal the definition.

12 Subsection 16(1) (definition of *person to whom this section applies*)

Repeal the definition, substitute:

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*.

13 Subsection 16(1) (definition of *protected document*)

Repeal the definition, substitute:

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.

14 Subsection 16(1) (definition of *protected information*)

Repeal the definition, substitute:

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.

15 Subsection 16(1)

Insert:

relevant Minister means:

(a) a Minister who administers this Act; or

(b) the Prime Minister.

16 Subsection 16(2)

Omit "subsection (3)", substitute "this section".

17 At the end of subsection 16(2A)

Add:

; or (c) for the purpose for which the information was communicated under this section.

18 Paragraph 16(3)(e)

Repeal the paragraph, substitute:

(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.

19 Subsection 16(4)

Repeal the subsection, substitute:

(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 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 Child Support Agency; 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.

20 After section 16

Insert:

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 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 Child Support Agency.

Part 2—Amendments commencing on 1 January 2008

Child Support (Assessment) Act 1989

21 Subsection 38A(4)

After "in respect of rental property", insert "(other than prescribed allowable deductions of that kind)".

22 Paragraph 39(3)(d)

Repeal the paragraph, substitute:

(d) if paragraph (c) does not apply and the Registrar was notified, or otherwise became aware, of the fact within 28 days after giving a notice under section 34 (giving notice of successful application)—on and from the day on which the application was made; or

23 Application

Item 22 of this Schedule applies to the working out of the exempted income amount of a liable parent in relation to the assessment of child support payable by the liable parent if the notice mentioned in paragraph 39(3)(d) of the Assessment Act:

(a) was given not more than 28 days before; or

(b) is given on or after;

the commencement of the item.

24 Subsection 45A(2)

Omit "liable parent", substitute "entitled carer".

25 Subsection 45A(4)

After "in respect of rental property", insert "(other than prescribed allowable deductions of that kind)".

26 Subsection 47(1)

Omit "in respect of whom an assessment has been made", substitute "eligible for administrative assessment".

27 Subsection 56(3)

Repeal the subsection, substitute:

(3) Subsection (2) does not apply in relation to a person if the amendment is made:

(a) under subsection 170(1) (amendment of assessments) of the *Income Tax Assessment Act 1936* to increase the person's taxable income; or

(b) under a provision of that Act or the *Income Tax Assessment Act 1997* prescribed for the purposes of this subsection; or

(c) in circumstances prescribed for the purposes of this subsection.

If such an amendment is made, the person's taxable income under either the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* for the year of income is to be taken for this Act to be, and always to have been, the person's taxable income for that year as last so assessed under either of those Acts.

28 Subsection 60(2)

Omit "any part of the period", substitute "any part of the child support period remaining after the election would have been made (apart from this subsection)".

29 Paragraph 76(2)(b)

After "the children" (first occurring), insert "in the care of the carer entitled to child support who are".

30 Paragraph 76(2)(f)

Repeal the paragraph, substitute:

(f) if Subdivision E of Division 2 (Children shared or divided between parents) applies in relation to the parents of the child concerned and the carer entitled to child support has one or more relevant dependent children when treated as a liable parent for the purposes of that Subdivision—the number of relevant dependent children of that parent when so treated in each of the age groups specified in subsection (2A);

31 Subparagraphs 76(2)(g)(i), (ii) and (iii)

Repeal the subparagraphs, substitute:

(i) the annual rate of child support that would, apart from section 52, be payable by the other liable parent concerned; and

(ii) the other liable parent's child support income amount; and

(iii) the number of relevant dependent children of the other liable parent in each of the age groups specified in subsection (2A);

32 Paragraph 76(2)(h)

Omit "the names and dates of birth of all the children", substitute "the number of children".

33 Application

Item 32 of this Schedule applies to all notices under section 76 of the Assessment Act given on or after the commencement of the item.

34 After subsection 76(2A)

Insert:

(2B) Despite subsection (2), if an administrative assessment is affected either:

(a) by an order made by a court under Division 4 of Part 7; or

(b) by the provisions of a child support agreement;

the Registrar is not required to specify any matter referred to in that subsection that is not relevant to the making of the assessment.

35 Subsection 98M(3)

Omit "application", substitute "summary".

36 Section 98V

After "as if", insert "no".

37 Subsections 143(1), (2) and (3)

Repeal the subsections, substitute:

(1) If:

(a) an amount of child support is paid by a person (the ***payer***) to another person (the ***payee***); and

(b) the payer is not liable, or subsequently becomes not liable, to pay the amount to the payee;

the amount may be recovered from the payee in a court having jurisdiction under this Act.

(2) If:

(a) an amount is paid by a person (the ***payer***) to another person (the ***payee***) for a child in relation to a period under an order made under section 139 (urgent maintenance orders); and

(b) child support does not become payable by the payer to the payee for the child in relation to the period;

the amount may be recovered from the payee in a court having jurisdiction under this Act.

(3) In proceedings in a court under this section, the court may make such orders in relation to the payee as it considers just and equitable for the purposes of adjusting, or giving effect to, the rights of the parties and of the child concerned.

38 Subsection 143(4)

Omit "the person to whom, apart from that section, the amount would have been payable", substitute "the payee".

Child Support (Registration and Collection) Act 1988

39 Subsection 4(1)

Insert:

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

40 Subsection 67(3) (definition of *relevant annual rate*)

Repeal the definition, substitute:

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*.

41 Paragraphs 72(1)(b) and (c)

Omit "child support".

42 Paragraphs 72(2)(a), (b) and (c)

Omit "child support".

Note: The heading to section 72 is altered by omitting "**child support debts**" and substituting "**debts under this Act**".

43 Paragraphs 72A(1)(e), (f) and (g)

Repeal the paragraphs, substitute:

(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.

44 After subsection 72A(1A)

Insert:

(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.

45 Subsection 111(2)

Repeal the subsection, substitute:

(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.

Note: The heading to section 111 is altered by omitting "**payers**" and substituting "**payers and payees**".

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.

Part 3—Amendments commencing on 1 July 2008

Child Support (Assessment) Act 1989

47 Subsection 5(1) (paragraphs (a) and (b) of the definition of *net rental property loss*)

After "the expenses", insert "(other than prescribed expenses)".

48 Subsection 60(2)

Omit "any part of the period", substitute "any part of the child support period remaining after the election would have been made (apart from this subsection)".

49 Paragraph 73A(1)(d)

Repeal the paragraph, substitute:

(d) if paragraph (c) does not apply and the Registrar was notified, or otherwise became aware, of the fact within 28 days after giving a notice under section 34 (giving notice of successful application)—on and from the day on which the application was made; or

50 Paragraph 76(2)(c)

Omit "the age ranges of any relevant dependent children", substitute "the number and age ranges of the relevant dependent children (if any)".

51 Paragraph 76(2)(d)

Omit "the age ranges of any other children in other child support cases", substitute "the number and age ranges of the other children in other child support cases (if any)".

52 After subsection 76(2)

Insert:

(2A) Despite subsection (2), if an administrative assessment is affected either:

(a) by an order made by a court under Division 4 of Part 7; or

(b) by the provisions of a child support agreement;

the Registrar is not required to specify any matter referred to in that subsection that is not relevant to the making of the assessment.

53 Subsection 146B(4)

After "76(2)", insert "(disregarding subsection 76(2A))".

Schedule 5—Maintenance income test

Part 1—Notional assessments

A New Tax System (Family Assistance) Act 1999

1 After subclause 20B(3) of Schedule 1

Insert:

Underpayments—non-periodic payments and lump sum payments

(3A) For the purposes of the formula in subclause (3), the amount received by the individual under the agreement or order, for the child for the period, is taken to include:

(a) if the agreement or order is a non-periodic payments agreement or order—the amount by which the annual rate of child support payable for the child is reduced for the period under the agreement or order; and

(b) if the agreement or order is a lump sum payments agreement or order—the total amount of the lump sum payment that is credited for each day in the period under section 69A of the *Child Support (Registration and Collection) Act 1988* against the amount payable under the liability under the agreement or order.

(3B) If the agreement or order is a non-periodic payments agreement or order, for the purposes of the formula in subclause (3), the amount payable to the individual under the agreement or order for the child for the period is taken to include the amount by which the annual rate of child support payable for the child is reduced for the period under the agreement or order.

2 At the end of clause 20B of Schedule 1

Add:

(8) In this clause:

lump sum payments agreement or order means:

(a) an agreement containing lump sum payment provisions (within the meaning of the *Child Support (Assessment) Act 1989*); or

(b) a court order made under section 123A of that Act.

non-periodic payments agreement or order means:

(a) an agreement containing non-periodic payment provisions (within the meaning of the *Child Support (Assessment) Act 1989*); or

(b) a court order made under section 124 of that Act that includes a statement made under section 125 of that Act that the annual rate of child support payable by a liable parent under an administrative assessment is to be reduced.

Part 2—Maintenance income ceiling

A New Tax System (Family Assistance) Act 1999

3 Clause 24F of Schedule 1

Repeal the clause, substitute:

24F Subdivision not always to apply

This Subdivision does not apply to an individual if:

(a) the individual, and the individual's partner, between them are entitled to apply for maintenance income:
  (i) from only one other individual; and
  (ii) in respect of all of the FTB children of the individual; and

(b) the individual has no regular care children who are rent assistance children.

4 Clause 24M of Schedule 1

Repeal the clause, substitute:

24M Subdivision not always to apply

This Subdivision does not apply to an individual if:

(a) the individual, and the individual's partner, between them are entitled to apply for maintenance income:
  (i) from only one other individual; and
  (ii) in respect of all of the FTB children of the individual; and

(b) the individual has no regular care children who are rent assistance children.

Part 3—Maintenance income credit

Division 1—Amendments commencing on 1 July 2006

A New Tax System (Family Assistance) Act 1999

5 At the end of clause 20 of Schedule 1

Add:

(3) Paragraph (c) of step 1 of the method statement in subclause (1) does not apply to an amount received by the individual (or the individual's partner) in an income year if:

(a) the subclause applies in relation to a claim for payment of family tax benefit for a past period (as mentioned in paragraph 7(1)(b) of the *A New Tax System (Family Assistance) (Administration) Act 1999*) that falls wholly within that year; and

(b) the claim is made in a form approved by an officer of the Australian Taxation Office for the purposes of subsection 7(2) of that Act, acting under a delegation from the Secretary under section 221 of that Act.

6 Application of item 5

The amendment made by item 5 applies to family tax benefit for the 2006-2007 income year and later income years.

7 Subclause 24A(2) of Schedule 1

Repeal the subclause, substitute:

(2) Despite subclause (1), a maintenance income credit balance for a registered entitlement, at the end of an income year, cannot exceed the total arrears owing from that registered entitlement, at that time, for all income years for which the entitlement has existed.

8 Application of item 7

The amendment made by item 7 applies to maintenance income credit balances for registered entitlements at the end of the 2005-2006 income year and later income years.

9 Subclause 24C(1) of Schedule 1 (method statement, at the end of step 4)

Add "and round the result of the division to the nearest cent (rounding 0.5 cents upwards)".

10 Subclause 24C(2) of Schedule 1 (method statement, step 1)

Repeal the step, substitute:

Step 1. Work out the ***daily cap*** for each relevant balance as follows:

(a) work out the annualised amount mentioned in paragraph 24D(1)(a) that is due in the income year from the registered entitlement to which the balance relates;

(b) work out under subclause (4) the annualised amount of maintenance income received in the income year from that registered entitlement;

(c) the daily cap is the excess of the amount mentioned in paragraph (a) over the amount mentioned in paragraph (b), divided by 365 and rounded to the nearest cent (rounding 0.5 cents upwards).

11 Subclause 24C(2) of Schedule 1 (method statement, at the end of step 5)

Add ", with that sum rounded to the nearest cent (rounding 0.5 cents upwards)".

12 At the end of clause 24C of Schedule 1

Add:

(4) For the purposes of step 1 of the method statement in subclause (2), the ***annualised amount of maintenance income*** received in an income year from a registered entitlement of an individual (or an individual's partner) is the amount worked out by using this formula:

$$\frac{\text{Amount of maintenance income received in the income year from the registered entitlement}}{\text{Number of days in the income year for which the individual (or partner) had the registered entitlement}} \times \text{Number of days in the income year}$$

13 Paragraph 24D(1)(a) of Schedule 1

Omit "the amounts", substitute "the annualised amounts".

14 Application of items 9 to 13

The amendments made by items 9 to 13 apply to family tax benefit for the 2000-2001 income year and later income years.

Division 2—Amendments commencing on 1 July 2007

A New Tax System (Family Assistance) Act 1999

15 Subclause 24C(2) of Schedule 1 (method statement, step 1, at the end of paragraphs (a) and (b))

Add ", and any related private collection entitlement".

16 Subclause 24C(4) of Schedule 1

Repeal the subclause, substitute:

(4) For the purposes of step 1 of the method statement in subclause (2), the ***annualised amount of maintenance income*** received in an income year from a registered entitlement, and any related private collection entitlement, of an individual (or an individual's partner) is the amount worked out by using this formula:

$$\frac{\text{Amount of maintenance income received in the income year from the registered entitlement, and any related private collection entitlement}}{\text{Number of days in the income year for which the individual (or partner) had the registered entitlement, and any related private collection entitlement}} \times \text{Number of days in the income year}$$

(5) In this clause:

related private collection entitlement, in relation to a registered entitlement, has the same meaning as in clause 24D.

17 Subparagraphs 24D(1)(a)(i) and (ii) of Schedule 1

Repeal the subparagraphs, substitute:

(i) each registered entitlement for the day, and any related private collection entitlement, of the eligible person; and

(ii) if the eligible person is a member of a couple on the day—each registered entitlement for the day, and any related private collection entitlement, of the eligible person's partner; and

18 Subclause 24D(2) of Schedule 1 (formula)

Repeal the formula, substitute:

$$\frac{\begin{array}{c}\text{Amount due in the income year}\\ \text{from the registered entitlement,}\\ \text{and any related private collection entitlement}\end{array}}{\begin{array}{c}\text{Number of days in the income year}\\ \text{for which the eligible person (or partner)}\\ \text{had the registered entitlement,}\\ \text{and any related private collection entitlement}\end{array}} \times \begin{array}{c}\text{Number of days}\\ \text{in the income year}\end{array}$$

19 Paragraph 24D(3)(a) of Schedule 1

Repeal the paragraph, substitute:

(a) in respect of:

(i) a registered entitlement for the day, and any related private collection entitlement, of the eligible person; or

(ii) if the eligible person is a member of a couple on the day—a registered entitlement for the day, and any related private collection entitlement, of the eligible person's partner;

the maintenance income received by the eligible person or partner for the income year exceeds the amount due in the income year from the registered entitlement, and any related private collection entitlement; and

20 Subclause 24D(3) of Schedule 1 (formula)

Repeal the formula, substitute:

$$\frac{\text{Amount of the relevant excess}}{\begin{array}{c}\text{Number of days in the income year}\\ \text{for which the eligible person (or partner)}\\ \text{had the registered entitlement,}\\ \text{and any related private collection entitlement}\end{array}} \times \begin{array}{c}\text{Number of days}\\ \text{in the income year}\end{array}$$

21 At the end of clause 24D of Schedule 1

Add:

(4) For the purposes of this clause, an individual's private collection entitlement is ***related*** to the individual's registered entitlement if the private collection entitlement and registered entitlement relate to the same registrable maintenance liability, within the meaning of the *Child Support (Registration and Collection) Act 1988*.

(5) In this clause:

private collection entitlement, of an individual, means the individual's entitlement to receive maintenance income from a particular payer, if the payer's liability to pay that maintenance income is a registrable maintenance liability that is not an enforceable maintenance liability, within the meaning of the *Child Support (Registration and Collection) Act 1988*.

22 Application of this Division

The amendments made by this Division apply to family tax benefit for the 2007-2008 income year and later income years.

Division 3—Amendment commencing on 1 July 2008

A New Tax System (Family Assistance) Act 1999

23 After clause 24E of Schedule 1

Insert:

24EA Amounts due under notional assessments

(1) This clause applies if:

(a) an individual receives child maintenance for an FTB child of the individual under a child support agreement or court order; and

(b) there is, in relation to the agreement or order, a notional assessment of the annual rate of child support that would be payable to the individual for the child for a particular day in a child support period if that annual rate were payable under Part 5 of the *Child Support (Assessment) Act 1989* instead of under the agreement or order; and

(c) the child maintenance is received, wholly or in part, from a registered entitlement.

(2) For the purposes of this Subdivision, the amount of child maintenance that is taken to be due to the individual under the agreement or order (whether from the registered entitlement or from a related private collection entitlement within the meaning of clause 24D), for the child for a period, is the amount that would have been due if the amount due to the individual had been the annual rate of child support for the child for the period that is included in the notional assessment.

(3) To avoid doubt, subclause (2) does not apply in relation to the total arrears owing from a registered entitlement, as mentioned in subclause 24A(2).

Schedule 6—Baby bonus amendments

Part 1—Baby bonus payments to those under 18

A New Tax System (Family Assistance) Act 1999

1 Subparagraph 38(c)(ii)

After "47(2)", insert "or (3)".

A New Tax System (Family Assistance) (Administration) Act 1999

2 Before paragraph 47(2)(a)

Insert:

(aa) the claimant has turned 18 on the day on which the claimant makes a claim for payment of baby bonus; and

Note: The heading to subsection 47(2) is altered by adding at the end "*for those 18 and over*".

3 Subsection 47(3)

Repeal the subsection, substitute:

Payment of baby bonus by instalment for those under 18

(3) If:

(a) the claimant has not yet turned 18 on the day on which the claimant makes a claim for payment of baby bonus; and

(b) the claimant is entitled to be paid baby bonus in respect of a child;

the Secretary must, after each of the first 13 instalment periods that end after the determination granting the claim is made, pay to the claimant $^{1}/_{13}$ of the amount of baby bonus that the claimant is entitled to be paid. The Secretary must pay it at such time as the Secretary considers appropriate and to the credit of a bank account nominated and maintained by the claimant.

(3A) However, the Secretary may direct that the whole or a part of an amount which is to be paid for the purposes of subsection (3) is to be paid in a manner other than by payment to the credit of a bank

account nominated and maintained by the claimant. If the Secretary gives the direction, the amount is to be paid in accordance with the direction (despite that subsection).

4 Subsection 47(4)

After "change", insert ", for the purposes of subsection (2) or (3),".

Note: The following heading to subsection 47(4) is inserted "*Secretary may change beginning of instalment periods*".

5 Subsection 47(6)

After "(2)", insert "or (3)".

6 At the end of section 47

Add:

Definitions

(9) In this section:

instalment period means, subject to subsection (4):

(a) the period of 14 days beginning on such day as the Secretary considers appropriate in relation to the claimant, or class of claimants in which the claimant is included; and

(b) each successive period of 14 days.

7 Application

The amendments made by this Part apply to claims for payment of baby bonus made after this item commences.

Part 2—Registration of birth

A New Tax System (Family Assistance) Act 1999

8 At the end of subsection 36(2)

Add:

; and (c) if the individual is, under a law of a State or Territory, responsible (whether alone or jointly) for registering the birth of the child in accordance with the law:

(i) at the time the claim for payment of baby bonus is made, the birth of the child has been registered in accordance with the law; or

(ii) at the time the claim for payment of baby bonus is made, the individual has applied to have the birth of the child registered in accordance with the law; or

(iii) the Secretary is notified, or becomes aware, within 26 weeks after the birth of the child, that the individual applied to have the birth of the child registered in accordance with the law.

9 After subsection 36(2)

Insert:

(2A) If the Secretary is satisfied that the claimant was unable to make a claim for payment of baby bonus in normal circumstances because of severe illness associated with the birth of the child concerned, the Secretary may extend the period of 26 weeks mentioned in subparagraph (2)(c)(iii) to such longer period as the Secretary considers appropriate.

10 Application

The amendments made by this Part apply to claims for payment of baby bonus made in relation to children born on or after 1 July 2007.

Part 3—Name change to baby bonus

A New Tax System (Family Assistance) Act 1999

11 Subsection 3(1)

Insert:

baby bonus means the payment for which an individual is eligible under Division 2 of Part 3.

12 Subsection 3(1) (paragraph (b) of the definition of *family assistance*)

Omit "maternity payment", substitute "baby bonus".

13 Subsection 3(1) (definition of *maternity payment*)

Repeal the definition.

14 Division 2 of Part 3 (heading)

Repeal the heading, substitute:

Division 2—Eligibility for baby bonus

15 Subdivision A of Division 2 of Part 3 (heading)

Repeal the heading, substitute:

Subdivision A—Eligibility of individuals for baby bonus in normal circumstances

16 Sections 36 and 37

Omit "maternity payment" (wherever occurring), substitute "baby bonus".

Note: The headings to sections 36 and 37 are altered by omitting "**maternity payment**" and substituting "**baby bonus**".

17 Subdivision B of Division 2 of Part 3 (heading)

Repeal the heading, substitute:

Subdivision B—Eligibility of individuals for baby bonus where death occurs

18 Section 38

Omit "maternity payment" (wherever occurring), substitute "baby bonus".

Note: The heading to section 38 is altered by omitting "**maternity payment**" and substituting "**baby bonus**".

19 Subsection 39(3)

Omit "maternity payment", substitute "baby bonus".

20 Division 2 of Part 4 (heading)

Repeal the heading, substitute:

Division 2—Baby bonus

21 Section 66

Omit "maternity payment" (wherever occurring), substitute "baby bonus".

Note: The heading to section 66 is altered by omitting "**maternity payment**" and substituting "**baby bonus**".

22 Subsection 85(2)

Omit "maternity payment", substitute "baby bonus".

23 Clause 2 of Schedule 4 (table item 17A)

Repeal the item, substitute:

17A	Baby bonus	baby bonus	[subsection 66(1)]

24 Subclause 3(1) of Schedule 4 (table item 17A)

Omit "MAT", substitute "baby bonus".

A New Tax System (Family Assistance) (Administration) Act 1999

25 Subsection 3(1) (paragraph (c) of the definition of *TFN claim person*)

Omit "maternity payment", substitute "baby bonus".

26 Subsection 3(1) (paragraph (c) of the definition of *TFN substitution person*)

Omit "maternity payment", substitute "baby bonus".

27 Division 3 of Part 3 (heading)

Repeal the heading, substitute:

Division 3—Baby bonus and maternity immunisation allowance

28 Section 36

Omit "maternity payment", substitute "baby bonus".

29 Sections 38, 39, 41, 42 and 43

Omit "maternity payment" (wherever occurring), substitute "baby bonus".

Note 1: The headings to sections 38A and 38B are altered by omitting "**maternity payment**" and substituting "**baby bonus**".

Note 2: The headings to subsections 39(2) and 41(3) are altered by omitting "*maternity payment*" and substituting "*baby bonus*".

30 Section 44

Omit "maternity payment", substitute "baby bonus".

31 Paragraphs 46(1)(a) and (b)

Omit "maternity payment", substitute "baby bonus".

32 Section 47

Omit "maternity payment" (wherever occurring), substitute "baby bonus".

Note 1: The heading to section 47 is altered by omitting "**maternity payment**" and substituting "**baby bonus**".

Note 2: The heading to subsection 47(2) is altered by omitting "*maternity payment*" and substituting "*baby bonus*".

33 Section 47A

Omit "maternity payment" (wherever occurring), substitute "baby bonus".

34 Paragraph 66(1)(c)

Repeal the paragraph, substitute:

(c) baby bonus;

35 Paragraph 71(1)(a)

Omit "maternity payment", substitute "baby bonus".

36 Section 219TA (paragraph (d) of the definition of *relevant benefit*)

Omit "maternity payment", substitute "baby bonus".

37 Application

(1) The amendments made by items 11 to 36 of this Schedule apply to claims for payment of baby bonus made on or after 1 July 2007.

(2) If:

(a) a claim for payment of maternity payment is made before 1 July 2007; and

(b) the Secretary has not determined the claim by that time;

the claim is taken to be a claim for payment of baby bonus.

Income Tax Assessment Act 1936

38 Subsection 159J(6) (paragraph (ac) of the definition of *separate net income*)

After "maternity payment,", insert "baby bonus,".

Income Tax Assessment Act 1997

39 Section 11-15 (table item headed "family assistance")

Before:

child care benefit	52-150

insert:

baby bonus	52-150

40 Section 52-150

After “maternity payment,”, insert “baby bonus,”.

Schedule 7—Portability of family tax benefit

A New Tax System (Family Assistance) Act 1999

1 At the end of section 63A

Add:

(4) The Secretary may extend the 13 week period referred to in subsection 62(2) if the Secretary is satisfied that the individual mentioned in that subsection is unable to return to Australia within that period because the individual is:

(a) deployed outside Australia as a member of the Defence Force, under conditions specified in a determination made under the *Defence Act 1903* that relates to such deployment; or

(b) deployed outside Australia, for the purpose of capacity-building or peacekeeping functions, as:

(i) a member or a special member of the Australian Federal Police; or

(ii) a protective service officer within the meaning of the *Australian Federal Police Act 1979*.

2 Application of item 1

The amendment made by item 1 of this Schedule applies in relation to an individual whose deployment outside Australia, as mentioned in subsection 63A(4) of the *A New Tax System (Family Assistance) Act 1999* (as added by that item), starts on or after the day that item commences.

3 Clause 38D of Schedule 1 (table heading)

Omit "or 3".

Schedule 8—Remote area allowance

Social Security Act 1991

1 Point 1064-H2

After "FTB child", insert ", and each regular care child,".

2 At the end of paragraph 1064-H5(c)

Add "or a regular care child".

Note: The heading to point 1064-H5 is altered by inserting "*or regular care*" after "*FTB*".

3 Point 1064-H5

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

4 Paragraph 1064-H6(b)

After "FTB child", insert "or a regular care child".

Note: The heading to point 1064-H6 is replaced by the heading "*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*".

5 Paragraph 1064-H6(c)

Omit "FTB".

6 Point 1064-H6

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

7 Point 1064-H7

After "FTB child", insert ", or a regular care child,".

Note: The heading to point 1064-H7 is altered by inserting "*or regular care*" after "*FTB*".

8 Point 1064-H7 (note)

After "FTB child", insert ", or a regular care child,".

9 Point 1065-E2

After "FTB child", insert ", and each regular care child,".

10 Point 1065-E2 (note 1)

Omit "1".

11 Point 1065-E2 (note 2)

Repeal the note.

12 At the end of paragraph 1065-E4(c)

Add "or a regular care child".

Note: The heading to point 1065-E4 is altered by inserting "*or regular care*" after "*FTB*".

13 Point 1065-E4

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

14 Paragraph 1065-E5(b)

After "FTB child", insert "or a regular care child".

Note: The heading to point 1065-E5 is replaced by the heading "*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*".

15 Paragraph 1065-E5(c)

Omit "FTB".

16 Point 1065-E5

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

17 Point 1065-E6

After "FTB child", insert ", or a regular care child,".

Note: The heading to point 1065-E6 is altered by inserting "*or regular care*" after "*FTB*".

18 Point 1065-E6 (note)

After "FTB child", insert ", or a regular care child,".

19 Point 1066-H2

After "FTB child", insert ", and each regular care child,".

20 At the end of paragraph 1066-H4(c)

Add "or a regular care child".

Note: The heading to point 1066-H4 is altered by inserting "*or regular care*" after "*FTB*".

21 Point 1066-H4

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

22 Paragraph 1066-H5(b)

After "FTB child", insert "or a regular care child".

Note: The heading to point 1066-H5 is replaced by the heading "*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*".

23 Paragraph 1066-H5(c)

Omit "FTB".

24 Point 1066-H5

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

25 Point 1066-H6

After "FTB child", insert ", or a regular care child,".

Note: The heading to point 1066-H6 is altered by inserting "*or regular care*" after "*FTB*".

26 Point 1066-H6 (note)

After "FTB child", insert ", or a regular care child,".

27 Point 1066A-I2

After "FTB child", insert ", and each regular care child,".

28 At the end of paragraph 1066A-I4(c)

Add "or a regular care child".

Note: The heading to point 1066A-I4 is altered by inserting "*or regular care*" after "*FTB*".

29 Point 1066A-I4

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

30 Paragraph 1066A-I5(b)

After “FTB child”, insert “or a regular care child”.

Note: The heading to point 1066A-I5 is replaced by the heading “*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*”.

31 Paragraph 1066A-I5(c)

Omit “FTB”.

32 Point 1066A-I5

After “FTB child” (last occurring), insert “, or a regular care child, (as the case requires)”.

33 Point 1066A-I6

After “FTB child”, insert “, or a regular care child,”.

Note: The heading to point 1066A-I6 is altered by inserting “*or regular care*” after “*FTB*”.

34 Point 1066A-I6 (note)

After “FTB child”, insert “, or a regular care child,”.

35 Point 1066B-F2

After “FTB child”, insert “, and each regular care child,”.

36 At the end of paragraph 1066B-F4(c)

Add “or a regular care child”.

Note: The heading to point 1066B-F4 is altered by inserting “*or regular care*” after “*FTB*”.

37 Point 1066B-F4

After “FTB child” (last occurring), insert “, or a regular care child, (as the case requires)”.

38 Paragraph 1066B-F5(b)

After “FTB child”, insert “or a regular care child”.

Note: The heading to point 1066B-F5 is replaced by the heading “*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*”.

39 Paragraph 1066B-F5(c)

Omit “FTB”.

40 Point 1066B-F5

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

41 Point 1066B-F6

After "FTB child", insert ", or a regular care child,".

Note: The heading to point 1066B-F6 is altered by inserting "*or regular care*" after "*FTB*".

42 Point 1066B-F6 (note)

After "FTB child", insert ", or a regular care child,".

43 Point 1067G-K2

Omit "child of the person, being a child to whom point 1067G-K8 applies", substitute "FTB child, and each regular care child, of the person".

44 Point 1067G-K2 (heading to Column 4 of Table K)

Omit "child", substitute "FTB child and regular care child".

45 Paragraph 1067G-K6(c)

Omit "a child to whom point 1067G-K8 applies", substitute "an FTB child or a regular care child".

Note: The heading to point 1067G-K6 is altered by omitting "*a child*" and substituting "*an FTB or regular care child*".

46 Point 1067G-K6

Omit "a child of the person, being a child to whom point 1067G-K8 applies", substitute "an FTB child, or a regular care child, (as the case requires) of the person".

47 Paragraph 1067G-K7(b)

Omit "a child to whom point 1067G-K8 applies", substitute "an FTB child or a regular care child".

Note: The heading to point 1067G-K7 is altered by omitting "*a child*" and substituting "*an FTB or regular care child*".

48 Point 1067G-K7

Omit "a child of the person, being a child to whom point 1067G-K8 applies", substitute "an FTB child, or a regular care child, (as the case requires) of the person".

49 Point 1067G-K8

Repeal the point.

50 Point 1067G-K9

Omit "a child to whom point 1067G-K8 applies", substitute "an FTB child, or a regular care child, of a person".

Note: The heading to point 1067G-K9 is altered by inserting "*or regular care*" after "*FTB*".

51 Point 1067G-K9 (note)

After "FTB child", insert ", or a regular care child,".

52 Point 1067L-F2

Omit "child of the person, being a child to whom point 1067L-F8 applies", substitute "FTB child, and each regular care child, of the person".

53 Point 1067L-F2 (heading to Column 4 of Table F)

Omit "child", substitute "FTB child and regular care child".

54 Paragraph 1067L-F6(c)

Omit "a child to whom point 1067L-F8 applies", substitute "an FTB child or a regular care child".

Note: The heading to point 1067L-F6 is altered by omitting "*a child*" and substituting "*an FTB or regular care child*".

55 Point 1067L-F6

Omit "a child of the person, being a child to whom point 1067L-F8 applies", substitute "an FTB child, or a regular care child, (as the case requires) of the person".

56 Paragraph 1067L-F7(b)

Omit "a child to whom point 1067L-F6 applies", substitute "an FTB child or a regular care child".

Note: The heading to point 1067L-F7 is altered by omitting "*a child*" and substituting "*an FTB or regular care child*".

57 Point 1067L-F7

Omit "a child of the person, being a child to whom point 1067L-F8 applies", substitute "an FTB child, or a regular care child, (as the case requires) of the person".

58 Point 1067L-F8

Repeal the point.

59 Point 1067L-F9

Omit "a child to whom point 1067L-F8 applies", substitute "an FTB child, or a regular care child, of a person".

Note: The heading to point 1067L-F9 is altered by inserting "*or regular care*" after "*FTB*".

60 Point 1067L-F9 (note)

After "FTB child", insert ", or a regular care child,".

61 Point 1068-J3

After "FTB child" (first occurring), insert ", and regular care child,".

62 Point 1068-J3 (at the end of the heading to Column 4 of Table J)

Add "and regular care child".

63 At the end of paragraph 1068-J7(c)

Add "or a regular care child".

Note: The heading to point 1068-J7 is altered by inserting "*or regular care*" after "*FTB*".

64 Point 1068-J7

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

65 Paragraph 1068-J8(b)

After "FTB child", insert "or a regular care child".

Note: The heading to point 1068-J8 is replaced by the heading "*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*".

66 Paragraph 1068-J8(c)

Omit "FTB".

67 Point 1068-J8

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

68 Point 1068-J9

After "FTB child", insert ", or a regular care child,".

Note: The heading to point 1068-J9 is altered by inserting "*or regular care*" after "*FTB*".

69 Point 1068-J9 (note)

After "FTB child", insert ", or a regular care child,".

70 Point 1068A-F2

After "FTB child", insert ", and each regular care child,".

71 Point 1068B-G2

After "FTB child", insert ", and each regular care child,".

72 Point 1068B-G2 (at the end of the heading to Column 4 of Table G)

Add "and regular care child".

73 Point 1068B-G4

After "FTB child", insert ", or a regular care child,".

Note: The heading to point 1068B-G4 is altered by inserting "*or regular care*" after "*FTB*".

74 Paragraph 1068B-G5(b)

After "FTB child", insert "or a regular care child".

Note: The heading to point 1068B-G5 is replaced by the heading "*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*".

75 Paragraph 1068B-G5(c)

Omit "FTB".

76 Point 1068B-G5

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

77 Point 1068B-G6

After “FTB child”, insert “, or a regular care child,”.

Note: The heading to point 1068B-G6 is altered by inserting “*or regular care*” after “*FTB*”.

78 Point 1068B-G6 (note)

After “FTB child”, insert “, or a regular care child,”.

Veterans’ Entitlements Act 1986

79 Section 5 (index of definitions)

Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

regular care child	5F(1)

80 Subsection 5F(1)

Insert:

regular care child has the meaning given by subsection 3(1) of the Family Assistance Act.

81 Paragraph 5R(11)(b)

After “FTB child”, insert “or a regular care child”.

82 Subsection 5R(11)

After “FTB child” (second occurring), insert “, or a regular care child, (as the case requires)”.

83 Subsection 5R(11) (note 1)

After “***FTB child***”, insert “and a ***regular care child***”.

84 Paragraph 5R(12)(d)

Omit “FTB child; and”, insert “FTB child or a regular care child;”.

85 Subsection 5R(12)

After “FTB child” (second occurring), insert “, or a regular care child, (as the case requires)”.

86 Subsection 5R(12) (note 1)

After “***FTB child***”, insert “and a ***regular care child***”.

87 Point SCH6-G2 of Schedule 6

After "FTB child", insert ", and each regular care child,".

88 Point SCH6-G2 of Schedule 6 (note 1)

After "***FTB child***", insert "and ***regular care child***".

89 Subpoints SCH6-G3(1) and (2) of Schedule 6

After "FTB child", insert ", or a regular care child,".

Note: The heading to point SCH6-G3 of Schedule 6 is altered by inserting "*and regular care children*" after "*FTB children*".

90 At the end of paragraph SCH6-G4(c) of Schedule 6

Add "or a regular care child".

Note: The heading to point SCH6-G4 of Schedule 6 is altered by inserting "*or regular care*" after "*FTB*".

91 Point SCH6-G4 of Schedule 6

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

92 Paragraph SCH6-G5(b) of Schedule 6

After "FTB child", insert "or a regular care child".

Note: The heading to point SCH6-G5 of Schedule 6 is replaced by the heading "*Special rule where partner has an FTB or regular care child but is not receiving additional allowance for the child*".

93 Paragraph SCH6-G5(c) of Schedule 6

Omit "FTB".

94 Point SCH6-G5 of Schedule 6

After "FTB child" (last occurring), insert ", or a regular care child, (as the case requires)".

95 Point SCH6-G6 of Schedule 6

After "FTB child", insert ", or a regular care child,".

Note: The heading to point SCH6-G6 of Schedule 6 is altered by inserting "*or regular care*" after "*FTB*".

96 Point SCH6-G6 of Schedule 6 (note)

After “FTB child”, insert “, or a regular care child,”.

Schedule 9—Dependant and housekeeper rebates, and Medicare levy

Income Tax Assessment Act 1936

1 Subparagraph 159J(3AB)(b)(ii)

Repeal the subparagraph, substitute:

(ii) clause 31 of Schedule 1 to that Act applied in respect of that Part B rate because the taxpayer, or the taxpayer's spouse, had a shared care percentage for an FTB child (within the meaning of that Act);

2 Subparagraph 159L(5B)(b)(ii)

Repeal the subparagraph, substitute:

(ii) clause 31 of Schedule 1 to that Act applied in respect of that Part B rate because the taxpayer, or the taxpayer's spouse, had a shared care percentage for an FTB child (within the meaning of that Act); and

3 Paragraph 251R(5)(c)

Omit "for that child", substitute "in respect of that child (whether the child is an FTB child or a regular care child within the meaning of that Act)".

4 Paragraph 251R(5)(d)

Repeal the paragraph, substitute:

(d) the Secretary of the Department whose Minister administers that Act has determined, under subsection 22(6A) of that Act, the percentage of the period during which the child was, or will be, in the care of each parent or spouse, as the case requires;

5 Application

The amendments made by this Schedule apply to the 2008-2009 year of income and later years.

Schedule 10—Extension of the assets test exemption period

Social Security Act 1991

1 Paragraph 11(4)(c)

Repeal the paragraph, substitute:

(c) a person (whether a member of a couple or not) is a ***homeowner*** while:

(i) the whole or a part of the proceeds of the sale of the person's principal home are disregarded under subsection 1118(2); or

(ii) the value of a residence, land or a structure is disregarded under subsection 1118(2).

2 Paragraph 11A(9)(a)

After "12 months", insert "or any longer period determined under subsection (9A)".

3 After subsection 11A(9)

Insert:

(9A) For the purposes of paragraph (9)(a), the Secretary may determine, in writing, a period of up to 24 months if:

(a) a person's principal home is lost or damaged (including, for example, by a natural disaster); and

(b) the loss or damage was not wilfully caused by the person; and

(c) the person is making reasonable attempts, as a result of the loss or damage, to:

(i) rebuild or repair the principal home; or

(ii) sell the principal home in order to purchase or build another residence that is to be the person's principal home; or

(iii) purchase or build another residence that is to be the person's principal home; and

(d) the person has made those attempts within a reasonable period after the loss or damage; and

(e) the person has experienced delays beyond his or her control in:

(i) rebuilding, repairing or selling the principal home; or

(ii) purchasing or building the other residence.

4 Subsection 13(1) (paragraph (a) of the definition of *ineligible homeowner*)

Omit "(proceeds of sale of principal home disregarded for 12 months)".

5 Paragraph 1118(1)(s)

Omit "loss, damage to", substitute "loss of or damage to".

6 After paragraph 1118(1)(s)

Insert:

(sa) if subsection (1AB) applies (application of insurance etc. payments to rebuilding etc.)—the amount worked out under that subsection, during the period mentioned in subsection (1AC);

7 After subsection 1118(1)

Insert:

Application of insurance etc. payments to rebuilding etc.

(1AA) Subsection (1AB) applies if:

(a) a person receives any insurance or compensation payments because of loss of or damage to a building (including the person's principal home) or plant; and

(b) either:

(i) if the building or plant was lost—the person applies the whole or a part of those payments to build another building or plant to replace the building or plant that was lost; or

(ii) if the building or plant was damaged—the person applies the whole or a part of those payments to rebuild, repair or renovate the building or plant.

(1AB) For the purposes of paragraph (1)(sa), the amount that may be disregarded is:

(a) the value of the building or plant that is being built, rebuilt, repaired or renovated, to the extent that those payments are so applied; and

(b) if a building whose value is being disregarded under paragraph (a) of this subsection is to be the person's principal home:

(i) the value of the land on which the building is being built, rebuilt, repaired or renovated to the extent that, once the building becomes the person's principal home, the land will, under section 11A, be included in a reference to the ***principal home***; and

(ii) the value of any other structure, on that land, that is to be the person's principal home to the extent that the structure was built before the person began applying the payments.

(1AC) For the purposes of paragraph (1)(sa), the amount worked out under subsection (1AB) may be disregarded during the period:

(a) beginning when the payments are received; and

(b) ending at the earlier of the following times:

(i) 12 months, or such longer period as the Secretary determines for any special reason, after that time;

(ii) when the building, rebuilding, repair or renovation of the building or plant is complete.

8 After subsection 1118(1A)

Insert:

Application of proceeds of sale of principal home

(1B) Subsection (2) applies if:

(a) a person sells the person's principal home; and

(b) either:

(i) the person does not have a right or interest in a principal home; or

(ii) the person has a right or interest in a principal home that the Secretary is satisfied does not give the person reasonable security of tenure in the home; and

(c) before the end of 12 months, or any longer period determined under subsection (2B), after the sale, one or more of the following applies:

(i) the person intends to apply the whole or a part of the proceeds of the sale to build, rebuild, repair or renovate another residence that is to be the person's principal home;

(ii) the person applies the whole or a part of the proceeds of the sale to build, rebuild, repair or renovate another residence that is to be the person's principal home;

(iii) the person intends to apply the whole or a part of the proceeds of the sale to purchase another residence that is to be the person's principal home.

Note: The following heading to subsection 1118(1A) is inserted "*Definitions*".

9 Subsection 1118(2)

Repeal the subsection, substitute:

(2) For the purposes of this Act (other than Division 1B of Part 3.10):

(a) if subparagraph (1B)(c)(i) applies—disregard the proceeds, to the extent that the person intends to apply those proceeds to build, rebuild, repair or renovate the other residence, until the earlier of the following times:

(i) the period mentioned in paragraph (1B)(c) ends;

(ii) the Secretary becomes satisfied that the person has ceased to have that intention; or

(b) if subparagraph (1B)(c)(ii) applies—disregard the value of the following, until the end of the period mentioned in paragraph (1B)(c), to the extent that the person applies those proceeds to build, rebuild, repair or renovate that other residence:

(i) the value of the other residence;

(ii) the value of the land on which the other residence is being built, rebuilt, repaired or renovated to the extent that, once the building becomes the person's principal home, the land will, under section 11A, be included in a reference to the ***principal home***;

(iii) the value of any other structure, on that land, that is to be the person's principal home to the extent that the

structure was built before the person began applying those proceeds; or

(c) if subparagraph (1B)(c)(iii) applies—disregard the proceeds, to the extent that the person intends to apply those proceeds to purchase the other residence, until the earlier of the following times:

(i) the period mentioned in paragraph (1B)(c) ends;

(ii) the Secretary becomes satisfied that the person has ceased to have that intention.

10 After subsection 1118(2A)

Insert:

(2B) For the purposes of subsection (1B), the Secretary may determine, in writing, a period of up to 24 months if:

(a) a person who has sold his or her principal home is making reasonable attempts to purchase, build, repair or renovate another residence; and

(b) the person has been making those attempts within a reasonable period after selling the principal home; and

(c) the person has experienced delays beyond his or her control in purchasing, building, repairing or renovating the other residence.

Note 1: The following heading to subsection 1118(3) is inserted "*Value of certain personal effects of less than $10,000*".

Note 2: The following heading to subsection 1118(4) is inserted "*This section subject to sections 1145A to 1157*".

Veterans' Entitlements Act 1986

11 Paragraph 5L(4)(c)

Repeal the paragraph, substitute:

(c) a person (whether a member of a couple or not) is a ***property owner*** while:

(i) the whole or a part of the proceeds of the sale of the person's principal home are disregarded under subsection 52(2); or

(ii) the value of a residence, land or a structure is disregarded under subsection 52(2).

12 Paragraph 5LA(9)(a)

After "12 months", insert "or any longer period determined under subsection (9A)".

13 After subsection 5LA(9)

Insert:

(9A) For the purposes of paragraph (9)(a), the Commission may determine, in writing, a period of up to 24 months if:

(a) a person's principal home is lost or damaged (including, for example, by a natural disaster); and

(b) the loss or damage was not wilfully caused by the person; and

(c) the person is making reasonable attempts, as a result of the loss or damage, to:

(i) rebuild or repair the principal home; or

(ii) sell the principal home in order to purchase or build another residence that is to be the person's principal home; or

(iii) purchase or build another residence that is to be the person's principal home; and

(d) the person has made those attempts within a reasonable period after the loss or damage; and

(e) the person has experienced delays beyond his or her control in:

(i) rebuilding, repairing or selling the principal home; or

(ii) purchasing or building the other residence.

14 Subsection 5N(1) (paragraph (a) of the definition of *ineligible property owner*)

Omit "(proceeds of sale of principal home disregarded for 12 months)".

15 After paragraph 52(1)(o)

Insert:

(oa) if subsection (1C) applies (application of insurance etc. payments to rebuilding etc.)—the amount worked out under that subsection, during the period mentioned in subsection (1D);

16 After subsection 52(1A)

Insert:

Application of insurance etc. payments to rebuilding etc.

(1B) Subsection (1C) applies if:

(a) a person receives any insurance or compensation payments because of loss of or damage to a building (including the person's principal home) or plant; and

(b) either:

(i) if the building or plant was lost—the person applies the whole or a part of those payments to build another building or plant to replace the building or plant that was lost; or

(ii) if the building or plant was damaged—the person applies the whole or a part of those payments to rebuild, repair or renovate the building or plant.

(1C) For the purposes of paragraph (1)(oa), the amount that may be disregarded is:

(a) the value of the building or plant that is being built, rebuilt, repaired or renovated, to the extent that those payments are so applied; and

(b) if a building whose value is being disregarded under paragraph (a) of this subsection is to be the person's principal home:

(i) the value of the land on which the building is being built, rebuilt, repaired or renovated to the extent that, once the building becomes the person's principal home, the land will, under section 5LA, be included in a reference to the ***principal home***; and

(ii) the value of any other structure, on that land, that is to be the person's principal home to the extent that the structure was built before the person began applying the payments.

(1D) For the purposes of paragraph (1)(oa), the amount worked out under subsection (1C) may be disregarded during the period:

(a) beginning when the payments are received; and

(b) ending at the earlier of the following times:

(i) 12 months, or such longer period as the Commission determines for any special reason, after that time;

(ii) when the building, rebuilding, repair or renovation of the building or plant is complete.

Application of proceeds of sale of principal home

(1E) Subsection (2) applies if:

(a) a person sells the person's principal home; and

(b) either:

(i) the person does not have a right or interest in a principal home; or

(ii) the person has a right or interest in a principal home that does not give the person reasonable security of tenure in the home; and

(c) before the end of 12 months, or any longer period determined under subsection (2A), after the sale, one or more of the following applies:

(i) the person intends to apply the whole or a part of the proceeds of the sale to build, rebuild, repair or renovate another residence that is to be the person's principal home;

(ii) the person applies the whole or a part of the proceeds of the sale to build, rebuild, repair or renovate another residence that is to be the person's principal home;

(iii) the person intends to apply the whole or a part of the proceeds of the sale to purchase another residence that is to be the person's principal home.

Note: The following heading to subsection 52(1AA) is inserted "*Definitions*".

17 Subsection 52(2)

Repeal the subsection, substitute:

(2) For the purposes of this Part (other than Subdivision B of this Division and Division 3):

(a) if subparagraph (1E)(c)(i) applies—disregard the proceeds, to the extent that the person intends to apply those proceeds to build, rebuild, repair or renovate the other residence, until the earlier of the following times:

(i) the period mentioned in paragraph (1E)(c) ends;

(ii) the Commission becomes satisfied that the person has ceased to have that intention; or

(b) if subparagraph (1E)(c)(ii) applies—disregard the value of the following, until the end of the period mentioned in paragraph (1E)(c), to the extent that the person applies those proceeds to build, rebuild, repair or renovate that other residence:

(i) the value of the other residence;

(ii) the value of the land on which the other residence is being built, rebuilt, repaired or renovated to the extent that, once the building becomes the person's principal home, the land will, under section 5LA, be included in a reference to the ***principal home***;

(iii) the value of any other structure, on that land, that is to be the person's principal home to the extent that the structure was built before the person began applying those proceeds; or

(c) if subparagraph (1E)(c)(iii) applies—disregard the proceeds, to the extent that the person intends to apply those proceeds to purchase the other residence, until the earlier of the following times:

(i) the period mentioned in paragraph (1E)(c) ends;

(ii) the Commission becomes satisfied that the person has ceased to have that intention.

18 After subsection 52(2)

Insert:

(2A) For the purposes of subsection (1E), the Commission may determine, in writing, a period of up to 24 months if:

(a) a person who has sold his or her principal home is making reasonable attempts to purchase, build, repair or renovate another residence; and

(b) the person has been making those attempts within a reasonable period after selling the principal home; and

(c) the person has experienced delays beyond his or her control in purchasing, building, repairing or renovating the other residence.

Note 1: The following heading to subsection 52(3) is inserted "*Value of certain personal effects of less than $10,000*".

Note 2: The following heading to subsection 52(4) is inserted "*This section subject to sections 52KA to 52X*".

Schedule 11—Amendments relating to income streams

Social Security Act 1991

1 Subsection 9(1) (paragraph (d) of the definition of *income stream*)

Repeal the paragraph, substitute:

(d) an income stream provided as life insurance business by a life company registered under the *Life Insurance Act 1995*; or

2 Subsection 9(1) (paragraph (e) of the definition of *income stream*)

Repeal the paragraph.

3 Paragraph 9(1F)(b)

Before "the income stream", insert "except in the case of an income stream arising under a superannuation fund established before 20 September 1998—".

4 After paragraph 9(1F)(b)

Insert:

(ba) in the case of an income stream arising under a superannuation fund established before 20 September 1998—the income stream is provided under rules that meet the standards determined, by legislative instrument, by the Minister; and

5 Paragraph 9(1F)(c)

Before "the income stream", insert "in any case—".

6 At the end of subsection 9B(1A)

Add:

; and (d) in the case of an income stream acquired before 20 September 2004 that is provided to a primary beneficiary's reversionary beneficiary—the remaining term (in years) of the income stream is equal to the life expectancy

(in years) of the primary beneficiary's reversionary beneficiary.

7 Subparagraph 1099DAA(1)(b)(i)

After "*Superannuation Industry (Supervision) Regulations 1994*", insert ", or is any other pension determined, by legislative instrument, by the Minister".

8 Subparagraph 1099DAA(1)(b)(ii)

Omit "of subregulation 1.05(4) of the *Superannuation Industry (Supervision) Regulations 1994*", substitute "determined, by legislative instrument, by the Minister".

9 Subsection 1099DAA(3) (formula)

Repeal the formula, substitute:

$$\left(\frac{\text{Minimum amount}}{\text{Days in payment period}} - \frac{\text{Purchase price}}{\text{Relevant number} \times 365} \right) \times 365$$

Note: The heading to subsection 1099DAA(3) is altered by omitting "*limit*" and substituting "*amount*".

10 Subsection 1099DAA(3)

Insert:

minimum amount means the minimum amount calculated in accordance with the method determined, by legislative instrument, by the Minister for the purposes of this definition.

11 Subsection 1099DAA(3) (definition of *minimum limit*)

Repeal the definition.

12 After section 1120B

Insert:

1120C Value of superannuation reserves for superannuation funds of 4 members or less

(1) This section applies in calculating the value of a person's investment in a superannuation fund if:

(a) the fund has 4 or fewer members; and

(b) the fund has reserves (within the meaning of section 115 of the *Superannuation Industry (Supervision) Act 1993*).

Note: The value of a person's investment in a superannuation fund is only included in the value of the person's assets after the person reaches pension age or starts to receive a pension or annuity out of the fund (see paragraph 1118(1)(f)).

(2) Despite paragraph 1118(1)(h), the value of the person's investment in the superannuation fund includes the following amount:

$$\frac{\text{Person's interest in the fund}}{\text{Total interest in the fund}} \times \text{Value of the fund's reserves}$$

(3) However, if it is not possible to work out the person's interest in the superannuation fund, the value of the person's investment in the fund includes the following amount:

$$\frac{\text{Value of the fund's reserves}}{\text{Number of members in the fund}}$$

13 At the end of Part 3 of Schedule 1A

Add:

136 Transitional definition of *deductible amount* (commencing 1 July 2007)

(1) This clause applies if:

(a) a person has received at least one payment from a defined benefit income stream before 1 July 2007, and is still receiving payments from the income stream; and

(b) the person receives income support payment in respect of a continuous period starting before, and ending on or after, the person's trigger day (see subsection (5)); and

(c) the amount of the income support payment received before the person's trigger day was affected by the deduction of a deductible amount (within the meaning of this Act or the Veterans' Entitlements Act, as the case requires, apart from this clause) from the amount of the payments payable to the person for a year under the income stream; and

(d) if the person's trigger day is after 1 July 2007—the income stream has not been partially commuted on or after 1 July 2007 and before the person's trigger day.

Note 1: If the income stream is wholly commuted, this clause will stop applying because the person will no longer be receiving payments from the income stream (see paragraphs (1)(a) and (d)).

Note 2: For the deduction of a deductible amount from amounts payable under certain defined benefit income streams, see sections 1099A and 1099D of this Act and sections 46V and 46Y of the Veterans' Entitlements Act.

(2) Despite the amendment of this Act by Part 2 of Schedule 8 to the *Tax Laws Amendment (Simplified Superannuation) Act 2007*, for the purposes of working out the amount of any income support payment (other than a service pension or income support supplement) received by the person on or after the trigger day in respect of the remaining part of the period mentioned in paragraph (1)(b), the ***deductible amount***, in relation to the income stream for a year, is the greater of the following amounts:

(a) the deductible amount mentioned in paragraph (1)(c);

(b) the sum of the amounts that are the tax free components (worked out under subsections 307-125(4) to (7) of the *Income Tax (Transitional Provisions) Act 1997*) of the payments received from the income stream during the year.

(3) However, this clause stops applying to an income stream immediately after the time (if any) that the deductible amount in relation to the income stream is, under subclause (2), the amount mentioned in paragraph (2)(b).

(4) For the purposes of this clause, without limiting paragraph (1)(b), if the form of a person's income support payment mentioned in paragraph (1)(b) changes during a period, the continuity of the period is not broken by the change.

Example: The form of a person's income support payment may change from one kind of payment (for instance, a service pension under the Veterans' Entitlements Act) to another (for instance, a social security pension under this Act).

(5) In this clause:

trigger day, for a person, means:

(a) if the person is under 60 years at the end of 30 June 2007—the day the person turns 60; or

(b) if the person is 60 years or over at the end of 30 June 2007—1 July 2007.

Veterans' Entitlements Act 1986

14 Subsection 5J(1) (paragraph (d) of the definition of *income stream*)

Repeal the paragraph, substitute:

(d) an income stream provided as life insurance business by a life company registered under the *Life Insurance Act 1995*; or

15 Subsection 5J(1) (paragraph (e) of the definition of *income stream*)

Repeal the paragraph.

16 Paragraph 5J(1E)(b)

Before "the income stream", insert "except in the case of an income stream arising under a superannuation fund established before 20 September 1998—".

17 After paragraph 5J(1E)(b)

Insert:

(ba) in the case of an income stream arising under a superannuation fund established before 20 September 1998—the income stream is provided under rules that meet the standards determined, by legislative instrument, by the Minister; and

18 Paragraph 5J(1E)(c)

Before "the income stream", insert "in any case—".

19 At the end of subsection 5JB(1A)

Add:

; and (d) in the case of an income stream acquired before 20 September 2004 that is provided to a primary beneficiary's reversionary beneficiary—the remaining term (in years) of the income stream is equal to the life expectancy (in years) of the primary beneficiary's reversionary beneficiary.

20 Subparagraph 46YA(1)(b)(i)

After "*Superannuation Industry (Supervision) Regulations 1994*", insert ", or is any other pension determined, by legislative instrument, by the Minister".

21 Subparagraph 46YA(1)(b)(ii)

Omit "of subregulation 1.05(4) of the *Superannuation Industry (Supervision) Regulations 1994*", substitute "determined, by legislative instrument, by the Minister".

22 Subsection 46YA(3) (formula)

Repeal the formula, substitute:

$$\left(\frac{\text{Minimum amount}}{\text{Days in payment period}} - \frac{\text{Purchase price}}{\text{Relevant number} \times 365} \right) \times 365$$

Note: The heading to subsection 46YA(3) is altered by omitting "*limit*" and substituting "*amount*".

23 Subsection 46YA(3)

Insert:

minimum amount means the minimum amount calculated in accordance with the method determined, by legislative instrument, by the Minister for the purposes of this definition.

24 Subsection 46YA(3) (definition of *minimum limit*)

Repeal the definition.

25 After section 52BB

Insert:

52BC Value of superannuation reserves for superannuation funds of 4 members or less

(1) This section applies in calculating the value of a person's investment in a superannuation fund if:

(a) the fund has 4 or fewer members; and

(b) the fund has reserves (within the meaning of section 115 of the *Superannuation Industry (Supervision) Act 1993*).

Note: The value of a person's investment in a superannuation fund is only included in the value of the person's assets after the person reaches pension age or starts to receive a pension or annuity out of the fund (see paragraph 52(1)(f)).

(2) Despite paragraph 52(1)(g), the value of the person's investment in the superannuation fund includes the following amount:

$$\frac{\text{Person's interest in the fund}}{\text{Total interest in the fund}} \times \text{Value of the fund's reserves}$$

(3) However, if it is not possible to work out the person's interest in the superannuation fund, the value of the person's investment in the fund includes the following amount:

$$\frac{\text{Value of the fund's reserves}}{\text{Number of members in the fund}}$$

26 At the end of Part 1 of Schedule 5

Add:

11B Transitional definition of *deductible amount* (commencing 1 July 2007)

(1) This clause applies if:

(a) a person has received at least one payment from a defined benefit income stream before 1 July 2007, and is still receiving payments from the income stream; and

(b) the person receives income support payment in respect of a continuous period starting before, and ending on or after, the person's trigger day (see subclause (5)); and

(c) the amount of the income support payment received before the person's trigger day was affected by the deduction of a deductible amount (within the meaning of this Act or the Social Security Act, as the case requires, apart from this clause) from the amount of the payments payable to the person for a year under the income stream; and

(d) if the person's trigger day is after 1 July 2007—the income stream has not been partially commuted on or after 1 July 2007 and before the person's trigger day.

Note 1: If the income stream is wholly commuted, this clause will stop applying because the person will no longer be receiving payments from the income stream (see paragraphs (1)(a) and (d)).

Note 2: For the deduction of a deductible amount from amounts payable under certain defined benefit income streams, see sections 46V and 46Y of this Act and sections 1099A and 1099D of the Social Security Act.

(2) Despite the amendment of this Act by Part 2 of Schedule 9 to the *Tax Laws Amendment (Simplified Superannuation) Act 2007*, for the purposes of working out the amount of any service pension or income support supplement received by the person on or after the trigger day in respect of the remaining part of the period mentioned in paragraph (1)(b), the ***deductible amount***, in relation to the income stream for a year, is the greater of the following amounts:

(a) the deductible amount mentioned in paragraph (1)(c);

(b) the sum of the amounts that are the tax free components (worked out under subsections 307-125(4) to (7) of the *Income Tax (Transitional Provisions) Act 1997*) of the payments received from the income stream during the year.

Note: Service pension and income support supplement are ***income support payments*** within the meaning of the Social Security Act (see subsection 23(1) of that Act).

(3) However, this clause stops applying to an income stream immediately after the time (if any) that the deductible amount in relation to the income stream is, under subclause (2), the amount mentioned in paragraph (2)(b).

(4) For the purposes of this clause, without limiting paragraph (1)(b), if the form of a person's income support payment mentioned in paragraph (1)(b) changes during a period, the continuity of the period is not broken by the change.

Example: The form of a person's income support payment may change from one kind of payment (for instance, a social security pension under the Social Security Act) to another (for instance, a service pension under this Act).

(5) In this clause:

income support payment has the same meaning as in the Social Security Act.

trigger day, for a person, means:

(a) if the person is under 60 years at the end of 30 June 2007—the day the person turns 60; or

(b) if the person is 60 years or over at the end of 30 June 2007—1 July 2007.

Schedule 12—Other minor and technical amendments

Part 1—Amendments relating to the Social Security (Administration) Act 1999

Social Security Act 1991

1 Section 22 (definition of *review*)

Repeal the definition, substitute:

> ***review***, in relation to Parts 2 and 3 of Schedule 3 to the *Social Security (Administration) Act 1999*, means a review:
>
> (a) by the SSAT under Division 3 of Part 4 of that Act; or
>
> (b) by the SSAT under Part 9 of the *Student Assistance Act 1973*.

2 Subsection 23(1) (paragraphs (a) and (b) of the definition of *Secretary*)

Omit "Part 6.3", substitute "Division 4 of Part 4 of the Administration Act".

3 Paragraphs 198P(4)(c) and (5)(c)

Omit "1240", substitute "129 of the Administration Act".

4 Subsection 665ZY(1)

Omit "1359", substitute "238 of the Administration Act".

5 Subsection 1061EK(1)

Omit "1359", substitute "238 of the Administration Act".

6 Subsection 1061EK(2) (note)

Repeal the note.

Part 2—Other minor and technical amendments

Social Security Act 1991

7 Reader's guide

Repeal the guide.

8 Subsection 13(1) (definition of *rent*)

Omit "subsections (2) and (4)", substitute "subsection (2)".

9 Subsection 23(1) (definition of *exempt spousal maintenance income*)

Repeal the definition.

10 Subparagraph 1061K(1)(b)(iv)

Omit "subsection (3)", substitute "subsection (2)".

11 Section 1061ZL

Repeal the section.

12 Subsection 1061ZN(1)

Omit "1061ZL,".

13 Subsection 1217(4) (table item 11)

After "13 weeks", insert "(but see also section 1218B)".

Social Security (Administration) Act 1999

14 Subsection 31(1)

After "occurred", insert "in Australia or".

15 Application of item

The amendment made by item 14 of this Schedule applies to any claim for an AGDRP that is made after that item commences.

16 Paragraph 177(1)(c)

Repeal the paragraph.

17 Clause 20 of Schedule 3

After "SSAT", insert ", or a member of the staff of the SSAT,".

Part 3—Changing references to Act titles

Child Support (Assessment) Act 1989

18 Section 6

Omit "*Child Support (Registration and Collection) Act 1988*", substitute "Registration and Collection Act".

Note: The heading to section 6 is altered by omitting "**Child Support (Registration and Collection) Act**" and substituting "**Registration and Collection Act**".

19 Section 98V

Omit "*Child Support (Registration and Collection) Act 1988*", substitute "Registration and Collection Act".

20 Subsection 109(1)

Omit "*Child Support (Registration and Collection) Act 1988*", substitute "Registration and Collection Act".

21 Section 120

Omit "*Child Support (Registration and Collection) Act 1988*", substitute "Registration and Collection Act".

22 Subsection 143(4)

Omit "*Child Support (Registration and Collection) Act 1988*", substitute "Registration and Collection Act".

23 Paragraph 150(3)(c)

Omit "*Child Support (Registration and Collection) Act 1988*", substitute "Registration and Collection Act".

Child Support (Registration and Collection) Act 1988

24 Subsection 4(1) (definitions of *child support* and *child support assessment*)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

25 Subsection 4(1) (paragraph (a) of the definition of *court order*)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

26 Subsection 4(1) (definition of *terminating event*)

Omit "*Child Support (Assessment) Act 1989*" (wherever occurring), substitute "Assessment Act".

27 Paragraph 16(3)(c)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

28 Subparagraph 19(2)(b)(iv)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

29 Paragraph 23(1)(a)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

30 Paragraph 24A(2)(c)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

31 Paragraph 33(1)(a)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

32 Paragraph 37(a)

Omit "*Child Support (Assessment) Act 1989*", substitute "Assessment Act".

33 Subsection 72A(13) (definition of *child support related debt*)

Omit "*Child Support (Assessment) Act 1989*" (wherever occurring), substitute "Assessment Act".

[*Minister's second reading speech made in—*
House of Representatives on 29 March 2007
Senate on 9 May 2007]

(56/07)